

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

SECTION TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
SECTION TOTAL - ALL FUNDS	\$0	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 12, 2009, unless otherwise indicated.

**CHAPTER 373
H.P. 696 - L.D. 1008**

An Act To Increase Consumer Choice for Wine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28-A MRS-A §1403-A is enacted to read:

§1403-A. Direct shipment of wine

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection 2.

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

2. Direct shipment of wine. A farm winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than \$200 and a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a \$100 registration fee.

4. Direct shipment requirements. A direct shipper may only ship wine that was produced by the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient for personal use and not for resale. A direct shipper may not ship wine products commonly known as "wine coolers." A direct shipper shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

6. Bottle size and case limit. A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

8. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current alcoholic beverage license issued in this State or another state.

9. Sales tax registration and payment required. As a condition of receiving a certificate of approval, a shipper located outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any other provision of law of the State.

10. Payment of excise and premium taxes. A direct shipper located outside the State shall quarterly pay to the bureau all excise and premium taxes due on sales to residents of the State in the preceding quarter, the amount of such taxes to be calculated as if the sales were in the State.

11. Report. A direct shipper shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the total number of cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State, the name and residence address of shipment recipients in the State, the common carrier used to deliver the shipments and the date, quantity and purchase price of each shipment.

12. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days of that request.

13. Violation. A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

14. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

15. Not subject to beverage container law. Notwithstanding Title 32, chapter 28, wine shipped pursuant to this section does not require a refund value for beverage container control purposes.

16. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 28-A MRSA §2077, sub-§1-A, as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

1-A. Importation of malt liquor or wine into State. ~~A~~ Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or farm winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 3. 28-A MRSA §2077, sub-§2, as amended by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is further amended to read:

2. Transportation of malt liquor and wine within State. ~~A~~ Except as provided in section 1403-A, a person other than a licensee may not transport malt liquor, in a quantity greater than 3 gallons, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

A. A person who illegally transports within the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports within the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 4. 28-A MRSA §2077-B, sub-§1, as enacted by PL 1997, c. 501, §6, is amended to read:

1. Prohibition. ~~A~~ Except as provided in section 1403-A, a person may not sell, furnish, deliver or purchase liquor from an out-of-state company by mail order.

Sec. 5. 36 MRSA §1754-B, sub-§1, ¶H, as amended by PL 2007, c. 328, §6, is further amended to read:

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; ~~and~~

Sec. 6. 36 MRSA §1754-B, sub-§1, ¶I, as enacted by PL 2007, c. 328, §7, is amended to read:

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B-; ~~and~~

Sec. 7. 36 MRSA §1754-B, sub-§1, ¶J is enacted to read:

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A.

Sec. 8. Bureau to implement within budgeted resources. The Department of Public Safety's bureau as defined in the Maine Revised Statutes, Title

28-A, section 2, subsection 6 shall implement the provisions of this Act within budgeted resources.

See title page for effective date.

**CHAPTER 374
S.P. 518 - L.D. 1434**

**An Act Regarding Asbestos
Abatement Work**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 2007, c. 558, §1, is further amended to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE

344, sub-§7, Permit by rule	\$50	\$0
413, Waste discharge licenses	See section 353-B	
420-D, Storm water management		
A. If structural means of storm water control are used	\$400 for the first acre of disturbed area, plus \$200 for each additional whole acre of disturbed area	\$100 for the first acre of disturbed area, plus \$50 for each additional whole acre of disturbed area
B. If solely vegetative means of storm water control are used	\$200 for the first acre of disturbed area, plus \$100 for each additional whole acre of disturbed area	\$50 for the first acre of disturbed area, plus \$25 for each additional whole acre of disturbed area
C. When a permit by rule is required	\$55	none
If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the total applicable fee is reduced to a processing fee of \$100 for the first acre of disturbed area, plus a license fee of \$50 for each additional whole acre of disturbed area.		
480-E, Natural resources protection		
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60
C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	.005/sq. ft. alteration
C-1. Significant ground-water well	4,577	1,961