

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

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events.

K. The retail licensee must purchase all malt liquor served at a taste testing from a wholesale licensee.

L. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 28-A MRSA §1505 is enacted to read:

§1505. Participation in tasting events

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460 or 1205 subject to the provisions of this section.

1. Educational presentations. A sales representative participating in a tasting event pursuant to this section may provide written or oral educational presentations and materials relating to the brands and products being offered for tasting at the event, as long as no cost is imposed for the presentations or materials on the licensee or the consumer.

2. Complimentary food or snacks. A sales representative participating in a tasting event pursuant to this section may provide and distribute, at no cost to the consumer or the licensee, complimentary food or snacks to be offered and consumed in conjunction with the products to be tasted, as long as the total cost for the food or snacks does not exceed \$200 per event. Any remaining food or snacks provided in conjunction with a tasting event must be removed from the licensee's premises by the sales representative at the conclusion of the tasting event.

3. Records and invoices. A sales representative participating in a tasting event pursuant to this section shall keep and maintain records and invoices showing the costs for any food, snacks or educational or informational materials provided at any approved tasting event.

4. Pour or distribute. A sales representative participating in a tasting event pursuant to this section

may not pour or distribute to consumers the products being offered for tasting during the event.

The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Implementation. The Department of Public Safety shall implement the provisions of this Act using existing departmental personnel and resources.

See title page for effective date.

CHAPTER 460

H.P. 937 - L.D. 1333

**An Act To Ensure that
Replacement Culverts Permit
Fish Passage**

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

Sec. 1. 38 MRSA §480-Q, sub-§2, ¶B, as repealed and replaced by PL 1995, c. 27, §1, is amended to read:

B. Crossings do not block passage for fish passages or other aquatic organisms in water courses. Culverts and installation techniques utilized must achieve natural stream flow. This paragraph applies only to water courses containing fish;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 1993, c. 315, §2, is further amended to read:

2-A. Existing road culverts. In any protected natural resource area, a permit is not required for the repair and maintenance of an existing road culvert or for the replacement of an existing culvert, as long as the replacement culvert is:

B. Not more than 25% longer than the culvert being replaced; and

C. Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this subsection shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block passage for fish passage in the water course or passage for other aquatic organisms in the water course if passage for fish is required under this subsection. Replacement culverts and techniques used in installing the culverts must achieve natural stream flow. This subsection applies only to water courses containing fish.

Sec. 3. Fish passage rules. The Department of Environmental Protection shall amend its rules, Chapter 305, Permit By Rule to require municipalities to achieve natural stream flow when they are repairing or maintaining roads or stream crossings. These rule changes apply only to water courses containing fish. The amendments must establish standards that ensure:

1. Adequate flow during high water conditions;
2. Upstream and downstream movement for aquatic organisms and downstream and lateral movement of materials;
3. Vertical gradient that matches up and down stream; and
4. Horizontal alignment that matches up and down stream.

Sec. 4. Rules. Rules adopted pursuant to or to implement the provisions of this Act are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be submitted to the Legislature by January 1, 2011 for review by the joint standing committee of the Legislature having jurisdiction over natural resources matters.

Sec. 5. Road construction; maintenance. The provisions of this Act do not affect forestry management activities, including associated road construction or maintenance.

See title page for effective date.

CHAPTER 461

H.P. 1024 - L.D. 1473

An Act To Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws

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

Sec. 1. 5 MRSA §1710-F, sub-§2, as amended by PL 1997, c. 157, §1, is further amended to read:

2. Biennial revenue projections. The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and

Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee. Revenue projections for the General Fund may not include revenue that accrues pursuant to Title 30-A, section 5250-I, subsection 14 and is deposited into the Pine Tree Development Zone Reserve Fund pursuant to Title 30-A, section 5250-J, subsection 4-B that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in Title 30-A, section 5250-I, subsection 17, paragraph A.

Sec. 2. 30-A MRSA §5250-I, sub-§2, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed.

Sec. 3. 30-A MRSA §5250-I, sub-§4, as amended by PL 2009, c. 21, §1, is further amended to read:

4. Base level of employment. "Base level of employment" means the greater of either the total employment in the State of a business as of March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the year of the business's application to become a certified Pine Tree Development Zone business divided by 4 or its average employment during the base period. Pursuant to section 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence.

Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted for a qualified business that has more than one location in the State and creates 250 or more jobs at one of these locations, so that the base level of employment is calculated from the location of the significant employment expansion of 250 jobs or more on the basis of that specific location.

Sec. 4. 30-A MRSA §5250-I, sub-§9, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

9. Labor market average weekly wage. "Labor market average weekly wage" means the average weekly wage as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application ~~for zone designation.~~

Sec. 5. 30-A MRSA §5250-I, sub-§10, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unem-