

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

viduals with disabilities must be in alignment with the accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, 118 Stat. 2647 and in alignment with the universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 contained in the federal Higher Education Amendments of 1998, Public Law 105-244, 112 Stat. 1581.

Sec. 4. 20-A MRSA §7205, as amended by PL 1987, c. 395, Pt. A, §72, is further amended to read:

§7205. Review and assistance

It is the intent of the Legislature that a representative of the commissioner visit ~~each~~ special education ~~program at least once every 5 years~~ programs for the purpose of review and assistance and as necessary to comply with federal general supervision requirements. Nothing in this section prohibits a school administrative unit from requesting that a representative of the commissioner visit a particular special education program for the purpose of review and assistance whenever necessary. The commissioner shall comply with each request in a timely fashion.

See title page for effective date.

CHAPTER 509

H.P. 1219 - L.D. 1718

**An Act To Amend the Laws
Relating to Government
Records**

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

Sec. 1. 5 MRSA §92-A, sub-§5, as amended by PL 1997, c. 636, §3, is further amended to read:

5. Record. "Record" means all documentary material, regardless of media or characteristics and regardless of when it was created, made or received ~~and~~ or maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.

Sec. 2. 5 MRSA §95, sub-§12, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

12. Copies. To furnish copies of archival material upon the request of any person, on payment in advance of such fees as may be required. Copies of state records transferred pursuant to law from the office of their origin to the custody of the State Archivist, when certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist; ~~and~~

Sec. 3. 5 MRSA §95, sub-§13, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

13. Photoreproduction and restoration. To provide centralized photoreproduction and records preservation services for government agencies to the extent the State Archivist determines advisable in the administration of the state program and facilities. Such services must be furnished to such agencies at cost.

Fees collected under this subsection must be deposited in the General Fund; ~~and~~

Sec. 4. 5 MRSA §95, sub-§14 is enacted to read:

14. Records explanation available. To prepare a detailed explanation of what constitutes a "record" pursuant to section 92-A, subsection 5 and "records belonging to the State or to a local government or any agency of the State" pursuant to section 95-A, subsection 1. The State Archivist shall include in the explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to interested parties at no cost to the requestor and shall post the explanation on a publicly accessible website.

Sec. 5. 5 MRSA §95-A, sub-§1, as amended by PL 1997, c. 636, §7, is further amended to read:

1. Ownership and possession; notice and demand of return. A record created by or belonging to the State, to a local or county government in the State or to any agency of the State remains the property of the State until ownership and possession are formally relinquished in accordance with statute and rules. Whenever the State Archivist has reasonable grounds to believe that records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the records. The notice and demand must be sent by certi-

fied or registered mail, return receipt requested. The notice and demand must identify the records claimed to belong to the State or local government with reasonable specificity. Upon receipt of the notice and demand, the person or entity in the possession of records claimed to belong to the State or local government may not destroy, alter, transfer, convey or otherwise alienate those records unless authorized in writing by the State Archivist or by an order issued by a court of competent jurisdiction. The notice and demand must specifically state that any transfer, conveyance or other alienation of the records after receipt of the notice and demand constitutes a Class E crime in violation of section 97.

See title page for effective date.

CHAPTER 510

H.P. 1156 - L.D. 1628

An Act To Amend the Laws Governing the Taste Testing of Alcoholic Beverages

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current law is prohibitive to retail establishments that wish to conduct tastings of alcoholic beverages; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 28-A MRSA §460, sub-§2, ¶J, as enacted by PL 2009, c. 459, §1, is amended to read:

J. The agency liquor store may conduct up to 3 tastings per month but no more than ~~42~~ 24 taste-testing events per year, including tastings conducted under sections 1205 and 1207.

Sec. 2. 28-A MRSA §460, sub-§2, ¶N, as enacted by PL 2009, c. 459, §1, is amended to read:

N. ~~Taste testing activities must be conducted in a manner that precludes the possibility of observation by children. Prior to a taste-testing event, the agency liquor store shall post prominently at the entrance to the store a sign that announces the date and time of the event.~~ The Department of Public Safety shall report ~~annually~~ by January ~~15th~~ 15, 2011 to the joint standing committee of

the Legislature having jurisdiction over alcohol regulation matters regarding the ~~operation and effectiveness of this paragraph in providing proper notice to adults who may wish to preclude minors from observing the taste testing of alcoholic beverages.~~

Sec. 3. 28-A MRSA §460, sub-§2, ¶O is enacted to read:

O. ~~An agency liquor store, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the agency liquor store's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph N.~~

Sec. 4. 28-A MRSA §1205, sub-§2, ¶H, as amended by PL 2009, c. 459, §2, is further amended to read:

H. The retail licensee may conduct up to 3 tastings per month but no more than ~~12~~ 24 taste-testing events per year, including tastings conducted under sections 460 and 1207;

Sec. 5. 28-A MRSA §1205, sub-§2, ¶L, as enacted by PL 2009, c. 459, §2, is amended to read:

L. ~~Taste testing activities must be conducted in a manner that precludes the possibility of observation by children. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event.~~ The Department of Public Safety shall report ~~annually~~ by January ~~15th~~ 15, 2011 to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the ~~operation and effectiveness of this paragraph in providing proper notice to adults who may wish to preclude minors from observing the taste testing of alcoholic beverages.~~

Sec. 6. 28-A MRSA §1205, sub-§2, ¶M is enacted to read:

M. ~~An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L.~~

Sec. 7. 28-A MRSA §1207, as enacted by PL 2009, c. 438, §5, is reallocated to 28-A MRSA §1208.

Sec. 8. 28-A MRSA §1207, sub-§1, as enacted by PL 2009, c. 459, §4, is amended to read:

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2,