

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

**5-A. Procedure.** The procedures of subchapter 2 must be used in adopting or amending rules authorized by this section.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 12 MRSA §6171-C**, as enacted by PL 2005, c. 44, §1, is repealed.

**Sec. 3. 12 MRSA §6172, sub-§1-B**, as enacted by PL 2005, c. 44, §2, is amended to read:

**1-B. Advisory council.** Notwithstanding section ~~6171-C~~ 6171-A, the advice and consent of the Marine Resources Advisory Council is not required prior to adoption of a rule under this section.

**Sec. 4. 12 MRSA §6192, sub-§1**, as amended by PL 2005, c. 44, §3, is further amended to read:

**1. Procedures.** In an emergency adoption of a rule or amendment to a rule, the commissioner may modify the procedures required under the Maine Administrative Procedure Act and section 6191 in the following manner.

A. In an emergency adoption of a rule or amendment to a rule relating to the public health and safety, including rules authorized under sections ~~6171-C~~ 6171-A and 6172, prior public notice and hearing is not required.

B. In an emergency adoption of a rule or amendment to a rule ~~relating to the general welfare~~, as authorized by section 6171 ~~or 6171-A~~, the rule is effective immediately, as provided in subsection 4. ~~A public hearing must be held in the affected area immediately thereafter~~ after the rule takes effect if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the commissioner receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. In an emergency adoption of a rule or amendment to a rule relating to gear conflicts, as authorized by section 6171-A, the commissioner shall decide within 5 business days after the hearing whether to continue or repeal an emergency closure. The commissioner's findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency rules under this paragraph may be repealed by the Marine Resources Advisory Council.

~~C. In an emergency adoption of a rule or amendment to a rule relating to gear conflicts, as authorized by section 6171 A, the rule is effective immediately, as provided in subsection 4. Prior public notice and hearing is not required. Notwith-~~

~~standing any other provisions of law, a public hearing must be held in the affected area immediately if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the commissioner receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. The commissioner shall decide within 5 business days after the hearing whether to continue or repeal the emergency closure. The commissioner's findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency rules under this paragraph may be repealed by the advisory council.~~

D. Within 48 hours after the adoption of an emergency rule or an emergency amendment to a rule authorized under section 6171-A, subsection 1, paragraph B or C, the commissioner shall hold a public meeting in the area affected by the emergency rule. A public meeting convened pursuant to this paragraph is not a public hearing for purposes of the Maine Administrative Procedure Act.

See title page for effective date.

**CHAPTER 529**

**H.P. 1212 - L.D. 1711**

**An Act To Clarify the Status of Prisoners**

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

**Sec. 1. 26 MRSA §663, sub-§3, ¶J**, as amended by PL 2007, c. 22, §2, is further amended to read:

J. Members of the family of the employer who reside with and are dependent upon the employer; ~~and~~

**Sec. 2. 26 MRSA §663, sub-§3, ¶K**, as amended by PL 2005, c. 255, §1, is further amended to read:

K. A salaried employee who works in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3000 times the State's minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher; and

**Sec. 3. 26 MRSA §663, sub-§3, ¶L** is enacted to read:

L. A person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except a prisoner who is:

- (1) Employed by a private employer;
- (2) Participating in a work release program;
- (3) Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;
- (4) Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761;
- (5) Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A; or
- (6) Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

**Sec. 4. 39-A MRSA §102, sub-§11, ¶E,** as amended by PL 2009, c. 142, §17, is further amended to read:

E. "Employee" does not include any person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except in relation to compensable injuries suffered by the prisoner during incarceration and while the prisoner is:

- (1) A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of the county jail;
- (2) Employed by a private employer;
- (3) Participating in a work release program;
- (4) Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;
- (5) Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761; ~~or~~
- (6) Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A; or
- (7) Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

**Sec. 5. 39-A MRSA §203, sub-§1,** as amended by PL 2009, c. 142, §§18 to 20, is further amended to read:

**1. Compensation while incarcerated.** Compensation for incapacity under section 212 or 213 or under any prior workers' compensation laws may not be paid to any person during any period of incarceration imposed in this State or any other jurisdiction after conviction of a criminal offense, except in relation to compensable injuries suffered during incarceration and while the prisoner is:

- A. Employed by a private employer;
- B. Participating in a work release program;
- C. Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261;
- D. Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761; ~~or~~
- E. Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A;
- F. A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of a county jail; or
- G. Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A.

See title page for effective date.

---

---

**CHAPTER 530**

**S.P. 596 - L.D. 1559**

**An Act Regarding Liquor Licenses for Qualified Catering Services**

**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 requires clarification with regard to licenses for qualified caterers who own free-standing event halls; and

**Whereas,** opportunities for business expansion and employment opportunities are hampered by this need for clarification; 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:**