

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

**CHAPTER 62  
S.P. 17 - L.D. 2**

**An Act To Allow Farm  
Wineries To Charge for Wine  
Tastings**

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

**Sec. 1. 28-A MRSA §1355, sub-§3, ¶B,** as amended by PL 1993, c. 730, §46, is further amended to read:

B. A holder of a farm winery license may serve complimentary samples of wine and sell, during regular business hours, wines produced at the winery by the bottle, by the case or in bulk on the premises of the winery to persons who are not minors. A holder of a farm winery license may serve complimentary samples of wine on Sunday after the hour of 12 noon and may sell wines on Sunday after the hour of 12 noon if the municipality in which the winery is located has authorized the sale of wines on Sunday for consumption off the premises under chapter 5. A farm winery may charge for samples of wine served in accordance with paragraph B-1.

**Sec. 2. 28-A MRSA §1355, sub-§3, ¶B-1** is enacted to read:

B-1. A farm winery that wishes to charge for samples shall otherwise comply with the conditions in paragraph B and shall file a form as prescribed by the bureau. After submission of the form to the bureau, each sample poured is subject to a charge in an amount determined by the farm winery and is subject to the sales tax for alcoholic beverages in accordance with Title 36, section 1811. A farm winery shall maintain a record of wine samples subject to a charge and maintain those records for a period of 2 years. A farm winery that charges for samples of wine may not offer complimentary samples until the bureau has been notified that samples are no longer subject to a charge. This paragraph is repealed February 1, 2014.

See title page for effective date.

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**CHAPTER 63  
S.P. 41 - L.D. 86**

**An Act To Provide Certainty to  
Businesses and Development**

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

**Sec. 1. 30-A MRSA §3007, sub-§6** is enacted to read:

**6. Restriction on nullification of final permit.** A municipality may not nullify or amend a municipal land use permit by a subsequent enactment, amendment or repeal of a local ordinance after a period of 45 days has passed after:

A. The permit has received its lawful final approval; and

B. If required, a public hearing was held on the permit.

For purposes of this subsection, "municipal land use permit" includes a building permit, zoning permit, subdivision approval, site plan approval, conditional use approval, special exception approval or other land use permit or approval. For the purposes of this subsection, "nullify or amend" means to nullify or amend a municipal land use permit directly or to nullify or amend any other municipal permit in a manner that effectively nullifies or amends a municipal land use permit. This subsection does not alter or invalidate any provision of a municipal ordinance that provides for the expiration or lapse of a permit or approval granted pursuant to that permit following the expiration of a certain period of time.

See title page for effective date.

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**CHAPTER 64**

**H.P. 313 - L.D. 387**

**An Act To Amend the Natural  
Resources Protection Act  
Regarding Coastal Sand Dune  
Systems**

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

**Sec. 1. 38 MRSA §480-B, sub-§2-E** is enacted to read:

**2-E. Footprint.** "Footprint" means the outline that would be created on the ground by extending the exterior walls of a building to the ground surface.

**Sec. 2. 38 MRSA §480-B, sub-§5-B** is enacted to read:

**5-B. Impervious area.** "Impervious area" means an area that is a building, parking lot, roadway or similar constructed area. "Impervious area" does not mean a deck or patio.

**Sec. 3. 38 MRSA §480-Q, sub-§28,** as amended by PL 2009, c. 75, §4, is amended to read:

**28. Release of water from dam after petition by owner for release from dam ownership or water**

**level maintenance.** Activity associated with the release of water from a dam pursuant to an order issued by the department pursuant to section 905; ~~and~~

**Sec. 4. 38 MRSA §480-Q, sub-§29,** as enacted by PL 2009, c. 75, §5, is amended to read:

**29. Dam safety order.** Activity associated with the breach or removal of a dam pursuant to an order issued by the Commissioner of Defense, Veterans and Emergency Management under Title 37-B, chapter 24; and

**Sec. 5. 38 MRSA §480-Q, sub-§30** is enacted to read:

**30. Minor expansions to buildings in a coastal sand dune system.** Expansion of an existing residential or commercial building in a coastal sand dune system if:

A. The footprint of the expansion is contained within an existing impervious area;

B. The footprint of the expansion is no further seaward than the existing building;

C. The height of the expansion is within the height restriction of any applicable law or ordinance; and

D. The expansion conforms to the standards for expansion of a building contained in the municipal shoreland zoning ordinance adopted pursuant to article 2-B.

See title page for effective date.

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**CHAPTER 65**

**S.P. 91 - L.D. 311**

**An Act To Improve Harbor Safety by Clarifying Requirements for Maintenance Dredging Permits**

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

**Sec. 1. 38 MRSA §480-E, sub-§7,** as enacted by PL 1997, c. 240, §1, is repealed and the following enacted in its place:

**7. Individual permit; maintenance dredging.** Notwithstanding section 480-X, if an analysis of alternatives to the dredging project has been completed by the applicant within the previous 10 years pursuant to section 480-X and rules adopted to implement that section as part of an individual permit application, the applicant may update the previous analysis for purposes of obtaining an individual permit for maintenance dredging under this subsection.

**Sec. 2. 38 MRSA §480-E, sub-§8,** as enacted by PL 1997, c. 240, §1, is repealed and the following enacted in its place:

**8. Permit by rule; maintenance dredging renewal.** An individual permit for maintenance dredging may be renewed with a permit by rule only if the area to be dredged is located in an area that was dredged within the last 10 years and the amount of material to be dredged does not exceed the amount approved by the individual permit.

See title page for effective date.

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**CHAPTER 66**

**S.P. 95 - L.D. 315**

**An Act Relating to the Status of a Private Investigator as an Independent Contractor**

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

**Sec. 1. 26 MRSA §1043, sub-§11, ¶F,** as amended by PL 2009, c. 637, §12, is further amended to read:

F. The term "employment" does not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter are applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State is not certified for any year by the Secretary of Labor under section 3304 of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to that year must be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225,