

# 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**

right-of-way of the public way by installing the on-premises sign within the right-of-way of the public way. The department is not responsible for loss or damage to an on-premises sign under this subsection from the use of the right-of-way of the public way for highway purposes. An on-premises sign under this subsection may be removed by the department at any time without compensation to the owner of the on-premises sign and at the owner's expense to accommodate highway uses.

The commissioner may adopt rules necessary for the implementation of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes, Title 23, chapter 21 the term "on-premise" appears, it is amended to read "on-premises," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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**CHAPTER 116**

**H.P. 152 - L.D. 175**

**An Act To Create a Short-term All-terrain Vehicle Registration System**

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

**Sec. 1. 12 MRSA §13155, sub-§5,** as amended by PL 2005, c. 12, Pt. III, §43, is repealed and the following enacted in its place:

**5. Fees.** The ATV registration fee is:

A. For a resident, \$33 annually. The registration for an ATV owned by a resident is valid for one year, beginning on July 1st of each year; and

B. For a nonresident:

(1) Fifty-three dollars for a registration valid for 7 consecutive days. A person may purchase more than one 7-day registration in any season; and

(2) Sixty-eight dollars for a registration valid for one year.

The registration for an ATV owned by a nonresident must specify the dates for which the registration is valid.

**Sec. 2. Effective date.** This Act takes effect May 1, 2012.

Effective May 1, 2012.

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**CHAPTER 117**  
**H.P. 349 - L.D. 456**

**An Act Relating to Temporary Disability Parking Permits**

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

**Sec. 1. 29-A MRSA §521, sub-§6-A** is enacted to read:

**6-A. Parking permit.** The Secretary of State shall create a 21-day parking permit for a person with a disability to be used while a person is waiting to receive a disability registration plate or placard and may appoint a licensed physician, physician assistant, nurse practitioner or registered nurse as an agent authorized solely to issue such a permit. The Secretary of State shall determine by rule qualifications and requirements for an agent authorized under this subsection. The 21-day parking permit must be in a form prescribed by the Secretary of State by rule and convey the privileges and restrictions authorized under this section. The 21-day parking permit must be displayed in a manner so that it may be viewed from the front of the vehicle whenever the vehicle is parked in a parking space for a person with a disability. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Agents appointed pursuant to this subsection may not charge a fee for issuing a 21-day parking permit for a person with a disability.

See title page for effective date.

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**CHAPTER 118**  
**S.P. 57 - L.D. 207**

**An Act To Amend the Laws Regarding Tips Used in Payment of Service Employees**

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

**Sec. 1. 26 MRSA §663, sub-§8,** as amended by PL 2007, c. 367, §1, is further amended to read:

**8. Service employee.** "Service employee" means any employee engaged in an occupation, ~~such as waiters, waitresses, bellhops, counter personnel and bartenders who serve customers,~~ in which the employee customarily and regularly receives more than \$30 a month in tips.

**Sec. 2. 26 MRSA §663, sub-§15** is enacted to read:

**15. Tip.** "Tip" means a sum presented by a customer in recognition of services performed by one or

more service employees, including a charge automatically included in the customer's bill. "Tip" does not include a service charge added to a customer's bill in a banquet or private club setting by agreement between the customer and employer.

**Sec. 3. 26 MRSA §664, sub-§2,** as amended by PL 2007, c. 367, §2, is further amended to read:

**2. Tip credit.** An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. ~~Service employees may volunteer to pool their tips to be split among other service employees or may volunteer to share a part of their tips with other employees who do not generally receive tips directly from customers.~~ Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

**Sec. 4. 26 MRSA §664, sub-§§2-A and 2-B** are enacted to read:

**2-A. Tip pooling.** This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement among service employees that is consistent with the federal Fair Labor Standards Act and regulations made pursuant to that Act.

**2-B. Service charges.** An employer in a banquet or private club setting that adds a service charge shall notify the customer that the service charge does not represent a tip for service employees. The employer in a banquet or private club setting may use some or all of any service charge to meet its obligation to compensate all employees at the rate required by this section.

See title page for effective date.

**CHAPTER 119  
H.P. 254 - L.D. 321**

**An Act To Change the Qualifications of Certain Members of the Board of Pesticides Control**

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

**Sec. 1. 22 MRSA §1471-B, sub-§1,** as amended by PL 2007, c. 466, Pt. B, §17, is further amended to read:

**1. Board established.** The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Food and Rural Resources. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System ~~specializing in agronomy or entomology~~ having practical experience and ~~knowledge of expertise in~~ integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must ~~have a demonstrated interest in environmental protection and~~ represent different geographic areas of the State. The term must be for 4 years, except that of the initial appointees, 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and one shall serve a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

**Sec. 2. Application.** This Act does not require the terms of members serving on the Board of Pesticides Control on the effective date of this Act to be terminated.

See title page for effective date.

**CHAPTER 120  
H.P. 751 - L.D. 1015**

**An Act To Reduce Unnecessary Reporting Requirements Related to Natural Resources**