

# 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 230  
H.P. 299 - L.D. 373**

**An Act To Provide for Equal Rights of Appeal for the State and Defendants Concerning Post-judgment DNA Analysis**

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

**Sec. 1. 15 MRSA §2138, sub-§6**, as enacted by PL 2001, c. 469, §1, is amended to read:

**6. Appeal from court decision to grant or deny motion to order DNA analysis.** An aggrieved person may not appeal as a matter of right from the denial of a motion to order DNA analysis. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule. The State may not appeal as a matter of right from a court order to grant a motion to order DNA analysis. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.

**Sec. 2. 15 MRSA §2138, sub-§11**, as enacted by PL 2001, c. 469, §1, is amended to read:

**11. Appeal from a court decision to grant or deny a motion for new trial.** ~~An aggrieved person may not appeal from the denial of a new trial as a matter of right. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.~~ The State or an aggrieved person may appeal as a matter of right from a court decision to grant or deny the person a new trial to the Supreme Judicial Court, sitting as the Law Court. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.

See title page for effective date.

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**CHAPTER 231  
H.P. 435 - L.D. 552**

**An Act To Exclude Cupolas from the Measurement of Height for Structures in the Shoreland Zone**

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

**Sec. 1. 38 MRSA §436-A, sub-§7-A** is enacted to read:

**7-A. Height of a structure.** "Height of a structure" means the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

**Sec. 2. 38 MRSA §439-A, sub-§9** is enacted to read:

**9. Cupolas.** For the purpose of determining the height of a structure, a municipal ordinance adopted pursuant to this article may exempt a cupola, dome, widow's walk or similar feature added to a legally existing conforming structure if:

- A. The legally existing conforming structure is not located in a Resource Protection District or a stream protection district as defined in guidelines adopted by the board; and
- B. The cupola, dome, widow's walk or other similar feature:

- (1) Does not extend beyond the exterior walls of the existing structure;
- (2) Has a floor area of 53 square feet or less; and
- (3) Does not increase the height of the existing structure, as determined under section 436-A, subsection 7-A, by more than 7 feet.

For purposes of this subsection, "cupola, dome, widow's walk or other similar feature" means a non-habitable building feature mounted on a building roof for observation purposes.

See title page for effective date.

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**CHAPTER 232  
S.P. 156 - L.D. 564**

**An Act Regarding Retention and Graduation Rates for Maine's Colleges and Universities**

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

**Sec. 1. 20-A MRSA §10011** is enacted to read:

**§10011. Retention and graduation rates**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Graduation rate" means the percentage of the students who enrolled at the start of a postsecondary educational degree program who completed the program and graduated.

B. "Peer institutions" means those postsecondary institutions selected to provide a basis for comparison of retention rates and graduation rates against similar postsecondary institutions in this State. The categories of peer institutions selected for comparison include, but are not limited to:

- (1) Public sector institutions that offer a bachelor's degree or other 4-year degree;
- (2) Public sector institutions that offer an associate degree or other 2-year degree;
- (3) Private sector institutions that offer a bachelor's degree or other 4-year degree; and
- (4) Private sector institutions that offer an associate degree or other 2-year degree.

C. "Postsecondary institution" means an educational institution that offers an accredited postsecondary educational degree program. "Postsecondary institution" includes an institution that offers an accredited postsecondary educational degree program on the Internet.

D. "Retention rate" means the percentage of the students who enrolled at the start of a postsecondary educational degree program who, not having completed the program at the end of a school year, continue enrollment in that program at the start of the next school year.

2. Retention and graduation rates. Using information received annually from a postsecondary institution pursuant to federal law, the department shall annually compile the data so as to demonstrate:

A. The retention rates for the previous year for the institution, including the first-to-2nd-year retention rate and the retention rate for first-time students;

B. For a postsecondary institution that offers an associate degree program or other 2-year program, the graduation rates for students who began their studies within the past 4 years; and

C. For a postsecondary institution that offers a bachelor's degree or other 4-year degree program, the graduation rates for students who began their studies within the past 6 years.

3. Report. The department shall report the information compiled under subsection 2, including national comparisons of retention rates and graduation rates for peer institutions, annually to the joint standing committee of the Legislature having jurisdiction

over education and cultural affairs and publish the report on the department's publicly accessible website.

4. Rules. The department may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 233**

**S.P. 164 - L.D. 572**

**An Act To Amend the Laws  
Governing the Maine Health  
Data Organization Relating to  
Retail Pharmacies**

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

**Sec. 1. 22 MRSA §8702, sub-§4**, as amended by PL 2007, c. 466, Pt. B, §18, is further amended to read:

**4. Health care facility.** "Health care facility" means a public or private, proprietary or not-for-profit entity or institution providing health services, including, but not limited to, a radiological facility licensed under chapter 160, a health care facility licensed under chapter 405, an independent radiological service center, a federally qualified health center certified by the United States Department of Health and Human Services, Health Resources and Services Administration, a rural health clinic or rehabilitation agency certified or otherwise approved by the Division of Licensing and Regulatory Services within the Department of Health and Human Services, a home health care provider licensed under chapter 419, an assisted living program or a residential care facility licensed under chapter 1663, a hospice provider licensed under chapter 1681, ~~a retail store drug outlet licensed under Title 32, chapter 117,~~ a state institution as defined under Title 34-B, chapter 1 and a mental health facility licensed under Title 34-B, chapter 1. For the purposes of this chapter, "health care facility" does not include retail pharmacies.

**Sec. 2. 22 MRSA §8702, sub-§9**, as enacted by PL 1995, c. 653, Pt. A, §2 and affected by §7, is amended to read:

**9. Provider.** "Provider" means a health care facility, health care practitioner, health product manufacturer; or health product vendor or pharmacy but does not include a retail pharmacy.

See title page for effective date.