

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

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FIRST REGULAR SESSION
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IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

year. "Commercial places of assembly" includes bars with live entertainment, dance halls, nightclubs, assembly halls with large open areas in which patrons stand or sit, commonly referred to as "festival seating," and restaurants. Rules adopted pursuant to this section are routine technical rules, except that rules pertaining to fire sprinklers are major substantive rules, both of which are defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 350
S.P. 87 - L.D. 281

**An Act To Create a 6-year
Statute of Limitations for
Environmental Violations**

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

Sec. 1. 38 MRSA §347-A, sub-§8, as enacted by PL 2007, c. 337, §1, is repealed.

Sec. 2. 38 MRSA §347-A, sub-§9 is enacted to read:

9. Limitations on enforcement actions. This subsection applies to enforcement actions for civil penalties.

A. An enforcement action must be commenced by the commissioner or the Attorney General within 6 years of the following, whichever occurs latest:

- (1) The discovery by the commissioner or the Attorney General of an act or omission giving rise to a violation;**
- (2) The identification by the commissioner or the Attorney General of the person responsible for the violation; and**
- (3) The last day of an ongoing violation.**

B. For purposes of this subsection, an enforcement action is commenced when any of the following occurs:

- (1) The commissioner proposes an administrative consent agreement in writing to the violator pursuant to subsection 4;**
- (2) The commissioner schedules an enforcement hearing on the alleged violation pursuant to subsection 2;**
- (3) The commissioner, with the prior approval of the Attorney General, files a complaint in District Court pursuant to section 342, subsection 7 and the Maine Rules of Civil Procedure, Rule 3; and**

(4) The Attorney General files a complaint in District Court or Superior Court.

C. The commencement of an enforcement action by any of the means set forth in paragraph B tolls the running of the 6-year limitation period for the purpose of bringing any other action pursuant to subsection 1, paragraph A.

See title page for effective date.

CHAPTER 351
H.P. 585 - L.D. 778

**An Act To Amend the Process
of Federal Aviation
Administration Airport
Improvement Program Grants**

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

Sec. 1. 6 MRSA §3, sub-§25-C is enacted to read:

25-C. Primary airport. "Primary airport" means an airport that has at least 10,000 passenger boardings per year.

Sec. 2. 6 MRSA §17, sub-§1, as enacted by PL 1977, c. 678, §30, is amended to read:

1. Development. Aid and assist municipalities and other political subdivisions in the development, ~~maintenance and operation~~ of their public airports;

Sec. 3. 6 MRSA §17, sub-§9, as enacted by PL 1977, c. 678, §30, is repealed.

Sec. 4. 6 MRSA §18, sub-§2-A is enacted to read:

2-A. Primary Airport Capital Improvement Grant Program; administration approval. Notwithstanding subsection 2, the Primary Airport Capital Improvement Grant Program, referred to in this subsection as "the state grant program," is established as a discretionary grant program administered by the department. The department shall distribute available state grant program funds to primary airports for eligible capital improvement projects as determined by the department. Funds may also be distributed to an eligible municipality or political subdivision of the State for airport equipment that is eligible under the administration's airport improvement program. The department shall provide state grant program funds to evenly share the local match with the eligible municipality or political subdivision of the State for the administration's airport improvement program grant offer and award an amount contingent upon the availability of state grant program funds. State grant program funds may be distributed only to projects ready for construc-

tion that are approved by the administration as eligible for state grant program funds. The department is not responsible for oversight or eligibility of projects under this subsection.

Sec. 5. 6 MRSA §18, sub-§3, as enacted by PL 1977, c. 678, §31, is amended to read:

3. Federal aid. This State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, are authorized to accept, establish, construct, own, lease, control, equip, improve, maintain and operate airports for the use of aircraft within their respective boundaries, or without those boundaries with the consent of the municipality or other political subdivision where the airport is or is to be located, and may use for the purpose or purposes any land suitable and available therefor.

The State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, by and through their duly constituted representatives, are authorized to apply for and accept federal aid to further any purpose related to the development of aeronautics and to do all things necessary or incidental thereto, subject to ~~subsection~~ subsections 2 of this section and 2-A. A request for federal aid under the federal Airport and Airway Improvement Act of 1982, 49 United States Code, Chapter 471, as amended, made by a municipality or other political subdivision in this State for a primary airport project is not required to be approved by the commissioner.

Airports owned and operated by any city, town or county are declared to be governmental agencies and entitled to the same immunities as any agency of the State.

See title page for effective date.

**CHAPTER 352
S.P. 110 - L.D. 397**

**An Act To Amend the Laws
Governing Competitive
Bidding for School
Construction and Repair**

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

Sec. 1. 5 MRSA §1743-A, as amended by PL 1989, c. 700, Pt. A, §17, is further amended to read:

§1743-A. Competitive bids; advertisement

Any contract for the construction, major alteration or repair of school buildings involving a total cost in excess of ~~\$100,000~~ \$250,000, except contracts for professional, architectural and engineering services

and contracts for energy conservation services in accordance with Title 20-A, section 15915, ~~shall~~ must be awarded by competitive bids. The school district directors, school committee, building committee or whatever agency has responsibility for the construction, major alteration or repair shall, after consultation with the Director of the Bureau of Public Improvements, seek sealed proposals. Sealed proposals ~~shall~~ must be addressed to the responsible agency and ~~shall~~ must remain sealed until publicly opened in the presence of the responsible agency or a committee thereof at such time as the responsible agency may direct. Competitive bids may be waived in individual cases involving unusual circumstances with the written approval of the Director of the Bureau of Public Improvements and the Commissioner of Education.

When a contract requires that maintenance and service following completion of a project be provided by the person responsible for the construction, major alteration or repair of that project, the cost for the ongoing maintenance and service must be included in determining the total cost of the project and the need to award the project by competitive bid. When a school administrative unit enters into 2 or more contracts for construction, major alteration or repair of school buildings within a 6-month period and the total of those projects exceeds \$250,000, the contracts for those projects must be awarded by competitive bid.

See title page for effective date.

**CHAPTER 353
H.P. 698 - L.D. 938**

**An Act To Permit Public
School Online Learning
Programs To Accept
Nonresident Tuition Students**

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

Whereas, there is an immediate opportunity for Maine school administrative units to improve the quality of education and earn additional revenues by enrolling nonresident tuition students in online learning programs; 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: