

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

**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**  
**2012**

53-B, subsection 1, a lot or parcel of land ~~which that~~, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 1988;

A-1. For land adjacent to farmland registered pursuant to section 53-I, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 2012:

B. Those subdivisions for which a completed application as described in former Title 30, section 4956, subsection 2, paragraph C-1, or Title 30-A, section 4403, subsection 3, has been filed or approved in the 2 years preceding the registration; or

C. A lot on which inconsistent development or incompatible use has been allowed by permit granted by a state or local government in the 2 years preceding the registration.

**Sec. 16. 7 MRSA §57**, as enacted by PL 1989, c. 478, §1, is amended to read:

#### §57. Variance

An owner of real estate may apply to the municipal zoning board of appeals or other municipal body hearing zoning appeals, or, in the case of areas within its jurisdiction, the Maine Land Use Regulation Commission, for a variance permitting an inconsistent development upon or incompatible use of land ~~which that~~ is otherwise prohibited under section 56. Notwithstanding Title 30-A, section 4353, subsection 4, a variance may be issued if adherence to section 56 renders a parcel of land subdivided prior to registration of the farmland unusable for residential purposes. Any variance granted for such a purpose ~~shall~~ must be conditioned to provide the maximum feasible setback from the abutting registered farmland.

**Sec. 17. 7 MRSA §58, sub-§2, ¶A**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 18. 12 MRSA §6-A**, as amended by PL 2007, c. 649, §6, is further amended to read:

#### §6-A. Farmland registration

In addition to the powers assigned in section 6, a soil and water conservation district shall review applications for the registration of farmland pursuant to Title 7, chapter 2-B. The district shall, by majority vote of the supervisors, certify whether the land described in the application:

**1. Acreage.** Consists of 5 or more contiguous acres;

**2. Farm products.** Includes only land ~~where agricultural chemicals, as defined in Title 7, section 52, were~~ used in the production of farm products, as de-

finied in Title 7, section 52, subsection 3-A, in ~~3 or more of the previous 6~~ one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under Title 7, chapter 2-B; and

**3. Relationship to boundary established.** Is within ~~400~~ 50 feet of any property boundary and that the application includes a depiction of the distance between any ~~crop-producing~~ producing farm products under consideration and any property boundary within ~~400~~ 50 feet that is sufficient to determine the impact of Title 7, section 56, subsection ~~4,~~ 1-A on abutting land.

**4. Renewal.** For farmland registered within the time frame provided under section 53-B, subsection 1, continues to meet the eligibility requirements of Title 7, section 53-A that were in effect at the time the land was registered.

~~A district shall complete its review under this section must be completed by May 1st of the calendar year in which the application is made within 60 days of receiving an application.~~

**Sec. 19. Directive to the Department of Agriculture, Food and Rural Resources.** The Department of Agriculture, Food and Rural Resources shall revise forms and other materials to be provided under the Maine Revised Statutes, Title 7, section 53-H to accommodate the registration of farmland under Title 7, chapter 2-B. The department shall consult with the soil and water conservation districts on the process for review and certification of farmland under Title 12, section 6-A. If needed, the department may submit legislation to revise requirements and implement an efficient process for the registration of farmland.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect July 1, 2012.

Effective July 1, 2012.

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## CHAPTER 609

### H.P. 1214 - L.D. 1605

#### An Act To Promote Agricultural Activity in Maine by Limiting the Liability for Agritourism Activities

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

**Sec. 1. 7 MRSA c. 8-E** is enacted to read:

**CHAPTER 8-E**  
**AGRITOURISM ACTIVITIES**

**§251. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Agritourism activity.** "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.

**2. Agritourism professional.** "Agritourism professional" means a person who is engaged in the business of farming or ranching and provides one or more agritourism activities, whether or not for compensation.

**3. Farm or ranch.** "Farm" or "ranch" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

**4. Farming or ranching.** "Farming" or "ranching" means primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations.

**5. Inherent risks of agritourism activity.** "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including but not limited to:

**A.** Certain hazards including surface and subsurface conditions and natural conditions of land, vegetation and waters;

**B.** The behavior of wild and domestic animals, including but not limited to the depositing of manure;

**C.** Ordinary dangers of structures or equipment ordinarily used in farming and ranching; and

**D.** The potential for injury to a participant or others if the participant acts in a negligent manner, including failing to follow instructions given by an agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity.

**6. Participant.** "Participant" means any person, other than the agritourism professional, who engages

in an agritourism activity, whether or not a fee is paid to view or participate in the agritourism activity.

**§252. Liability**

**1. No liability.** Except as provided in subsection 2, an agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant resulting from the inherent risks of agritourism activities. Except as provided in subsection 2, a participant or participant's representative may not make any claim or recover from an agritourism professional for property damage or damages for personal injury resulting from the inherent risks of agritourism activities. A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury that results from the inherent risk of agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings and refrain from acting in a manner that may cause or contribute to the injury of any person or damage to any property.

**2. Exceptions.** Nothing in subsection 1 prevents or limits the liability of an agritourism professional if the agritourism professional:

**A.** Commits an act or omission that constitutes negligence or reckless disregard for the safety of others, and that act or omission causes an injury. For purposes of this section, "reckless" has the same meaning as "recklessly," as defined in Title 17-A, section 35, subsection 3, paragraph A;

**B.** Has actual knowledge or reasonably should have known of a dangerous condition of the land, facilities or equipment used in an agritourism activity or the dangerous propensity of a particular animal used in the agritourism activity and does not make the danger known to a participant, and the danger causes an injury; or

**C.** Intentionally injures a participant.

**3. Assumption of risk.** In a personal injury action against an agritourism professional, a defense or immunity described in subsection 1 may be asserted only if the participant injured in the course of an agritourism activity had been notified of the inherent risks of an agritourism activity and the limitations of liability.

For purposes of this subsection, notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities take place. The statement or sign must contain the following information.

"WARNING

Under Maine law, there is no liability for injury to a participant in an agritourism activity conducted at this agritourism location if such injury results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment and animals, as well as the potential for injury if you act in a negligent manner. You are assuming the risk of participating in this agritourism activity."

The message on the sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near the places where the agritourism professional conducts agritourism activities.

See title page for effective date.

**CHAPTER 610****S.P. 601 - L.D. 1753****An Act To Improve  
Transportation in the State**

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

**PART A**

**Sec. A-1. 6 MRSA c. 4**, as amended, is repealed.

**Sec. A-2. 6 MRSA §102, sub-§2, ¶A**, as enacted by PL 1977, c. 678, §33, is amended to read:

A. All aircarrier and commuter aircarrier airports, ~~as defined under chapter 4~~, shall designate a person generally available who ~~shall have~~ has administrative responsibility for operation and management of the airport. All general aviation commercial airports, as defined under chapter 6, shall have at least a part-time airport manager.

**Sec. A-3. 6 MRSA §102, sub-§2, ¶C**, as enacted by PL 2007, c. 76, §1, is repealed.

**Sec. A-4. 6 MRSA §202, sub-§5**, as repealed and replaced by PL 1977, c. 678, §41 and amended by PL 1995, c. 504, Pt. B, §10, is repealed.

**Sec. A-5. 6 MRSA §202, sub-§7**, as amended by PL 1977, c. 678, §43, is repealed.

**Sec. A-6. 6 MRSA c. 15**, as amended, is repealed.

**Sec. A-7. 36 MRSA §1482, sub-§1, ¶A**, as amended by PL 2007, c. 627, §31, is further amended to read:

A. For the privilege of operating an aircraft within the State, each heavier-than-air aircraft or lighter-than-air aircraft operated in this State that

is owned or controlled by a resident of this State is subject to an excise tax computed as follows: 9 mills on each dollar of the maker's average equipped price for the first or current year of model; 7 mills for the 2nd year; 5 mills for the 3rd year; 4 mills for the 4th year; and 3 mills for the 5th and succeeding years. The minimum tax is \$10. Nonresidents of this State who operate aircraft within this State for compensation or hire ~~and are required to register under Title 6~~ must pay 1/12 of the tax amount computed as required in this paragraph for each calendar month or fraction thereof that the aircraft remains in the State.

**Sec. A-8. 36 MRSA §1484, sub-§1**, as amended by PL 2007, c. 627, §33, is further amended to read:

**1. Aircraft.** The excise tax on an aircraft must be paid to the ~~Department of Transportation. The Department of Transportation shall distribute the receipts from each excise tax payment to the~~ municipality where the aircraft is based except as follows.

A. If the aircraft is based at an airport owned by a county, the excise tax payments must be ~~distrib-~~ uted paid to that county.

B. If the aircraft is based at the Augusta State Airport, the excise tax payments must be ~~retained by the Department of Transportation paid to the~~ City of Augusta.

For the purposes of this subsection, an aircraft is deemed to be based at the location in the State where it has been hangared, parked, tied down or moored the most nights during the 30-day period of active flying preceding payment of the excise tax. If the aircraft has not been hangared, parked, tied down or moored at a location in the State during the 30-day period of active flying preceding payment, then the aircraft is deemed to be based at the location in the State where it will be hangared, parked, tied down or moored the most nights during the 30-day period of active flying next following payment of the excise tax.

**Sec. A-9. 36 MRSA §1486, first ¶**, as amended by PL 1995, c. 65, Pt. A, §139 and affected by §153 and Pt. C, §15, is further amended to read:

No vehicle may be registered under Title 29-A ~~or Title 6~~ until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 1482 and 1484.

**PART B**

**Sec. B-1. 23 MRSA §73, sub-§6**, as enacted by PL 2007, c. 470, Pt. B, §1, is repealed.

**Sec. B-2. 23 MRSA §73, sub-§7** is enacted to read:

**7. Priorities, service levels, capital goals and reporting.** The Department of Transportation shall