

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.

Augusta, Maine
2012

Sec. 36. 28-A MRSA §1652, sub-§2-B, as enacted by PL 1997, c. 501, §4, is amended to read:

2-B. Failure to make payments. If a winery or brewery that has not filed an excise tax surety bond fails to make tax payments as required by this section, the bureau may immediately take back its license issued pursuant to section ~~4355~~ 1355-A, having the effect of voiding the license.

Sec. 37. 28-A MRSA §2077, sub-§1-A, as amended by PL 2009, c. 373, §2, is further amended to read:

1-A. Importation of malt liquor or wine into State. Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or ~~farm~~ small winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 38. 28-A MRSA §2077, sub-§1-B, as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

1-B. Invoice required. Each shipment of malt liquor or wine transported or caused to be transported by a wholesale licensee, small brewery licensee or ~~farm~~ small winery licensee into the State must be accompanied by an invoice that includes the wholesale licensee's, small brewery licensee's or ~~farm~~ small winery licensee's name and purchase number.

See title page for effective date.

CHAPTER 630

S.P. 657 - L.D. 1880

An Act To Ensure the State's Authority over the Operation of Gambling Activities

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

Whereas, a recent opinion of the United States Department of Justice clarified that intrastate sale of lottery tickets over the Internet is not in violation of the federal Interstate Wire Act of 1961; and

Whereas, the State needs to assert its authority over the conduct of gambling; 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:

Sec. 1. 8 MRSA §371, sub-§6 is enacted to read:

6. Agent. "Agent" means a person or that person's representative who has been licensed under this chapter to sell lottery tickets on behalf of the State from the physical premises of the licensee's retail business establishment.

Sec. 2. 17-A MRSA §952, sub-§11, as enacted by PL 1975, c. 499, §1, is amended to read:

11. "Unlawful" means not expressly authorized by statute. An activity not expressly authorized by statute does not cease to be unlawful solely because it is authorized under federal law or the laws of another state or jurisdiction.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 12, 2012.

CHAPTER 631

H.P. 1098 - L.D. 1497

An Act Relating to Navigators under Health Benefit Exchanges

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

Sec. 1. 24-A MRSA §2188 is enacted to read:

§2188. Permitted activities of insurance producers; navigators; requirements

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

A. "Exchange" means a health benefit exchange established or operated in this State, including a health benefit exchange established or operated by

the Secretary of the United States Department of Health and Human Services, pursuant to Section 1311 of the federal Affordable Care Act.

B. "Navigator" means a person selected to perform the activities and duties identified in Section 1311(i) of the federal Affordable Care Act. For the purposes of this section, if an organization or business entity serves as a navigator, an individual performing navigator duties for that organization or business entity is considered to be acting in the capacity of a navigator within the meaning of subsection 4.

2. Permitted insurance producer or consultant activities. Only a person licensed as an insurance producer in this State in accordance with chapter 16, or, with respect to paragraph B, a person licensed as a consultant in accordance with chapter 16, may:

- A. Sell, solicit or negotiate health insurance;
- B. Make recommendations to purchasers, enrollees or employers or prospective purchasers or enrollees concerning the substantive benefits, terms or conditions of health plans; or
- C. Enroll an individual or employee in a qualified health plan offered through an exchange or act as an intermediary between an employer and an insurer that offers a qualified health plan offered through an exchange.

3. Certification of navigators. Prior to any exchange becoming operational in this State, the superintendent shall:

- A. Develop criteria for use by any exchange for the selection of a navigator pursuant to Section 1311(i) of the federal Affordable Care Act and state law;
- B. Adopt rules to establish a certification and training program for a prospective individual navigator that includes initial and continuing education requirements and an examination; and
- C. Adopt rules, to the extent permitted by the federal Affordable Care Act, that require a navigator to carry and maintain errors and omissions insurance to cover all activities contemplated or performed pursuant to this section and Section 1311(i) of the federal Affordable Care Act.

4. Navigator requirements. An individual other than a licensed insurance producer under chapter 16, may not act in the capacity of a navigator unless the individual:

- A. Is at least 18 years of age;
- B. Has completed and submitted a disclosure form, which must be developed by the superintendent and which may include such information as the superintendent determines necessary, and

has declared under penalty of refusal, suspension or revocation of the navigator certification that the statements made in the form are true, correct and complete to the best of the individual's knowledge and belief;

C. Has submitted to any criminal history record check or regulatory background check required by the superintendent by rule;

D. Has not committed any act that would be a ground for denial, suspension or revocation of a producer license as set forth in section 1420-K;

E. Has successfully completed the certification and training requirements adopted by the superintendent in accordance with subsection 3; and

F. Has paid any fees required by the superintendent.

5. Unfair practices. The provisions of this chapter and chapter 24 and any rules adopted pursuant to those chapters apply to navigators. For purposes of this section and the application of other provisions of this Title, the duties of a navigator are deemed to constitute the business of insurance.

6. Denial, suspension or revocation. The superintendent may deny, suspend or revoke the authority of a navigator certified pursuant to this section for good cause.

7. Rules. The superintendent may adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 632

S.P. 557 - L.D. 1658

An Act To Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline

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

Sec. 1. 10 MRSA §1453, sub-§§1-A and 1-B are enacted to read:

1-A. Blender. "Blender" means any person who blends stock with gasoline or who sells or distributes blend stock for the purpose of being blended with gasoline.

1-B. Blend stock. "Blend stock" means ethanol, methanol or any other products blended with gasoline to produce motor fuel.

Sec. 2. 10 MRSA §1457-A is enacted to read: