

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2013

than 550 traps. Each trap must bear the appropriate tag.

B. A person may not place or maintain a lobster trap in the Swans Island Lobster Conservation Area unless a trap tag designated for use in the Swans Island Lobster Conservation Area is affixed to the trap.

2. Trap tags; eligibility; expiration; suspension. The commissioner shall issue tags for traps in the Swans Island Lobster Conservation Area in accordance with this subsection. The commissioner shall charge and deposit fees for Swans Island Lobster Conservation Area trap tags in accordance with section 6431-B.

A. Trap tags issued for use in the Swans Island Lobster Conservation Area expire after one year as determined by the commissioner by rule.

B. Except as provided under paragraph C, the commissioner may not issue Swans Island Lobster Conservation Area trap tags to a person unless:

(1) That person's Class I, Class II or Class III lobster and crab fishing license issued in the prior calendar year identified the lobster management zone that includes the Swans Island Lobster Conservation Area as the declared lobster zone, as defined in section 6448, subsection 1, paragraph A, and that person applies to the commissioner during the period between January 1st and May 31st for Swans Island Lobster Conservation Area trap tags; or

(2) That person registered with the commissioner to purchase Swans Island Lobster Conservation Area trap tags for the prior season and applies to the commissioner during the period between January 1st and May 31st for Swans Island Lobster Conservation Area trap tags.

C. A person otherwise eligible to apply for Swans Island Lobster Conservation Area trap tags under paragraph B if not for the suspension of that person's Class I, Class II or Class III lobster and crab fishing license may apply to the commissioner for Swans Island Lobster Conservation Area trap tags during the period between January 1st and May 31st. Upon reinstatement of that person's license, the commissioner may issue trap tags to that person.

Sec. 2. Trap tag eligibility in 2013. A person eligible to take lobsters in the limited-entry zone in which Swans Island is located pursuant to the Department of Marine Resources Rule Chapter 25.90: Swans Island Area Lobster Trap Regulation is deemed to satisfy the requirements of the Maine Revised Statutes, Title 12, section 6482, paragraph B.

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

Effective June 24, 2013.

CHAPTER 343

H.P. 786 - L.D. 1114

An Act To Amend the Laws Concerning Parental Rights in Child Abandonment Cases

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

Sec. 1. 17-A MRSA §553, sub-§4 is enacted to read:

4. It is an affirmative defense to a prosecution under this section that the person had voluntarily placed the child with a person, agency or medical facility and the placement resulted from communication between the person or the person's agent and the Department of Health and Human Services and health care professionals with the purpose of securing a placement that is in the best interests of the child.

See title page for effective date.

CHAPTER 344

S.P. 573 - L.D. 1518

An Act Concerning Liquor Licensing Laws for Holders of 2 Licenses

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

Sec. 1. 28-A MRSA §10, as amended by PL 2009, c. 438, §1, is further amended to read:

§10. Class A restaurant and off-premise retail licensee on same premises

1. Class A restaurant or restaurant and off-premise retail licensee on same premises not prohibited. If a portion of a ~~premise~~ premises is licensed as an off-premise retail licensee, no provision within this Title may be construed to prohibit issuance of a ~~Class A restaurant~~ Class III or Class IV license to the same licensee for a restaurant or Class A restaurant for the remaining portion of the premises, ~~provided that as long as~~ provided that necessary qualifications are maintained for each separately licensed area.

2. Access between the 2 licensed areas. There may be access between the 2 licensed areas for the licensee or ~~his~~ the licensee's employees if it is through

areas open only to the licensee or ~~his~~ the employees. There must be complete nonaccess between the 2 licensed areas by the public.

2-A. Access exception. Notwithstanding subsection 2, there may be access between the 2 licensed areas by the public as provided by this subsection.

A. There may be access between the 2 licensed areas when there is a clear delineation of space, by a wall or permanent barrier that separates the 2 licensed areas and allows only one clearly defined and controlled point of access for patrons between the licensed establishments. The controlled point of access is not required to include a door that must be physically opened and closed.

B. When access between the 2 licensed areas exists for patrons of either establishment, all malt liquor and wine sold for on-premises consumption must be served by an employee of the licensed establishment and may be served only when accompanying a full meal prepared in a separate and complete kitchen on the premises. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking.

C. Malt liquor or wine sold or served on the premises may not be transported by a patron or employee of either establishment from one licensed area to another. The licensee shall ensure that easily readable signs are conspicuously posted to inform the public that transfer of alcoholic beverages from one licensed area to another is strictly prohibited.

This subsection is repealed September 30, 2015.

3. Licensee to maintain separate records, supplies and inventory. The licensee shall maintain records, ~~supplies and inventory~~ within each separate licensed establishment in accordance with the appropriate license privilege authorized for each separate area. The licensee shall maintain supplies and inventory separately in accordance with the appropriate license privilege either in each separate licensed establishment or, with prior approval of the bureau, in one storage area on the premises with appropriate separation of the supplies and inventory.

4. Application. This section does not apply to a dual license holder licensed under section ~~4207~~ 1208.

See title page for effective date.

CHAPTER 345 S.P. 590 - L.D. 1548

An Act To Support Maine Businesses by Authorizing Certain Brewing Partnerships

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

Whereas, current law with regard to tenant breweries producing malt liquor at host breweries does not reflect federal recognition of this practice; and

Whereas, it may be beneficial to breweries in this State to enter into partnerships that allow for shared manufacturing facilities; and

Whereas, some licensed brewers have existing excess production capacity that could be utilized by tenant brewers, creating new employment opportunities in this State; 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. 28-A MRSA §2, sub-§32-A is enacted to read:

32-A. Tenant brewer. "Tenant brewer" means a person who has submitted a brewer's notice to and received approval from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the brewer to engage in an alternating proprietorship as defined by federal regulation and is licensed by the bureau to produce malt liquor at a manufacturing facility of another brewer who is licensed by the bureau.

Sec. 2. 28-A MRSA §605, first ¶, as amended by PL 1997, c. 373, §54, is further amended to read:

Except as otherwise provided in this section, no license or any interest in a license may be sold, transferred, assigned or otherwise subject to control by any person other than the licensee. If the business, or any interest in the business, in connection with which a licensed activity is conducted is sold, transferred or assigned, the license holder shall immediately send to the bureau the license and a sworn statement showing the name and address of the purchaser. The bureau is not required to refund any portion of the licensee fee if the license is surrendered before it expires. For the purposes of this section, a tenant brewer who is li-