

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

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Augusta, Maine
2015

granted by a corporation, partnership, including a limited partnership or a limited liability partnership, limited liability company or trustee of a trust and, if included in the mortgage, the mortgage may be foreclosed pursuant to Title 14, chapter 713, subchapter 3. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale.

POWER

~~But upon~~ Upon any default in the performance or the observance of the foregoing or other condition, the mortgagee or ~~his~~ the mortgagee's executors, administrators, successors or assigns, ~~his~~ or ~~their~~ the agent or attorney of the mortgagee or the mortgagee's executors, administrators, successors or assigns, may sell the mortgaged premises or such portion thereof as may remain subject to the mortgage in case of any partial release thereof, either as a whole or in parcels, together with all improvements that may be thereon, by a public sale ~~on or near the premises in the county where the real estate~~ then subject to the mortgage is situated, or, if more than one parcel is then subject thereto, then ~~on or near in the county where~~ one of said parcels is situated, or at such place as may be designated for the purpose in the mortgage, first complying with the terms of the mortgage and the statutes relating to the foreclosure of mortgage by the exercise of a power of sale, and ~~he or they~~ the mortgagee or the mortgagee's executors, administrators, successors or assigns or the agent or attorney of the mortgagee or the mortgagee's executors, administrators, successors or assigns may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and such sale shall forever ~~bar~~ bars the mortgagor and all persons claiming under it from all right and interest in the mortgaged premises, whether at law or in equity.

See title page for effective date.

**CHAPTER 148
H.P. 473 - L.D. 697**

An Act To Restore Public Safety Programs in the Department of Public Safety

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period to enhance public safety by restoring regulation and inspection of amusement rides, amusement shows, traveling circuses and amusement devices by the Office of the State Fire Marshal; 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 c. 18 is enacted to read:

CHAPTER 18

AMUSEMENT RIDES AND SHOWS

§471. Definitions

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

1. Amusement ride. "Amusement ride" means a device or combination of devices or elements that carry, convey or direct a person over or through a fixed or restricted course or within a defined area for the primary purpose of amusement or entertainment. "Amusement ride" does not include nonmechanized playground equipment or a coin-operated ride that is manually, mechanically or electrically operated, is customarily placed in a public location and does not normally require the supervision or services of an operator.

2. Amusement ride inspector. "Amusement ride inspector" means an amusement ride inspector employed by the Office of the State Fire Marshal.

3. Amusement show. "Amusement show" means a fixed or traveling show, whether held indoors or outdoors, for which admission is charged and that is designed to provide amusement to members of the public, except that "amusement show" does not include a circus. "Amusement show" includes but is not limited to a carnival, thrill show, ice show and rodeo.

4. ASTM standards. "ASTM standards" means standards for amusement rides established by American Society for Testing and Materials International or a successor organization and adopted by the commissioner by rule.

5. Commissioner. "Commissioner" means the Commissioner of Public Safety.

6. Operator. "Operator" means an individual having direct control of the starting, stopping or speed of an amusement ride.

7. Owner. "Owner" means a person who owns or leases or manages the operation of an amusement ride.

8. Rider. "Rider" means a customer of an amusement ride. "Rider" includes a customer of an amusement ride who is waiting in the vicinity to get on the amusement ride and a departing customer who is still in the vicinity of the amusement ride.

§472. Amusement rides

1. Inspection required. An amusement ride must be inspected at least once annually by an amusement ride inspector.

A. In order to be operated in this State, an amusement ride must comply with the applicable ASTM standards for that amusement ride.

B. An amusement ride that is not operated in the State on a year-round basis must be inspected in the same calendar year in which the amusement ride is operated in the State, prior to either July 1st or the first operation of the amusement ride in the State, whichever is sooner.

C. If an inspection reveals that an amusement ride does not meet the applicable ASTM standards, an amusement ride inspector shall notify the owner of all defects.

D. An operator may not operate an amusement ride unless the amusement ride passed the most recent annual inspection required by this section.

E. Before an amusement ride may be operated, an amusement ride inspector must affix to the amusement ride an inspection decal that contains the date the amusement ride passed inspection and an identifying number of the inspection decal.

F. An amusement ride that has been modified or altered in a manner that changes its dynamics or control system from that of the original manufacturer's design or specification since its most recent annual inspection must be inspected by an amusement ride inspector before it may be operated in the State.

G. Following a serious injury or illness involving an amusement ride, the amusement ride must be inspected by an amusement ride inspector and ap-

proved by the commissioner before it may be operated in the State. As used in this paragraph, "serious injury or illness" means an injury or illness that results in death, dismemberment, disfigurement, compound fracture of a body part or permanent loss of the use of a body part or organ, function or system or that requires hospital admission within 24 hours of the occurrence of the injury or illness involving the amusement ride.

H. An owner or operator shall make an amusement ride available for inspection at all reasonable times and places upon request of an amusement ride inspector.

2. Insurance requirements. An owner shall provide an amusement ride inspector with a copy of a certificate of public liability insurance in a minimum amount of \$1,000,000 at the time of inspection.

3. Operator requirements. An owner must have a documented training policy for the operation of each amusement ride owned by the owner. The owner shall maintain a written certification for each operator, providing documented proof that the operator has received the training required by the training policy for the amusement ride.

4. Recording and reporting. An owner shall maintain a first aid incident report log for all rider injuries or illnesses, other than minor injuries or illnesses, resulting from the operation of an amusement ride. The report log must include the following:

A. The date the injury or illness occurred;

B. The name, address and telephone number of the rider who received first aid service or treatment;

C. The age of the rider;

D. The manufacturer and serial number of the amusement ride involved in the injury or illness;

E. A description of the injury or illness;

F. A description of any first aid service or treatment administered; and

G. Any other information considered pertinent by the owner.

5. Violation. A person who operates an amusement ride in violation of this section commits a civil violation for which a fine of not more than \$1,000 may be assessed upon the owner of the amusement ride.

6. Application and inspection required. A person may not operate an amusement ride prior to filing an application with the Office of the State Fire Marshal and before the amusement ride passes inspection as required in this section. An application must be accompanied by payment of an application fee in an amount set by rule adopted by the commissioner not to

exceed \$100 per amusement ride. An application must include the following:

- A. The name of the person or corporation operating the amusement ride;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the amusement ride is to operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in accordance with subsection 2.

§473. Amusement ride inspection fee

The amusement ride inspection fee is \$75 per inspector per hour with a minimum charge of \$75.

§474. Amusement shows

1. License required. A person may not operate an amusement show without first obtaining a license from the commissioner. A license application must include the following:

- A. The name of the person or corporation operating the amusement show;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the amusement show is to operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in an amount established by the commissioner by rule.

2. License fee. The license fee to operate an amusement show is \$300 annually.

3. Violation. A person who operates an amusement show in violation of this section commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

§475. Traveling circus and amusement devices

1. License required. A traveling circus may not operate or exhibit any parade, show or entertainment in this State without first obtaining a license from the commissioner for each calendar year. An amusement device may not be operated in this State without first obtaining a license from the commissioner. A license application must include the following:

- A. The name of the person or corporation using or operating the traveling circus or amusement device;
- B. A statement of proposed territory within the limits of the State, including the names of the cities and towns, in which the traveling circus or amusement device is to exhibit or operate; and
- C. A certificate of public liability insurance from an insurer approved by the commissioner in an

amount to be determined by the commissioner by rule.

Upon receipt of the application, accompanied by a certificate of public liability insurance and, for a traveling circus required to pay a license fee under subsection 2, payment of the required fee, the commissioner shall issue a license.

2. License fees. The following license fees apply.

A. For traveling circuses that are held outdoors or under tents or similar temporary cover or enclosure, the fee is \$500.

B. For traveling circuses held indoors in an auditorium, arena, civic center or similar type building, the fee is \$300.

For traveling circuses produced in their entirety by a nonprofit charitable organization, a license is required but no fee is charged.

3. Inspection fee. An amusement device may be inspected as determined necessary to protect the public safety by the commissioner. The amusement device inspection fee is \$75 per inspector per hour with a minimum charge of \$75.

4. Amusement device defined. For purposes of this section, "amusement device" means a device by which a person is carried or conveyed or is allowed to move on, around or over a fixed course within a defined area intended to thrill, excite or amuse, including, but not limited to, bungee jumping and water slides, regardless of whether a fee to use the device is charged. "Amusement device" does not include an amusement ride, vehicle or device the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001, or any coin-operated amusement device on a nonmoving base that is designed to accommodate one child.

§476. Rulemaking

The commissioner shall adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. 8 MRSA §658, as amended by PL 2013, c. 595, Pt. U, §5, is further amended to read:

§658. Unincorporated places

County commissioners within their counties and counties within their limits shall respectively exercise over unincorporated places all the powers of municipal officers and towns under chapters ~~3, 7 and 18~~ 20 to 25.

Sec. 3. 8 MRSA §701, as amended by PL 2013, c. 595, Pt. U, §6, is further amended to read:

§701. Jurisdiction

All penalties provided in chapters 3, 7 and ~~18~~ 20 to 25 must be recovered by complaint for the use of the town where incurred.

Sec. 4. 22 MRSA §1607, as amended by PL 2013, c. 595, Pt. U, §8, is further amended to read:

§1607. Application

This chapter does not apply to fairs licensed, defined and regulated under Title 7, chapter 4, or military activities. It does not apply to persons, associations, corporations, trusts or partnerships licensed under Title 8, ~~chapter~~ chapters 11 and 18.

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

Effective June 9, 2015.

CHAPTER 149**S.P. 326 - L.D. 935**

**An Act Regarding Alcohol
Manufacturing Licenses Issued
to Research Facilities**

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

Sec. 1. 28-A MRSA §1355-B is enacted to read:

§1355-B. Research manufacturer license

The bureau may issue a research manufacturer license to distill, rectify or brew spirits, wine or malt liquor to a state-supported postsecondary educational institution operating under federal law and federal supervision to manufacture malt liquor, wine or spirits. A license issued under this section authorizes the licensee to manufacture spirits, wine or malt liquor for research, educational and business development purposes as described by this section. The bureau may issue a research manufacturer license for the manufacture of malt liquor, wine and spirits or for the manufacture of one or 2 of these 3 types of liquor as specified on the license.

1. Eligible licensees. The bureau may issue a research manufacturer license to a state-supported postsecondary educational institution, or its agent, that submits an application to the bureau in a manner prescribed by the bureau. The bureau may require appropriate approval documentation from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes the educational institution, or its agent, to manufacture liquor. The Bureau of Alcoholic Beverages and Lottery Operations may

issue a license under this section only to an educational institution, or its agent, that:

A. Offers a course or courses for a degree program related to food sciences or agricultural sciences; and

B. Offers, as an outreach component of the institution, education and consulting through the application of the institution's research regarding food science and food processing to assist businesses in the State, including, but not limited to, manufacturers licensed under section 1355-A.

2. Location. A research manufacturer licensee may manufacture liquor only at a facility, subject to approval by the bureau, on the campus of the educational institution where courses for the programs described in subsection 1, paragraphs A and B are offered.

3. Manufacture of liquor limited to certain purposes. A licensee under this section may not manufacture liquor for sale, distribution or any other commercial purpose other than to collect fees for educational, testing or consulting services provided by the licensee. A licensee may manufacture liquor for the following purposes:

A. Business development consultation, including, but not limited to, recipe development and food health and safety practices;

B. General education about the manufacture of liquor for manufacturers licensed under section 1355-A, persons considering licensure and others who seek to manufacture liquor for their own personal use; or

C. Educational course work as part of the educational institution's curriculum for a degree program in food sciences or agricultural sciences.

Nothing in this section prohibits a research manufacturer licensee from charging a fee for the production of liquor or the use of equipment for the purposes described in this section.

4. Consumption of liquor on premises; transport of liquor from premises. A research manufacturer licensee is governed by the provisions of this subsection regarding the consumption of liquor on the research manufacturer's facility premises and the transport of liquor from the facility premises.

A. A licensee may permit sampling of the liquor produced on the facility premises by a person at least 21 years of age who is:

(1) A member of the faculty or staff of the institution who teaches or assists with course work and programs related to the liquor manufacturing, a student enrolled in a course in which manufacturing is included in the curriculum or a client of the outreach compo-