

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

**CHAPTER 10
H.P. 67 - L.D. 81**

**An Act To Clarify Maine Law
Regarding the Tips of Service
Employees**

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

Sec. 1. 26 MRSA §664, sub-§2-A, as enacted by PL 2011, c. 118, §4, is amended to read:

2-A. Tip pooling. This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement only among service employees that ~~is consistent with~~ **does not violate** the federal Fair Labor Standards Act and regulations made pursuant to that Act.

See title page for effective date.

**CHAPTER 11
H.P. 263 - L.D. 338**

**An Act To Allow Flexibility in
the Deposit Labeling of Metal
Returnable Beverage
Containers**

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

Sec. 1. 38 MRSA §3105, sub-§§1 and 2, as enacted by PL 2015, c. 166, §14, are amended to read:

1. Labels. Except as provided under subsections 2 and 4, the refund value and the word "Maine" or the abbreviation "ME" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value may not be indicated on the bottom of the container. ~~Metal beverage containers must be embossed or stamped on the top of the container.~~

2. Labels; nonrefillable containers; nonexclusive distributorships. With respect to nonrefillable beverage containers the deposits for which are initiated pursuant to section 3103, subsection 3, the refund value and the word "Maine" or the abbreviation "ME" must be clearly indicated on every refundable beverage container sold or offered for sale by a dealer in this State, by permanently embossing or permanently stamping the beverage containers, except in instances when the initiator of the deposit has specific permission from the department to use stickers or similar devices. The refund value may not be indicated on the bottom of the container. ~~Metal beverage containers~~

~~must be permanently embossed or permanently stamped on the tops of the containers.~~

See title page for effective date.

**CHAPTER 12
H.P. 459 - L.D. 630**

**An Act To Clarify That Food,
Food Additives and Food
Products Containing
Hemp-derived Cannabidiol
Produced and Sold within the
State Are Not Adulterated and
To Match the State's Definition
of "Hemp" to the Definition in
Federal Law**

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

Whereas, the federal Food and Drug Administration, in response to the passage of the federal Agriculture Improvement Act of 2018, released a statement announcing that it is unlawful under the Federal Food, Drug, and Cosmetic Act to introduce food containing added cannabidiol into interstate commerce because it is an active ingredient in a federally approved pharmaceutical drug; and

Whereas, the health inspection program within the Maine Centers for Disease Control in the Department of Health and Human Services has sent letters to retail food establishments in the State and regulators from the Department of Agriculture, Conservation and Forestry have contacted pet stores explaining that any food or food products containing hemp-derived cannabidiol must be removed from shelves, even if those food or food products are not introduced into interstate commerce, which has created anxiety and confusion among business owners, stakeholders and consumers alike; and

Whereas, any compliance with the letters or statements from the Department of Health and Human Services or the Department of Agriculture, Conservation and Forestry, which expand the federal Food and Drug Administration's authority to regulate only food that enters into interstate commerce, will undermine state sovereignty, diminish the livelihoods of Maine hemp farmers, food producers and retailers and deprive the people of Maine of the food that they consider necessary for their own or their animals' health and well-being; 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:

PART A

Sec. A-1. 22 MRSA §2158-A is enacted to read:

§2158-A. Food, food additives and food products containing hemp not adulterated

Notwithstanding any other provision of law to the contrary, food, food additives or food products that contain hemp, including cannabidiol derived from hemp, are not considered to be adulterated or misbranded under this subchapter based solely on the inclusion of hemp or cannabidiol derived from hemp. The nonpharmaceutical or nonmedical production, marketing, sale or distribution of food, food additives or food products within the State that contain hemp may not be restricted or prohibited within the State based solely on the inclusion of hemp. A food establishment or eating establishment, as defined in section 2491, subsection 7, may not make a claim that food, food additives or food products that contain hemp can diagnose, treat, cure or prevent any disease, condition or injury without approval pursuant to federal law. For the purposes of this section, "hemp" has the same meaning as in Title 7, section 2231, subsection 1.

PART B

Sec. B-1. 7 MRSA §2231, as amended by PL 2015, c. 202, §1, is further amended to read:

§2231. Hemp

1. Definition. As used in this chapter, unless the context otherwise indicates, "~~industrial~~ hemp" means any variety of the plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed of not more than 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in compliance with this chapter. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from hemp. "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter 558-C or adult use marijuana pursuant to Title 28-B, chapter 1. As used in this chapter, unless the context otherwise indicates, "certified seed source" means a source of hemp seeds that are certified by a 3rd party as producing hemp having a delta-9-tetrahydrocannabinol concentration that does not exceed of not more than 0.3% on a dry weight basis.

2. Growing permitted. Notwithstanding any other provision of law, a person may plant, grow, harvest, possess, process, sell and buy ~~industrial~~ hemp if that person holds a license issued pursuant to subsection 4. A person licensed pursuant to subsection 4 may plant, grow and harvest only hemp that is grown from seeds acquired from a certified seed source. A person licensed pursuant to subsection 4 may acquire hemp seeds directly from a certified seed source or from a hemp seed distributor licensed in this State distributing hemp seeds pursuant to subsection 2-A.

2-A. Seed distribution. The commissioner may issue a license for a hemp seed distributor if the hemp seeds distributed by the hemp seed distributor are from a certified seed source. The commissioner may issue a license under this subsection to a holder of a seed labeling license pursuant to section 1044-A.

3. Application. A person desiring to grow ~~industrial~~ hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner. The application must include the name and address of the applicant, the legal description of the land area to be used for the production of ~~industrial~~ hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating the production fields.

4. License issued. Upon review and approval of an application, the commissioner shall notify the applicant and request that the application fee determined under subsection 7 be submitted. Upon receipt of the appropriate fee, the commissioner shall issue a license, which is valid for a period of one year and only for the site or sites specified in the license.

6. Rules. The commissioner shall adopt rules to establish an application fee, a license fee, per acre fees for monitoring, sampling and testing and guidelines for monitoring the growth and harvest of ~~industrial~~ hemp. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Fees. The commissioner shall establish through rulemaking under subsection 6 an application fee, a license fee and per acre fees for monitoring, sampling and testing that are reasonable and necessary to cover the costs of the department. The application fee must be no less than \$50 and no more than \$100, the license fee must be no less than \$100 and no more than \$500, and the fees for monitoring, sampling and testing must be no less than \$1 per acre and no more than \$100 per acre.

All fees received pursuant to this subsection must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this subsection must be used for the expenses of administering this chapter.

Sec. B-2. 17-A MRSA §1101, sub-§22, as enacted by PL 2003, c. 61, §1, is amended to read:

22. "~~Industrial hemp~~ Hemp" means ~~any variety of the plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed of not more than~~ 0.3% on a dry weight basis and that is grown under a federal permit in compliance with the conditions of that permit.

Sec. B-3. 17-A MRSA §1103, sub-§7, as enacted by PL 2003, c. 61, §2, is amended to read:

7. It is an affirmative defense to prosecution under this section that the substance trafficked in is ~~industrial~~ hemp.

Sec. B-4. 17-A MRSA §1105-A, sub-§3, as enacted by PL 2003, c. 61, §3, is amended to read:

3. It is an affirmative defense to prosecution under this section that the substance trafficked in is ~~industrial~~ hemp.

Sec. B-5. 17-A MRSA §1105-C, sub-§3, as enacted by PL 2003, c. 61, §4, is amended to read:

3. It is an affirmative defense to prosecution under this section that the substance furnished is ~~industrial~~ hemp.

Sec. B-6. 17-A MRSA §1105-D, sub-§3, as enacted by PL 2003, c. 61, §5, is amended to read:

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is ~~industrial~~ hemp.

Sec. B-7. 17-A MRSA §1106, sub-§6, ¶A, as enacted by PL 2007, c. 346, Pt. B, §1, is amended to read:

A. ~~Industrial hemp~~ Hemp; or

Sec. B-8. 17-A MRSA §1107-A, sub-§3, ¶A, as enacted by PL 2005, c. 430, §4 and affected by §10, is amended to read:

A. The substance possessed is ~~industrial~~ hemp; or

Sec. B-9. 17-A MRSA §1107-A, sub-§5, ¶A, as enacted by PL 2007, c. 346, Pt. B, §2, is amended to read:

A. ~~Industrial hemp~~ Hemp; or

Sec. B-10. 17-A MRSA §1111-A, sub-§10, as enacted by PL 2003, c. 61, §8, is amended to read:

10. It is an affirmative defense to prosecution under this section that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation or processing of ~~industrial~~ hemp.

Sec. B-11. 17-A MRSA §1117, sub-§3, as enacted by PL 2003, c. 61, §9, is amended to read:

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is ~~industrial~~ hemp.

Sec. B-12. 28-B MRSA §102, sub-§27, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

27. Marijuana. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include ~~industrial~~ hemp as defined in Title 7, section 2231, subsection 1 or a marijuana product.

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

Effective March 27, 2019.

CHAPTER 13

H.P. 26 - L.D. 25

An Act To Implement the Recommendations of the Government Oversight Committee Regarding Bureau of Alcoholic Beverages and Lottery Operations Reporting Requirements

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

Sec. 1. 8 MRSA §372, sub-§2, ¶H, as amended by PL 1991, c. 780, Pt. Y, §109, is further amended to read:

H. Certify monthly to the ~~Treasurer of State, the~~ commission and the commissioner a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month; ~~submit an annual report, subject to the approval of the commission, that must include a full and complete statement of lottery revenues, prize disbursements and expenses, to the Governor and the Legislature, together with recommendations for changes in this chapter;~~

Sec. 2. 8 MRSA §372, sub-§2, ¶I, as amended by PL 2003, c. 673, Pt. MM, §1, is further amended to read:

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws that may be in effect in other jurisdictions. The director, subject to the prior approval of the commission,