

MAINE STATE LEGISLATURE

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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

6. Retail sampling. Samples poured from a bottle of spirits designated for retail sampling may be provided to an on-premises licensee licensed to serve spirits and to an agency liquor store on the premises of the agency liquor store if the person receiving the sample is 21 years of age or older and is in a supervisory or managerial position with the agency liquor store. Bottles of spirits designated for retail sampling must be properly sealed between samplings.

7. Records maintained. Records of samples given or received under this section must be maintained for a 2-year period by the retail licensee giving or receiving samples.

8. Access to samples. A sales representative shall request samples from bailment inventory of a supplier housed at the State's wholesale liquor provider's warehouse for the purposes described under this section.

Sec. 29. 28-A MRSA §1651, sub-§1, as amended by PL 2015, c. 166, §6, is further amended to read:

1. State spirits tax. Except as provided in section 83-C, subsection 2 2-A, the commission shall determine and set the ~~list retail~~ price at which to sell all spirits to agency liquor stores that will produce ~~an aggregate state liquor tax~~ sufficient revenue to pay all ~~liquor related~~ spirits-related expenses of the ~~Bureau of Alcoholic Beverages and Lottery Operations bureau~~ and to return to the Liquor Operation Revenue Fund established in Title 30-A, section 6054 and the General Fund an amount substantially equal to the amount of state ~~liquor~~ spirits tax collected in the previous fiscal year.

C. ~~The commission bureau shall add any cost to the State related to handling containers returned for charge agency liquor stores the refund value pursuant to Title 38, section 3103 to the established price without markup in addition to the wholesale price for each product purchased.~~

Sec. 30. 28-A MRSA §1651, sub-§2, as amended by PL 2013, c. 368, Pt. V, §§48 and 61, is repealed.

Sec. 31. 28-A MRSA §1651, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

3. Applicability of tax. Taxes on spirits imposed by the State do not apply to sales of spirits by manufacturers, bottlers and rectifiers holding licenses ~~from the commission~~ issued by the bureau:

- A. To any instrumentality of the United States;
- B. To any vessel of foreign registry;
- C. To industrial establishments for use as an ingredient in the manufacture of food products; or

D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes.

See title page for effective date.

CHAPTER 405

H.P. 1105 - L.D. 1512

An Act Regarding Persons Who Are Found Not Criminally Responsible and Are Sent out of State for Treatment

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

Sec. 1. 15 MRSA §104-A, sub-§1, as amended by PL 2005, c. 464, §1, is further amended to read:

1. Release and discharge. The term "release," as used in this section, means termination of institutional inpatient residency and return to permanent residency in the community. The head of the institution in which a person is placed, under section 103, shall, annually, forward to the Commissioner of Health and Human Services a report containing the opinion of a staff psychiatrist as to the mental conditions of that person, stating specifically whether the person may be released or discharged without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The report must also contain a brief statement of the reasons for the opinion. If a person has been placed in an institution outside the State pursuant to section 103, the institution of this State required to monitor the person's placement shall forward the report to the commissioner every 6 months. If a person who has been found not criminally responsible by reason of insanity for the crime of murder or a Class A crime and was committed under section 103 is the subject of a report finding that the person may be released, the report must specifically ~~describe~~ recommend the supervision for the Department of Health and Human Services ~~will to~~ provide the person and must specifically include measures for the department ~~will to~~ take to provide psychoactive medication monitoring of the person. The commissioner shall immediately file the report in the Superior Court for the county in which the person is committed. If a person has been placed in an institution outside the State, the commissioner shall immediately file the report in the Superior Court for the county in which the institution in this State required to monitor the person's placement is located. The court shall review each report and, if it is made to appear by the report that any person may be ready for release or discharge, the court shall set a date for and hold a hearing on the issue of the person's readiness for release or discharge.

The court shall give notice of the hearing and mail a copy of the report to the Attorney General, offices of the district attorney that prosecuted the criminal charges for which the person was committed under section 103 and the offices of the district attorneys in whose district the release petition was filed or in whose district release may occur. At the hearing, the court shall receive the testimony of at least one psychiatrist who has treated the person and a member of the State Forensic Service who has examined the person, the testimony of any independent psychiatrist or licensed clinical psychologist who is employed by the prosecutor and has examined the person and any other relevant testimony. If, after hearing, the court finds that the person may be released or discharged without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect, the court shall order, as applicable:

A. Release from the institution, provided that:

- (1) The order for release includes conditions determined appropriate by the court, including, but not limited to, outpatient treatment and supervision by the Department of Health and Human Services, Division of Mental Health. If the order for release covers a person found not criminally responsible by reason of insanity for the crime of murder or a Class A crime and was committed under section 103, the order must direct the Department of Health and Human Services to provide the level of supervision necessary, including specific measures to provide psychoactive medication monitoring; and
- (2) The order for release includes the condition that the person must be returned to the institution immediately upon the order of the commissioner whenever the person fails to comply with other conditions of release ordered by the court; or

B. Discharge from the custody of the Commissioner of Health and Human Services.

Release from the institution is subject to annual review by the court and, except for return as ordered by the commissioner under paragraph A, subparagraph (1), must continue until terminated by the court. Each person released under this section ~~shall remain~~ remains in the custody of the commissioner. The Commissioner of Health and Human Services shall inform the public safety officer of the municipality or the sheriff's office of the county into which the person is released of the release.

Sec. 2. 15 MRSA §109 is enacted to read:

§109. Committee for the oversight of patient human rights

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

A. "Commissioner" means the Commissioner of Health and Human Services.

B. "Committee" means a committee at a state institution that has responsibility for overseeing patients in a state institution or forensic patients placed in institutions outside the State.

C. "Department" means the Department of Health and Human Services.

D. "State institution" has the same meaning as in Title 34-B, section 1001, subsection 8.

E. "Superintendent" means the chief administrative officer of a state institution.

2. Committee convened. The commissioner shall convene a committee in each state institution.

3. Duties. The duties of the committee include, but are not limited to:

A. Reviewing practices that affect, or potentially affect, the civil liberties or other rights of patients;

B. Reviewing, investigating and seeking resolution of patient grievances;

C. For forensic patients placed outside the State pursuant to subsection 103:

(1) Reviewing reports submitted to the commissioner by the state institution pursuant to section 104-A, subsection 1 and provided to the committee by the superintendent pursuant to subsection 4;

(2) Reviewing medical records or other records at the request of the patient or the patient's guardian if the patient who is the subject of the review or the patient's guardian has provided informed, written consent; and

(3) Receiving verbal reports at least twice per year from the superintendent of the state institution monitoring the person's placement outside the State;

D. Performing other duties as assigned by the superintendent; and

E. Making recommendations or reporting concerns to the superintendent based on any review under this subsection.

4. Report; confidentiality. The superintendent shall provide patient reports under section 104-A, subsection 1 to the committee. The superintendent shall remove any identifying information of the patient in the report reviewed by the committee pursuant to sub-

section 3, paragraph C, subparagraph (1), unless the patient who is the subject of the report or the patient's guardian has provided informed, written consent to the full disclosure of the report to the committee.

See title page for effective date.

CHAPTER 406

S.P. 527 - L.D. 1638

**An Act To Provide for
Gubernatorial Appointments
to the Maine Charter School
Commission**

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

Sec. 1. 20-A MRSA §2405, sub-§8, ¶A, as amended by PL 2013, c. 368, Pt. JJJJ, §2, is further amended to read:

A. The commission consists of 7 members ~~appointed by the state board for 3-year terms.~~ The commission shall elect a chair and such other officers as may be necessary to conduct its business. Four members constitute a quorum.

(1) Three members must be members of the state board, appointed by the state board for 3-year terms, and those 3 members shall nominate the other 4 members who must be approved by a majority vote of the state board are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Senate, for 4-year terms.

(2) Members appointed to the commission must have diverse professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and non-profit governance. The following provisions apply to the appointment of the 4 other members nominated and appointed by state board members pursuant to subparagraph (1): In appointing members to the commission, the Governor shall give proper consideration to candidates with experience in a noncharter public school in the State in one of the following positions: school board member, superintendent, teacher and special education director.

(a) In appointing members to the commission, the state board shall give proper consideration to candidates with experience in a noncharter public school in the State in one of the following positions:

~~school board member, superintendent, teacher and special education director;~~

~~(b) The state board shall ensure that the joint standing committee of the Legislature having jurisdiction over education matters has an opportunity to meet and interview the candidate or candidates nominated for the commission;~~

~~(c) Within 10 days of meeting with the candidate or candidates, the joint standing committee of the Legislature having jurisdiction over education matters shall deliver to the state board its written appraisal of the strengths and weaknesses of the candidate or candidates; and~~

~~(d) The state board shall consider the appraisal of the joint standing committee of the Legislature having jurisdiction over education matters prior to appointing a candidate or candidates to the commission.~~

(3) A commission member may not serve more than 3 consecutive terms, but may serve again after not serving on the commission for at least one term.

(4) A commission member may receive an amount equal to the legislative per diem and be reimbursed for expenses.

(5) A commission member who is a member of the state board serves on the commission only during that person's membership on the state board. Upon expiration of that person's state board membership, the position on the commission becomes vacant and must be filled in the manner provided for filling vacancies. ~~The term of a member who is approved by the state board and reviewed by the joint standing committee of the Legislature having jurisdiction over education matters ends on June 30th of the final year of the member's term.~~

(6) A vacancy on the commission must be filled in the same manner as the position in which the vacancy occurs is regularly filled, including, if applicable, a review by the joint standing committee of the Legislature having jurisdiction over education matters. A vacancy is filled for the remainder of the unexpired term. If the person serves more than 1 1/2 years of an unexpired term, that service counts as one term for purposes of the limitation set forth in subparagraph (3).

(7) A member of the commission may be removed for failure to perform the duties of