

# 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.**

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**Augusta, Maine**  
**2019**

son, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class C crime;

**Sec. 2. 17-A MRSA §255-A, sub-§1, ¶U**, as repealed and replaced by PL 2011, c. 691, Pt. A, §14, is amended to read:

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime;

**Sec. 3. 17-A MRSA §255-A, sub-§1, ¶V**, as repealed and replaced by PL 2011, c. 691, Pt. A, §15, is amended to read:

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

**Sec. 4. 17-A MRSA §260, sub-§1, ¶K**, as repealed and replaced by PL 2011, c. 691, Pt. A, §16, is amended to read:

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime;

See title page for effective date.

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**CHAPTER 495**  
**S.P. 364 - L.D. 1190**

**An Act To Prohibit the  
Furnishing of Tobacco  
Products to Minors**

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

**Sec. 1. 17-A MRSA §554, sub-§1, ¶B**, as amended by PL 2015, c. 358, §3, is further amended to read:

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under

16 years of age any intoxicating liquor, ~~cigarettes~~, tobacco product as defined in Title 22, section 1551, subsection 3, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

**Sec. 2. 17-A MRSA §554, sub-§2, ¶A**, as amended by PL 2015, c. 358, §3, is further amended to read:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of the child under 16 years of age who furnished the child ~~cigarettes~~, any tobacco product as defined in Title 22, section 1551, subsection 3 or a reasonable amount of intoxicating liquor in the actor's home and presence;

**Sec. 3. 22 MRSA §1580-F** is enacted to read:

**§1580-F. Furnishing or allowing consumption of tobacco products by certain persons prohibited**

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

A. "Minor" means a person who has not reached the age of 21 years, unless the person has attained 18 years of age as of July 1, 2018.

B. "Tobacco product" has the same meaning as in section 1551, subsection 3.

**2. Offense.** Except as provided in subsection 3, a person who is 21 years of age or older may not knowingly:

A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver a tobacco product for or to a minor. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$500 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B within a 6-year period commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended.

(4) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B 2 or more times within a 6-year period commits a

Class D crime for which a fine of not less than \$1,500 may be imposed, none of which may be suspended; or

B. Allow a minor under that person's control or in a place under that person's control to possess or consume a tobacco product. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph A within a 6-year period commits a Class D crime for which a fine of not less than \$2,000 may be imposed, none of which may be suspended.

3. Exceptions. This section does not apply to a licensee under chapter 262-A or an agent of that licensee in the scope of employment.

See title page for effective date.

## CHAPTER 496

### H.P. 1085 - L.D. 1483

#### An Act To Clarify the Disposition of Funds Presumed Abandoned in a Lawyer's Trust Account

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

**Sec. 1. 33 MRSA §1952, sub-§§7-A and 7-B** are enacted to read:

**7-A. Lawyer's trust account.** "Lawyer's trust account" means a pooled trust account managed pursuant to rules adopted by the Supreme Judicial Court that earns interest or dividends at an eligible institution in which a lawyer or law firm holds funds on behalf of a client or clients. These funds are small in amount or held for a short period of time, such that the funds cannot earn interest or dividends for the client in excess of the costs incurred to secure such interest or dividends. For the purpose of this subsection, "eligible institution" means a financial organization meeting the requirements in rules adopted by the Supreme Judicial Court.

**7-B. Lawyer's trust account program manager.** "Lawyer's trust account program manager" means

an entity designated by the Supreme Judicial Court to manage the lawyer's trust account program adopted by the Supreme Judicial Court.

**Sec. 2. 33 MRSA §1952, sub-§13, ¶¶F and G,** as enacted by PL 1997, c. 508, Pt. A, §2 and affected by §3, are amended to read:

F. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; ~~and~~

G. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; ~~and~~

**Sec. 3. 33 MRSA §1952, sub-§13, ¶H** is enacted to read:

H. Funds in a lawyer's trust account.

**Sec. 4. 33 MRSA §1953, sub-§1, ¶O,** as amended by PL 2003, c. 20, Pt. T, §22, is further amended to read:

O. All other property, including funds in a lawyer's trust account, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs;

**Sec. 5. 33 MRSA §1959, sub-§5** is enacted to read:

**5. Payment of certain funds presumed abandoned in lawyer's trust accounts.** Notwithstanding any other provision in this chapter to the contrary, a lawyer, law firm or financial institution holding funds presumed abandoned in a lawyer's trust account for which no identifying client information can be found shall file a report with the administrator pursuant to section 1958, subsection 1 and then transfer such funds, along with a copy of the report, to the lawyer's trust account program manager to provide funding to organizations whose primary purpose is to provide civil legal aid to low-income residents of the State.

**Sec. 6. 33 MRSA §1979,** as enacted by PL 1997, c. 508, Pt. A, §2 and affected by §3, is amended to read:

#### §1979. Rules

The administrator may adopt rules pursuant to the Maine Administrative Procedure Act necessary to carry out this Act. Rules adopted ~~under~~ pursuant to this section are routine technical rules ~~under~~ as defined in Title 5, chapter 375, subchapter H-A 2-A. In addition, the Supreme Judicial Court may adopt rules for the