LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

B. An employee of the participating local district who is a member under the Participating Local District Retirement Program on the date on which the employer provides a plan under section 18252-B may elect to remain a member under that program or to become covered under a plan provided by the employer under section 18252-B. A person must make an election within 90 days of the date on which the employer provides a plan under section 18252-B. Once an election is made under this paragraph, except as provided in paragraph E, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the Participating Local District Retirement Program by that person. A person who elects not to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A.

Sec. 3. 5 MRSA §18252-A, sub-§1, ¶E is enacted to read:

E. An election under paragraph A or B to not be a member or not remain a member is not irrevocable if:

(1) The employee contribution rate for the plan provided by the employer under section 18252-B is not lower than the employee contribution rate for the applicable plan under the Participating Local District Retirement Program; and

(2) Employee contributions after joining or rejoining the Participating Local District Retirement Program qualify for treatment as pick-up contributions for federal tax purposes and the person's membership otherwise complies with the United States Internal Revenue Code as applicable to governmental qualified defined benefit plans.

Sec. 4. 5 MRSA §18254, sub-§1, as amended by PL 2009, c. 474, §35, is further amended to read:

1. Employee eligible to withdraw accumulated contributions. An employee of the district whose membership in the Participating Local District Retirement Program was compulsory under section 18251 must make an election to remain a member under that program or to withdraw accumulated contributions within 90 days of the effective date of the employer withdrawal from the program under section 18203, subsection 2. An employee who elects to withdraw accumulated contributions under this subsection may not be a member of the program as an employee of that district. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory if the employer later resumes participation in the program pursuant to section 18254-A. unless the employee is electing to rejoin the Participating Local District Retirement Program and:

A. The employee is covered by a plan provided by the employer under section 18252-B with an employee contribution rate that is not lower than the employee contribution rate for the applicable plan under the Participating Local District Retirement Program; and

B. Employee contributions after rejoining the Participating Local District Retirement Program qualify for treatment as pick-up contributions for federal tax purposes and the person's membership otherwise complies with the United States Internal Revenue Code as applicable to governmental qualified defined benefit plans.

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

Effective June 8, 2021.

CHAPTER 91

H.P. 524 - L.D. 714

An Act To Support the Recovery of Maine's Distilleries by Allowing the Sale of Cocktails for On-premises Consumption

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 spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

Whereas, in response to this public health emergency, the Governor issued an executive order on March 18, 2020 requiring the closure of tasting rooms at Maine distilleries; and

Whereas, due to the ongoing nature of the public health emergency, Maine distilleries were not permitted to reopen their tasting rooms until March 26, 2021, at which time they were permitted to operate at only 50% capacity; and

Whereas, the combined effects of the public health emergency and subsequent public health measures have significantly affected the economic

health of Maine distilleries, requiring immediate action to improve their economic viability; 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 §1355-A, sub-§5, ¶F-1 is enacted to read:

F-1. A distillery or small distillery may sell to the public for on-premises consumption cocktails containing samples of spirits produced by the distillery or small distillery under the conditions specified in this paragraph.

(1) A cocktail may be sold only at the manufacturing facility where the spirits are produced or at an additional location licensed under paragraph B, subparagraph (3).

(2) The distillery or small distillery may include wine or spirits not manufactured by the distillery or small distillery as an ingredient in the cocktail only if the distillery or small distillery purchased the wine or spirits from an agency liquor store licensed as a reselling agent.

(3) A cocktail may not contain more than 4 1/2 ounces of spirits.

This paragraph is repealed September 10, 2022.

Sec. 2. 28-A MRSA §1355-A, sub-§5, ¶H, as amended by PL 2019, c. 404, §27, is further amended to read:

H. Notwithstanding paragraph D, a holder of a small distillery license that sells its products directly to consumers for on-premises consumption under paragraph E or F-1 or under subsection 2, paragraph B, E or F may pay the bureau the difference between the distillery's price charged to the bureau and the discounted retail price charged by the bureau under section 606, subsection 4-B. A small distillery is not required to transport spirits that will be sold for on-premises consumption as described in this paragraph to a warehouse operated by the bureau or by a wholesaler contracted by the bureau under section 90. A holder of a small distillery license shall record the quantity of spirits sold for on-premises consumption that were not transported to a warehouse as described in this paragraph and submit monthly reports of this information, along with the full amount of state liquor tax due as prescribed by chapter 65, to the bureau in a manner prescribed by the bureau.

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

Effective June 8, 2021.

CHAPTER 92
H.P. 595 - L.D. 790

An Act Clarifying Patient Consent for Certain Medical Examinations

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

Whereas, legislation to require patient consent, in writing and orally, for certain medical examinations was enacted as emergency legislation on March 17, 2020; and

Whereas, this legislation clarifies that written informed consent is not required for those examinations performed on a conscious patient if oral consent is provided; and

Whereas, it is important for the clarification in this legislation to take effect as soon as possible; 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. 24 MRSA §2905-B, as enacted by PL 2019, c. 602, §1, is amended to read:

§2905-B. Informed consent for pelvic, rectal or prostate examination ~~on anesthetized or unconscious patient~~

A health care practitioner may not perform a pelvic, rectal or prostate examination or supervise a pelvic, rectal or prostate examination performed by an individual practicing under the supervision of the health care practitioner on a patient without first obtaining the patient's specific informed consent, orally and in writing, to that pelvic, rectal or prostate examination, unless:

1. Unconscious patient; diagnostic purposes and medically necessary. In the case of an unconscious patient, the examination is required for diagnostic purposes and is medically necessary; ~~or~~

2. Examination on unconscious alleged victim of sexual assault. The health care practitioner is authorized to perform the examination pursuant to section 2986, subsection 5~~.~~; or