

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

~~this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A;~~

- ~~(1) A Class E crime; or~~
- ~~(2) A Class D crime if the person has 2 or more prior convictions under this paragraph.~~

A violation under this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who violates any other provision of this section commits a civil violation for which a fine of not more than ~~\$500~~ \$1,000 may be adjudged.

4. Exceptions. A person is not guilty of transporting wild blueberries without a transportation permit if:

- A. The person is transporting wild blueberries that were not harvested in this State; ~~or~~
- B. That person purchased the wild blueberries at a store, farm stand, produce market or other retail outlet; or
- C. That person is an owner transporting less than 100 pounds of wild blueberries harvested from the owner's own land to the owner's residence for personal use.

Sec. 10. 36 MRSA §4316, as amended by PL 1997, c. 511, §24, is further amended to read:

§4316. Receivers of wild blueberries

1. Record keeping required. ~~A person shipper or processor who transports or receives wild blueberries shall keep a permanent record of each lot or load of wild blueberries received. The record must include the name of the driver of the vehicle used to deliver the wild blueberries, the date of delivery, the delivery point, the number of the transportation permit a copy of the transportation permit, the driver's license number and the total pounds of wild blueberries delivered.~~

2. Inspection of permit required. It is unlawful for a ~~person shipper or processor~~ to receive or accept delivery of wild blueberries ~~in lots of greater than 5 pounds~~ without first inspecting the transportation permit of the driver of the vehicle used to deliver the wild blueberries and ~~recording the transportation permit number~~ creating a permanent record in accordance with subsection 1.

3. Violation; civil. The failure to keep the permanent records of wild blueberries ~~transported or received as required in this section, failure to inspect the transportation permit of a driver of a vehicle used to deliver wild blueberries or any other violation of this section is a civil violation punishable by a fine of not more than \$1,000~~ \$5,000 for a first-time violation and punishable by a fine of not more than \$10,000 when

the person is found to have committed a prior civil violation of this section within the prior 5 years.

3-A. Violation; criminal. A shipper or processor who violates this section when the shipper or processor is found to have committed 2 prior civil violations of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3-B. Strict liability crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

4. Audits. The Wild Blueberry Commission of Maine may request the Department of Agriculture, Food and Rural Resources to conduct audits of the records of ~~receivers shippers or processors~~ for the purpose of ascertaining compliance with this section. The commissioner, or a duly authorized agent, has free access, during normal business hours, to all records required to be kept by ~~receivers shippers or processors~~ pursuant to this section and also to ~~receivers' shippers' or processors' accounts payable, accounts receivable, records of inventories, actual inventories, records of shipments and such other business records as are needed to ascertain compliance with this section.~~ Any documents inspected or taken by the department in furtherance of the audit functions or any other information collected by the department pursuant to the audit must be kept confidential notwithstanding any provision to the contrary contained in Title 1, chapter 13, subchapter 1. This confidential status does not apply to any documents, records or information that is needed as evidence in any civil or criminal proceeding to enforce any law under this chapter or any other criminal law.

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

Effective April 24, 2008.

CHAPTER 695

H.P. 1615 - L.D. 2252

An Act To Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

PART C

Sec. C-1. 1 MRSA §409, sub-§2, as enacted by PL 1975, c. 758, is amended to read:

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action ~~shall be~~ is illegal and the officials ~~responsible shall be~~ responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals ~~shall be~~ are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals.

Sec. C-2. 12 MRSA §6071, sub-§1, as amended by PL 1999, c. 401, Pt. BB, §3, is further amended to read:

1. Live importing for introduction into coastal waters. Except for Atlantic salmon imported by the Atlantic Salmon Commission under Part ~~42 9~~, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

Sec. C-3. 12 MRSA §12456, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Open seasons. Except as provided in subsection 2 and ~~Part 42 section 6140-A, subsection 4~~ and except as the commissioner may by rule provide, the following are the open seasons for fishing in the State. All opening and closing dates are inclusive.

A. The open season for all fish in waters or portions of waters naturally free of ice in lakes and ponds is from April 1st to September 30th.

B. The open season for all fish in the rivers above tidewater in waters free of ice is from April 1st to September 15th.

C. The open season for all fish in brooks and streams in waters free of ice is from April 1st to August 15th.

D. The open-water fishing season on boundary waters between Maine and New Brunswick is from April 15th to September 30th.

Sec. C-4. 19-A MRSA §701, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

4. Polygamy. A marriage contracted while either party has a living wife or husband from whom the party is not divorced is void.

Sec. C-5. 21-A MRSA §196, sub-§2, as amended by PL 2007, c. 397, §2 and c. 455, §11, is repealed and the following enacted in its place:

2. Voter lists or reports identifying voters. A person may purchase a list or report of voter information containing some or all of the information from the central voter registration system by making a request to the Secretary of State or to a municipal registrar if the information requested concerns voters in that municipality. The Secretary of State or the municipal registrar shall make available the following information, subject to the fees set forth in subsection 4 and the restrictions on use and redistribution of data set forth in subsection 7: the voter's name, residence address, mailing address, date of birth, enrollment status, electoral district, voter status, the date of registration or the date of change of the voter record if applicable, voter participation in previous elections including whether the voter cast a challenged or absentee ballot, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. In addition, municipal clerks or registrars shall make available upon request the list of persons who requested or were furnished absentee ballots created and maintained pursuant to section 753-B subject to the fees set forth in subsection 4 for printed lists and free of charge for electronic lists.

Sec. C-6. 22 MRSA §1711-E, sub-§1, ¶F-2, as enacted by PL 2007, c. 460, §1, is amended to read:

F-2. "Pharmacy" means a mail order prescription pharmacy as defined in Title 32, section ~~43702 13702-A~~, subsection ~~43 17~~ or a ~~drug outlet pharmacy~~ as defined in Title 32, section ~~43702 13702-A~~, subsection ~~40 24~~.

Sec. C-7. 22 MRSA §1711-E, sub-§1, ¶H, as enacted by PL 2005, c. 589, §1, is amended to read:

H. "Prescription drug information" means information concerning prescription drugs as defined in Title 32, section ~~43702 13702-A~~, subsection ~~24 30~~ and includes prescription drug orders as defined in Title 32, section ~~43702 13702-A~~, subsection ~~25 31~~.

Sec. C-8. 22 MRSA §2685, sub-§2, ¶D, as enacted by PL 2007, c. 327, §1, is amended to read:

D. "Dispenser" means a licensed mail order prescription pharmacy as defined in Title 32, section ~~43702 13702-A~~, subsection ~~43 17~~; a licensed ~~drug outlet pharmacy~~ as defined in Title 32, section ~~43702 13702-A~~, subsection ~~40 24~~; and any other person or entity licensed to dispense prescription drugs under Title 32, chapter 117.