

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND EIGHTEEN

—  
H.P. 1163 - L.D. 1675

**An Act To Clarify Definitions in the Laws Regarding the Licensing of Eating Establishments and Lodging Places**

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

**Sec. 1. 5 MRSA §13063, sub-§5**, as amended by PL 2011, c. 304, Pt. C, §2 and c. 682, §38, is further amended to read:

**5. Retail business permitting program.** ~~By February 1, 2012, the~~ The ombudsman shall establish and administer a central permitting program for all permits required by retail businesses selling directly to the final consumer, including, but not limited to, permits required for the operation of hotels and motels, convenience stores and eating ~~and lodging places~~ establishments, and permits required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. Permits issued by the Department of Environmental Protection, the Department of Marine Resources and the Maine Land Use Planning Commission are not included in this program. The ombudsman shall:

- A. Create a consolidated permit procedure that allows each business to check on a cover sheet all state permits for which it is applying and to receive all permit applications from a centralized office;
- B. Total all permit fees due from a business, collect those fees on a semiannual basis, with 1/2 of the total fees due by January 1st and 1/2 of the total fees due by July 1st, and distribute the fees to the appropriate funds or permitting entities;
- C. Forward a copy of the appropriate permit application to any commission, department, municipality or other agency that has responsibility for permitting that retail business;
- D. Develop a tracking system to track permits issued by state agencies. This system must at a minimum include information on the applicant, agency involvement, time elapsed or expended on the permit and action taken;
- E. Coordinate and supervise the permitting process to ensure that all involved state agencies process the applications and complete any necessary inspections in a timely fashion; and

F. Respond to inquiries from the business community and requests for information from the individual permitting entities, including reports on the status of an application.

A retail business is not required to participate in the retail business permitting program. An enforcement action taken against a retail business for a permit obtained through the retail business permitting program does not affect other permits issued to that same retail business through that program.

**Sec. 2. 22 MRSA §2491, sub-§6**, as amended by PL 2011, c. 193, Pt. A, §3, is repealed.

**Sec. 3. 22 MRSA §2491, sub-§7**, as amended by PL 2013, c. 264, §3, is repealed and the following enacted in its place:

**7. Eating establishment.** "Eating establishment" means any place where food or drink is prepared and served or served to the public for consumption on the premises or prepared and served or served ready to eat to the public for consumption off the premises. "Eating establishment" includes places in the entertainment, hospitality, recreation, restaurant and tourism industries; catering establishments; correctional facilities; hospital cafeterias; mobile eating places; public and private schools; retail frozen dairy product establishments; and workplace eating establishments and places where food is prepared for vending machines dispensing food other than in original sealed packages. "Eating establishment" does not include:

A. A place preparing and serving food that is licensed pursuant to state law by a state agency other than the department as long the licensing of the place includes regular food safety inspections;

B. A place serving food only to residents, such as a boarding home, a retirement home or an independent living place; and

C. A farm stand that offers only whole, uncut fresh fruits and vegetables.

**Sec. 4. 22 MRSA §2492, sub-§1, ¶B**, as enacted by PL 2003, c. 452, Pt. K, §20 and affected by Pt. X, §2, is repealed.

**Sec. 5. 22 MRSA §2494, first ¶**, as amended by PL 2011, c. 193, Pt. B, §1, is further amended to read:

Each application for, or for renewal of, a license to operate an eating establishment, ~~eating and lodging place~~, lodging place, recreational camp, youth camp or campground within the meaning of this chapter must be accompanied by a fee, appropriate to the size of the establishment, place, camp or area of the licensee, determined by the department and not to exceed the fees listed below. All fees collected by the department must be deposited into a special revenue account established for this purpose. No such fee may be refunded. No license may be assignable or transferable. The fees may not exceed:

**Sec. 6. 22 MRSA §2495, first ¶**, as amended by PL 2011, c. 193, Pt. B, §3, is further amended to read:

The department shall, within 30 days following receipt of application, issue an annual license to operate any eating establishment, ~~eating and lodging place~~, lodging place, recreational camp, youth camp or campground that is found to comply with this chapter and the rules adopted by the department.

**Sec. 7. 22 MRSA §2498, sub-§1**, as amended by PL 2013, c. 264, §6, is further amended to read:

**1. Authorization.** The department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter, occurs and the department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The department may impose penalties for violations of this chapter, or the rules adopted pursuant to this chapter, on any eating establishment, ~~eating and lodging place~~, lodging place, recreational camp, youth camp, public pool or public spa or campground. The penalties may not be greater than \$100 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

B. The department may direct an eating establishment, ~~eating and lodging place~~, lodging place, recreational camp, youth camp, public pool or public spa or campground to correct any violations in a manner and within a time frame that the department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

C. Any person, corporation, firm or copartnership that operates any eating establishment, ~~eating and lodging place~~, lodging place, recreational camp, youth camp, public pool or public spa or campground without first obtaining a license as required by this chapter must be punished, upon adjudication of unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of not less than \$200 nor more than \$500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

E. A person, corporation, firm or copartnership that fails to pay a penalty imposed pursuant to this chapter:

(1) May be referred to the Attorney General for appropriate enforcement action; and

(2) In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees.

**Sec. 8. 25 MRSA §2468, sub-§2, ¶A**, as amended by PL 2015, c. 396, §1, is further amended to read:

A. Each unit in any building of multifamily occupancy; a fraternity house, sorority house or dormitory that is affiliated with an educational facility; a children's home, emergency children's shelter, children's residential care facility, shelter for homeless children or specialized children's home as defined in Title 22, section 8101; or a hotel, motel, inn or bed and breakfast licensed as an eating ~~and lodging place~~ establishment or a lodging place under Title 22, chapter 562. The owner shall use a carbon monoxide detector that is powered by:

- (1) Both the electrical service in the building and a battery;
- (2) A nonreplaceable 10-year battery; or
- (3) A replaceable battery if the carbon monoxide detector uses a low-power radio frequency wireless communication signal, uses multiple sensors, has low-frequency audible notification capability or is connected to a control panel;

**Sec. 9. 25 MRSA §2468, sub-§4, ¶B**, as enacted by PL 2011, c. 553, §2, is amended to read:

B. A hotel, motel, inn or bed and breakfast upon initial licensure of that new construction as an eating ~~and lodging place~~ establishment or a lodging place under Title 22, chapter 562 on or after August 1, 2012; or