



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

---

Legislative Document

No. 1177

H.P. 875

House of Representatives, March 17, 2011

### **An Act To Make Minor Changes to Municipal Health Inspection Activities**

---

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative SANBORN of Gorham.  
Cosponsored by Senator BRANNIGAN of Cumberland and  
Representatives: EVES of North Berwick, ROCHELO of Biddeford, WELSH of Rockport.

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

2 **PART A**

3 **Sec. A-1. 22 MRSA §2491, sub-§1**, as amended by PL 1979, c. 30, §1, is further  
4 amended to read:

5 **1. Campground.** "~~Camping area~~ Campground" means, in addition to the ~~general~~  
6 ~~generally~~ accepted interpretations definitions, camping areas, recreational vehicle parks,  
7 seashore resorts, lakeshore places, picnic and lunch grounds or other premises where tents  
8 or recreational vehicles, rental cabins and cottages are permitted to be parked on 5 or  
9 more sites for compensation either directly or indirectly. "Campground" includes, but is  
10 not limited to, sites intended for recreational purposes rather than permanent residency.  
11 "Campground" does not include parking lots used only for emergency stops of less than  
12 12 hours or areas where camping is not authorized.

13 **Sec. A-2. 22 MRSA §2491, sub-§4**, as enacted by PL 1975, c. 496, §3, is  
14 amended to read:

15 **4. Cottage.** "Cottage" means a single structure where sleeping accommodations are  
16 furnished to the public as a business for a day, week or month, but not for ~~more~~ longer  
17 than the an entire summer season, for temporary occupancy for recreational purposes  
18 only and not for permanent residency.

19 **Sec. A-3. 22 MRSA §2491, sub-§6**, as enacted by PL 1975, c. 496, §3, is  
20 repealed.

21 **Sec. A-4. 22 MRSA §2491, sub-§7**, as amended by PL 2009, c. 211, Pt. A, §1, is  
22 further amended to read:

23 **7. Eating establishment.** "Eating establishment" means any place where food or  
24 drink is prepared and served, or served to the public for consumption on the premises, or  
25 catering establishments, or establishments dispensing food from vending machines, or  
26 establishments preparing foods for vending machines dispensing foods other than in  
27 original sealed packages, such as hotels, motels, boarding homes, restaurants, take-out  
28 restaurants, mobile eating places, coffee shops, cafeterias, short order cafes,  
29 luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges,  
30 night clubs, roadside stands, industrial feeding establishments, private or public  
31 institutions routinely serving foods, retail frozen dairy product establishments, airports,  
32 parks, theaters, recreational camps, youth camps or any other catering or nonalcoholic  
33 drinking establishments or operations where food is prepared and served or served for  
34 consumption on the premises, or catering establishments where food is prepared, or  
35 where foods are prepared for vending machines dispensing food other than in original  
36 sealed packages.

37 **Sec. A-5. 22 MRSA §2491, sub-§7-E** is enacted to read:

38 **7-E. Health inspector.** "Health inspector" means a person whose education and  
39 experience in the biological and sanitary sciences qualify that person to engage in the

1 promotion and protection of the public health and who applies technical knowledge to  
2 solve problems of a sanitary nature and develops methods and carries out procedures for  
3 the control of those factors of the environment that affect the health, safety and  
4 well-being of others.

5 **Sec. A-6. 22 MRSA §2491, sub-§7-F** is enacted to read:

6 **7-F. Lodging place.** "Lodging place" means a building or structure, or any part of a  
7 building or structure, used, maintained, advertised or held out to the public as a place  
8 where sleeping accommodations are furnished to the public for business purposes.  
9 "Lodging place" includes, but is not limited to, hotels, motels, guest homes and cottages  
10 where the owner maintains the sleeping accommodations. "Lodging place" does not  
11 include permanent residences, rooming houses, tenancies at will or rental properties with  
12 tenant and landlord relationships.

13 **Sec. A-7. 22 MRSA §2491, sub-§10-A** is enacted to read:

14 **10-A. Public pool.** "Public pool" means any constructed or prefabricated pool other  
15 than a residential pool or medical facility pool that is intended to be used for swimming,  
16 recreational bathing or wading and is operated by an owner, lessee, tenant or  
17 concessionaire or by a person licensed by the department whether or not a fee is charged  
18 for use. "Public pool" includes a pool on the premises of a child care facility that is  
19 licensed or required to be licensed under section 8301-A.

20 **Sec. A-8. 22 MRSA §2491, sub-§10-B** is enacted to read:

21 **10-B. Public spa.** "Public spa" means any constructed spa other than a residential  
22 spa or medical facility spa.

23 **Sec. A-9. 22 MRSA §2491, sub-§11,** as amended by PL 2009, c. 211, Pt. A, §2,  
24 is repealed and the following enacted in its place:

25 **11. Recreational camp or sporting camp.** "Recreational camp" or "sporting camp"  
26 means a building or group of buildings devoted primarily to the offering of primitive  
27 lodging for a fee to persons who want primitive recreation, snowmobiling, hunting,  
28 fishing and similar camps, not including summer sports programs overseen by employees  
29 or volunteers of municipalities and educational institutions when the activities generally  
30 take place at municipal or institutional properties and buildings.

31 **Sec. A-10. 22 MRSA §2491, sub-§12,** as enacted by PL 1975, c. 496, §3, is  
32 repealed.

33 **Sec. A-11. 22 MRSA §2491, sub-§13,** as enacted by PL 1975, c. 496, §3, is  
34 repealed.

35 **Sec. A-12. 22 MRSA §2491, sub-§14,** as enacted by PL 1975, c. 496, §3, is  
36 amended to read:

1           **14. Vending machine.** "Vending machine" ~~shall mean~~ means any self-service  
2 device offered for public use ~~which that,~~ upon insertion of ~~a coin, coins or token~~ money  
3 or by other similar means, dispenses unit servings of food other than in original sealed  
4 packages without the necessity of replenishing the device between vending operations.

5           **Sec. A-13. 22 MRSA §2491, sub-§16,** as enacted by PL 2009, c. 211, Pt. A, §3,  
6 is amended to read:

7           **16. Youth camp.** "Youth camp" means a combination of program and facilities  
8 established for the primary purpose of providing an outdoor group living experience for  
9 children with social, recreational, spiritual and educational objectives and operated and  
10 used for 5 or more consecutive days during one or more seasons of the year. "Youth  
11 camp" includes day camps, residential camps and trip and travel camps. "Youth camp"  
12 does not include summer sports programs overseen by employees or volunteers of  
13 municipalities and educational institutions when the activities generally take place at  
14 municipal or institutional properties and buildings.

15           **Sec. A-14. 22 MRSA §2492, sub-§1,** as amended by PL 2009, c. 211, Pt. A, §§4  
16 to 6, is further amended to read:

17           **1. License required.** A person, corporation, firm or copartnership may not conduct,  
18 control, manage or operate the following establishments for compensation, directly or  
19 indirectly, without a license issued by the department:

- 20           A. An eating establishment;
- 21           ~~B. An eating and lodging place;~~
- 22           C. A lodging place;
- 23           D. A recreational camp or sporting camp;
- 24           E. A ~~camping area~~ campground; ~~or~~
- 25           F. A youth camp;
- 26           G. A public pool; or
- 27           H. A public spa.

28 Licenses issued must be displayed in a place readily visible to customers or other persons  
29 using a licensed establishment.

30           **Sec. A-15. 22 MRSA §2492, sub-§3,** as enacted by PL 2003, c. 452, Pt. K, §20  
31 and affected by Pt. X, §2, is amended to read:

32           **3. Campground; presumption.** If a ~~camping area~~ campground consists of 5 or  
33 more tents or recreational vehicles on a commercial lot, it is presumed that the owner or  
34 renter of the lot is receiving compensation for the use of a ~~camping area~~ campground. The  
35 owner or renter may rebut the presumption if the owner or renter presents a  
36 preponderance of evidence to the contrary.



1           **Sec. B-2. 22 MRSA §2494, sub-§2**, as amended by PL 2003, c. 673, Pt. X, §1, is  
2 further amended to read:

3           **2. Sixty dollars.** Sixty dollars for each inspection for any ~~eating~~ establishment that  
4 is located in a municipality that requires local inspections of ~~eating~~ establishments; and

5           **Sec. B-3. 22 MRSA §2495, first ¶**, as amended by PL 2009, c. 211, Pt. A, §8, is  
6 further amended to read:

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

11           **Sec. B-4. 22 MRSA §2498, sub-§1, ¶A**, as amended by PL 2009, c. 211, Pt. A,  
12 §10, is further amended to read:

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

19           **Sec. B-5. 22 MRSA §2498, sub-§1, ¶B**, as amended by PL 2009, c. 211, Pt. A,  
20 §11, is further amended to read:

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

27           **Sec. B-6. 22 MRSA §2498, sub-§1, ¶C**, as amended by PL 2009, c. 211, Pt. A,  
28 §12, is further amended to read:

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

37           **Sec. B-7. 22 MRSA §2499, first ¶**, as enacted by PL 1975, c. 496, §3, is  
38 amended to read:

1 Notwithstanding any other provisions of this chapter, the department may issue a  
2 license to ~~establishments~~ an establishment as defined in section 2491 on the basis of an  
3 inspection performed by ~~an~~ a health inspector who works for and is compensated by the  
4 municipality in which such an establishment is located, but only if the following  
5 conditions have been met.

6 **Sec. B-8. 22 MRSA §2499, sub-§2**, as enacted by PL 1975, c. 496, §3 and  
7 amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

8 **2. Qualified to make inspections.** ~~No municipal~~ A municipally employed  
9 ~~sanitarians shall~~ health inspector may not make inspections under the provisions of this  
10 chapter unless certified as qualified by the Commissioner of Health and Human Services.

11 **Sec. B-9. 22 MRSA §2499, sub-§8**, as enacted by PL 1975, c. 496, §3, is  
12 amended to read:

13 **8. Certification.** Certification of municipally employed ~~sanitarians shall~~ health  
14 inspectors must be in accordance with standards set by the commissioner and ~~shall~~ be for  
15 a period of 3 years.

16 **Sec. B-10. 22 MRSA §2501**, as amended by PL 2007, c. 428, §1, is further  
17 amended to read:

18 **§2501. Exceptions**

19 Private homes are not deemed or considered lodging places and subject to a license  
20 when not more than 5 rooms are let; such private homes must post in a visible location in  
21 each rented room a card with the following statement in text that is easily readable in no  
22 less than 18-point boldface type of uniform font "This lodging place is not regulated by  
23 the State of Maine Department of Health and Human Services, Maine Center for Disease  
24 Control and Prevention." The homes must provide guests upon check-in with a notice  
25 containing the same information. A license is not required from dormitories of  
26 charitable, educational or philanthropic institutions, fraternity and sorority houses  
27 affiliated with educational institutions, or from private homes used in emergencies for the  
28 accommodation of persons attending conventions, fairs or similar public gatherings, nor  
29 from temporary eating establishments and temporary lodging places for the same, nor  
30 from railroad dining or buffet cars, nor from construction camps, nor from boarding  
31 houses and camps conducted in connection with wood cutting and logging operations, nor  
32 from any boarding care facilities or children's homes that are licensed under section 7801.

33 ~~Cottages shall~~ Rooms and cottages are not ~~be~~ deemed or considered lodging places  
34 and subject to a license where not more than 3 rooms and cottages are let.

35 Stores or other establishments, where bottled soft drinks or ice cream is sold for  
36 consumption from the original containers only, and where no tables, chairs, glasses or  
37 other utensils are provided in connection with such sale, ~~shall~~ are not ~~be~~ considered  
38 eating ~~places within the meaning of this section~~ establishments. At such establishments,  
39 straws or spoons may be provided to aid in the consumption of such bottled soft drinks or

1 ice cream, ~~provided as long as they shall be~~ are supplied in original individual single  
2 service sterile packages.

3 Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and  
4 ~~agricultural~~ agricultural societies ~~shall be~~ are exempt from department rules and  
5 regulations relating to dispensing foods and nonalcoholic beverages at not more than 12  
6 public events or meals within one calendar year.

7 **SUMMARY**

8 This bill amends the laws regarding the municipal licensing and inspection of  
9 campgrounds, recreational camps, youth camps and eating establishments. It clarifies  
10 definitions for campgrounds, cottages, eating establishments, lodging places, vending  
11 machines, recreational camps and youth camps. The bill adds definitions for health  
12 inspectors, public pools, public spas and sporting camps. It repeals definitions for eating  
13 and lodging places, sanitarians and vending machine establishments. It requires owners  
14 of public pools and spas and sporting camps to obtain a license from the Department of  
15 Health and Human Services. Municipal inspection reports must be furnished  
16 electronically in a format and on a schedule determined by the department, and fees as set  
17 forth in the Maine Revised Statutes, Title 22, section 2494 for municipal license types as  
18 described in Title 22, section 2492 must be waived for establishments located in  
19 municipalities to which authority to conduct inspections has been delegated by the  
20 department. However, the licensee is required to pay the department a sum not to exceed  
21 \$60 for each license type. It also exempts, for the purposes of the law requiring licensure  
22 of camping areas, those camping areas that are parking lots of shopping malls and store  
23 parking areas from the presumption that the owner of a camping area with 5 or more tents  
24 or recreational vehicles on a commercial lot is receiving compensation. The bill also  
25 fixes cross-references. It provides that the Department of Health and Human Services  
26 will not inspect or license lodging places that let 3 or fewer rooms.