

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of 18 or to consider a person's age in determining the terms upon which credit will be extended.

**Sec. 20. 5 MRSA §4601**, as repealed and replaced by PL 1991, c. 824, Pt. A, §4, is amended to read:

**§4601. Right to freedom from discrimination in education**

The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, sexual orientation, a physical or mental disability, national origin or race is recognized and declared to be a civil right.

**Sec. 21. 5 MRSA §4602, sub-§4** is enacted to read:

**4. Unlawful education discrimination on the basis of sexual orientation.** It is unlawful education discrimination in violation of this Act, on the basis of sexual orientation, to:

A. Exclude a person from participation in, deny a person the benefits of or subject a person to discrimination in any academic, extracurricular, research, occupational training or other program or activity;

B. Deny a person equal opportunity in athletic programs;

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of their sexual orientation;

D. Deny admission to the institution or program or to fail to provide equal access to any information about an institution or program through recruitment; or

E. Deny financial assistance availability and opportunity.

The provisions in this subsection relating to sexual orientation do not apply to any education facility owned, controlled or operated by a bona fide religious corporation, association or society.

**Sec. 22. 5 MRSA §4612, sub-§4, ¶A**, as amended by PL 1993, c. 303, §2, is further amended to read:

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation, physical or mental disability, religious, or nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders.

**Sec. 23. Construction.** This Act may not be construed to create, add, alter or abolish any right to marry that may exist under the Constitution of the United States, the Constitution of Maine or the laws of this State.

See title page for effective date.

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## CHAPTER 11

S.P. 32 - L.D. 90

### An Act Concerning the Confidentiality of Records Held by the Gambling Control Board

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

**Whereas**, the voters of Maine approved an initiated bill at referendum that became effective on January 4, 2004 to allow slot machines at commercial horse racing tracks; and

**Whereas**, the Second Special Session of the 121st Legislature established the Gambling Control Board to license and regulate slot machines; and

**Whereas**, the regulatory infrastructure is in place to license slot machine operations; and

**Whereas**, an application must be filed prior to the issuance of a license regarding the operation of slot machines and the license must be issued before slot machines may be operated as approved by the voters at referendum; and

**Whereas**, the confidentiality of information contained in the application must be established before an applicant can file a complete application; and

**Whereas**, the voters' expressed desire to allow slot machines at commercial horse racing tracks should be complied with as expeditiously 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. 8 MRSA §§1006, 1007 and 1008** are enacted to read:

**§1006. Confidentiality of records and information**

**1. Application and licensing records and information.** This subsection applies to information or records included in an application or materials required by the board for issuance of a license pursuant to this chapter, including records obtained or developed by the board or department related to an applicant or licensee. For the purposes of Title 1, section 402, subsection 3, the following records and information are designated as confidential and may not be disclosed except as provided:

A. Trade secrets as defined in Title 10, section 1542 and proprietary information that if released could be competitively harmful to the submitter of the information;

B. Information that if released would constitute an unwarranted invasion of personal privacy of a key executive, gaming employee or any other individual included in application materials, as determined by the board. Upon request, the board shall release a summary of information confidential under this paragraph describing the basis for the board's action in granting, denying, renewing, suspending, revoking or failing to grant or renew a license issued under this chapter. In preparing a summary, the board shall maximize public access to that information while taking reasonable measures to protect the confidentiality of that information;

C. Key executive or gaming employee compensation, except that:

(1) Executive compensation required to be filed with the federal Securities and Exchange Commission or, with respect to applicants or licensees that are not publicly traded corporations, executive compensation that would be required to be filed with the federal Securities and Exchange Commission were the applicant or licensee a publicly traded corporation or controlled by a publicly traded corporation is not confidential; and

(2) Compensation of the officers of the business entity that is organized or authorized to do business in this State who are responsible for the management of gaming operations, as determined by the board, is not confidential;

D. Financial, statistical and surveillance information related to the applicant or licensee that is obtained by the board or department from the central site monitoring system or surveillance devices;

E. Records that contain an assessment by a person who is not employed by the board or the department of the creditworthiness, credit rating or financial condition of any person or project, including reports that detail specific information for presentation to the board or department. Persons retained by the board or department to provide such an assessment shall prepare reports that indicate their conclusions and summarize information reviewed by them in a way that maximizes public access to that information;

F. Information obtained from other jurisdictions designated as confidential by the jurisdiction from which it is obtained and that must remain confidential as a condition of receipt. The board and the department may use information designated as confidential by the jurisdiction from which it is obtained but shall first make reasonable efforts to use information that is known to be publicly available from another source;

G. Information that is designated confidential under federal law whether obtained from federal authorities or provided to the board or department by an applicant, licensee or key executive; and

H. Birth dates, social security numbers, home addresses and telephone numbers, passport numbers, driver's license numbers, fingerprints, marital status, family relationships and support information, health status, personal financial records and tax returns of any individuals.

**2. Disclosure to applicant or licensee; written consent.** Records from an applicant or licensee may be disclosed to the applicant or licensee upon written request or to another person with the written consent of the applicant or licensee who provided the record.

**3. Central site monitoring system operator.** Records and information obtained or developed by the board or the department as part of a suitability requirement for selecting a 3rd party to operate the central site monitoring system pursuant to section 1004 are confidential for the purposes of Title 1, section 402, subsection 3, except that such records or

information may be disclosed with the written consent of the person applying as the central site monitoring system operator.

**4. Monitoring and surveillance records and information.** Financial, statistical and surveillance information obtained by the board or department from the central site monitoring system or surveillance devices is confidential and may not be disclosed. The board shall prepare and make publicly available monthly and annual reports on the results of slot machine operations using the information described in this subsection pursuant to section 1003, subsection 2, paragraphs Q and R, as long as the board takes appropriate measures to protect the confidentiality of specific information designated as confidential by this section.

**5. Application.** This section applies to all records and information in the possession of the board or the department on the effective date of this section, and the confidentiality of such information is governed by this section, not by the law in effect when the board or the department obtained the records or information. Disclosure of the records or information is governed by this section.

**6. Publicly available records.** Except for the information described in subsection 1, paragraph H, nothing in this section may be construed as designating confidential any records or information that are otherwise publicly available, and the board and the department are not required to treat those records or that information as confidential.

**7. Report on operations.** When financial and operating information, business records, business plans and marketing plans that are confidential under this section are submitted, the board and the applicant or licensee shall prepare a publicly available document that summarizes the confidential information in a manner that maximizes public access to that information.

**§1007. Intelligence sharing, reciprocal use and restricted use agreements**

**1. Agreement.** The board or the department may enter into intelligence sharing, reciprocal use or restricted use agreements with a department or agency of the Federal Government and law enforcement agencies and gaming enforcement or regulatory agencies of other jurisdictions. The board or the department may provide information or records designated as confidential under section 1006 only after obtaining a signed authorization to release the information or records from the applicant, licensee, owner, key executive or gaming employee to which the information or records relate, pertain or belong. This authorization requirement does not apply to the

sharing of information permitted under subsections 2 and 3.

**2. Reports from other jurisdictions.** Information or records in the possession of the board or the department received pursuant to an intelligence sharing, reciprocal use or restricted use agreement entered into by the board or the department with a federal department or agency or a law enforcement agency or gaming enforcement or regulatory agency of any jurisdiction are considered records or information within the meaning of section 1006, subsection 1 and may be disseminated only with the permission of the person or agency providing the information or records.

**3. Investigation of violations.** Records received by the board or the department as application materials or as part of an investigation related to an applicant or licensee may be disclosed to state or federal law enforcement entities when the Attorney General or the department determines that the information contains evidence of a possible violation of laws, rules or regulations enforced by those entities.

**§1008. Hearings and proceedings**

Notwithstanding section 1006, the confidentiality of records and information used or produced in connection with hearings, proceedings or appeals under subchapter 5 regarding noncompliance with or violation of this chapter are governed by the provisions of section 1052.

**Sec. 2. 8 MRSA §1052, first ¶,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

All reports, information or records compiled by the board or the department pursuant to this subchapter regarding noncompliance with or violation of this chapter by an applicant, licensee, owner or key executive are confidential, except that the board may disclose any confidential information as follows.

**Sec. 3. 8 MRSA §1052, sub-§3,** as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**3. During investigation.** All complaints and investigative records of the board are confidential during the pendency of an investigation. ~~These~~ Notwithstanding section 1006, the complaints and records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this subsection, an investigation is concluded when:

A. A notice of an adjudicatory hearing as defined under Title 5, chapter 375, subchapter 1 has been issued;

- B. A consent agreement has been executed; or
- C. A letter of dismissal has been issued or the investigation has otherwise been closed.

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

Effective March 31, 2005.

**CHAPTER 12**

**H.P. 343 - L.D. 468**

**An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2005, June 30, 2006 and June 30, 2007**

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

**PART A**

**Sec. A-1. Appropriations and allocations.**

In order to provide for the necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 2006 and June 30, 2007, the following sums as designated in the following tabulations are appropriated or allocated out of any money not otherwise appropriated or allocated. Any Highway Fund allocations appearing in this Part that are specifically allocated in another act are included in this Part for informational purposes only, as are enterprise accounts, exclusive of the State Lottery Fund.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**OFFICE OF THE COMMISSIONER – ADMINISTRATIVE AND FINANCIAL SVCS 0718**

GENERAL FUND	2005-06	2006-07
POSITIONS -		
LEGISLATIVE COUNT	3,000	3,000
Personal Services	\$323,866	\$337,579
All Other	\$25,196	\$25,583
GENERAL FUND TOTAL	\$349,062	\$363,162

**BUDGET - BUREAU OF THE 0055**

GENERAL FUND	2005-06	2006-07
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POSITIONS -		
LEGISLATIVE COUNT	12,000	12,000
Personal Services	\$1,015,684	\$1,049,799
All Other	\$87,412	\$90,135

GENERAL FUND TOTAL	\$1,103,096	\$1,139,934
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**HIGHWAY FUND 2005-06 2006-07**

POSITIONS -		
LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$76,740	\$82,233
All Other	\$8,219	\$8,350

HIGHWAY FUND TOTAL	\$84,959	\$90,583
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**STATE CONTROLLER - OFFICE OF THE 0056**

**GENERAL FUND 2005-06 2006-07**

POSITIONS -		
LEGISLATIVE COUNT	25,000	25,000
Personal Services	\$1,775,962	\$1,842,902
All Other	\$239,755	\$241,610

GENERAL FUND TOTAL	\$2,015,717	\$2,084,512
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**OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07**

All Other	\$1,000	\$1,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,000	\$1,000
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**STATE CONTROLLER - OFFICE OF THE - SYSTEMS PROJECT 0058**

**GENERAL FUND 2005-06 2006-07**

All Other	\$4,119,486	\$3,939,076
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GENERAL FUND TOTAL	\$4,119,486	\$3,939,076
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**OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07**

All Other	\$5,000	\$0
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$5,000	\$0
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**FINANCIAL AND PERSONNEL SERVICES - DIVISION OF 0713**

**GENERAL FUND 2005-06 2006-07**

POSITIONS -		
LEGISLATIVE COUNT	15,000	15,000
Personal Services	\$925,913	\$969,939
All Other	\$100,202	\$101,341

GENERAL FUND TOTAL	\$1,026,115	\$1,071,280
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**OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07**

POSITIONS -		
LEGISLATIVE COUNT	27,000	27,000
Personal Services	\$1,545,690	\$1,619,662
All Other	\$405,697	\$415,839

OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,951,387	\$2,035,501
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