

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

B. Assess a penalty of up to \$5,000 against the lobbyist or lobbyist associate.

See title page for effective date.

CHAPTER 563

H.P. 1391 - L.D. 1985

An Act To Make Revisions to the Maine Revised Statutes Relating to Agricultural Fairs

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

Sec. 1. 5 MRSA §12004-G, sub-§3-A, as amended by PL 2001, c. 421, Pt. B, §1 and affected by Pt. C, §1, is further amended to read:

3-A.	Pull Events Agriculture Commission	Expenses Only	7 MRSA §75 A- §98
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Sec. 2. 7 MRSA c. 3, as amended, is repealed.

Sec. 3. 7 MRSA c. 4 is enacted to read:

CHAPTER 4

AGRICULTURAL FAIRS AND PULLING EVENTS

§81. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural fair. "Agricultural fair" or "fair" means an exhibition that is designed to promote education and encourage improvement in agriculture and that includes, but is not limited to, the following:

A. The awarding of premiums for livestock competitions;

B. The display of and awarding of premiums for horticultural products; and

C. The display and presentation of agricultural activities and projects undertaken by youth organizations.

2. Agricultural society. "Agricultural society" means a nonprofit organization or association incorporated in the State to promote education and encourage improvement in agriculture.

3. Animal. "Animal" means an animal entered in an event.

4. Event. "Event" means a pulling competition or livestock exhibition.

5. Fair Fund. "Fair Fund" means the fund established in section 85.

6. Fair licensee. "Fair licensee" or "licensee" means a person, agricultural society or other entity licensed to conduct an agricultural fair in accordance with section 83.

7. Licensed veterinarian. "Licensed veterinarian" means a person licensed as a veterinarian by the State who is operating under the direction or authority of the department.

8. Livestock. "Livestock" means cattle, equines, goats, members of the genus Lama, rabbits, sheep and swine.

9. Poultry. "Poultry" means domesticated fowl and domesticated waterfowl.

10. Premium. "Premium" means a ribbon, trophy or monetary amount or a service or object with monetary value awarded as a prize in a competition.

11. Prohibited substance. "Prohibited substance" means:

A. A stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

B. Any substance that the commissioner through rulemaking in accordance with section 96, subsection 6 determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

C. A drug, regardless of how harmless or innocuous, that interferes with the detection of any other prohibited substance; or

D. A metabolite or derivative of a prohibited substance.

12. Stipend. "Stipend" means an amount distributed from the Stipend Fund or the Fair Fund to a qualifying fair licensee.

13. Stipend Fund. "Stipend Fund" means the fund receiving money in accordance with Title 8, sections 286 and 287 to provide aid and encouragement to fair licensees.

14. Trainer. "Trainer" means a person who has the responsibility for the care, training, custody or performance of an animal, including, but not limited to, any person who signs an entry blank for an event.

§82. Commissioner's duties and powers

1. Licensing and apportionment. The commissioner shall issue fair licenses in accordance with section 83. The commissioner shall apportion annually the stipend due from the Stipend Fund and the Fair Fund to qualified fair licensees.

2. Administration of Stipend Fund and Fair Fund. In administering the provisions of this chapter pertaining to the Stipend Fund and the Fair Fund, the commissioner shall:

A. Issue blanks for a licensee or the appropriate officer of a licensee to submit information necessary for the commissioner to obtain full knowledge of the licensee's work for each year;

B. Certify to the Governor the amount of stipend due a licensee; and

C. Make distributions from the Stipend Fund and the Fair Fund in accordance with this chapter.

3. Authority to summons. The commissioner may summon and examine on oath an officer or director of any entity holding a fair license or any person whose testimony the commissioner considers necessary in the proper discharge of the commissioner's duties under this chapter. The commissioner may require witnesses to offer for examination books or records in their custody or control that the commissioner considers necessary for the performance of the commissioner's duties.

4. Authorization for payment. The commissioner may authorize payment of a stipend only to a fair licensee that has adhered to the requirements of this chapter. A fair licensee is not entitled to a stipend unless the licensee completes and returns blanks issued in accordance with subsection 2. Neglect or failure on the part of a licensee to adhere to the requirements of this chapter is sufficient cause for withholding that licensee's stipend.

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§83. Licensing of agricultural fairs

A person or entity is not eligible to receive a stipend unless that person or entity has been issued a license by the department to hold an agricultural fair.

1. Application; fee. A person or entity applying for a license under this section must submit a completed application form and a \$10 license fee to the commissioner no later than March 31st in the calendar year preceding the first year of the license. The application for the license must contain the information prescribed by the commissioner and must be signed and sworn to by the applicant. When the applicant is an agricultural society, an executive officer of the society must sign and swear to the information on the application.

2. Issuance of license. If satisfied that an applicant will comply or, if an applicant has previously held a license, that the applicant has complied and will continue to comply with the requirements of this chapter and rules adopted pursuant to this chapter, the commissioner may issue a license to the applicant for an agricultural fair. A license is issued for 3 consecutive years and only for the dates assigned by the commissioner in accordance with section 84.

§84. Fair dates

1. Assigned fair dates. The commissioner shall set the dates for which an agricultural fair license is effective in accordance with rules adopted pursuant to section 82, subsection 5. No later than May 15th of the calendar year preceding the first year of each 3-year license period, the commissioner shall announce the assignment of fair dates and issuance of licenses.

2. Requests for changes in dates. A licensee may petition the commissioner for a change in the fair dates assigned under this section. The petition must be received a minimum of 90 days prior to the licensee's first assigned fair date for that year. Upon receipt of the petition, the commissioner shall reconsider the dates assigned, following the same procedure by which the dates were originally assigned, and shall make a determination within 30 calendar days.

3. Cancellation or reduction in fair days. A licensee shall notify the commissioner of a cancellation or any proposed decrease in the number of days of a fair. This notification must be made a minimum of 60 days prior to the first fair day assigned to the licensee for a given year.

§85. Fair Fund

The Treasurer of State shall establish the Fair Fund and shall annually credit a sum of money equal to 5% of the total amount designated as state share in accordance with Title 8, section 286 to the Fair Fund. The commissioner shall make distributions from the Fair Fund only to licensees eligible for a stipend under section 86, subsections 5 and 6. Distributions are prorated according to the amount of premiums and

gratuities actually paid by those licensees in full and in cash or valuable equivalent. Restrictions on premiums and gratuities used to determine apportionment of a stipend under section 86, subsection 5 apply to distribution from the Fair Fund.

§86. Stipend Fund

1. Annual distribution. The commissioner shall annually distribute all money contributed to the Stipend Fund under Title 8, sections 286 and 287 to qualified licensees in accordance with this section.

2. Distribution of funds to fair licensees that conduct pari-mutuel racing. Forty-four percent of the amounts contributed to the Stipend Fund under Title 8, sections 286 and 287 must be divided into equal amounts for reimbursement to each licensee that:

- A. Conducts pari-mutuel racing in conjunction with its annual fair;
- B. Has improved its racing facilities; and
- C. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

3. Distribution of funds to fair licensees who do not conduct pari-mutuel racing. Eight percent of the amount contributed to the Stipend Fund under Title 8, sections 286 and 287 for a calendar year must be divided into amounts in proportion to the sums expended for premiums by the licensee in that year for reimbursement to each licensee that:

- A. Does not conduct pari-mutuel racing; and
- B. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

4. Expenditures for administration and inspection services. The commissioner may expend annually up to 13% of the Stipend Fund for administrative and inspection services provided under this chapter.

5. Distribution to all eligible licensees. The amount remaining in the Stipend Fund after distributions in accordance with subsections 2, 3 and 4 must be divided among fair licensees meeting the eligibility criteria in subsection 6, prorated according to the

amount of premiums and gratuities actually paid by those licensees in full and in cash or valuable equivalent.

In determining distribution under this subsection, no allowance is made on premiums offered and paid by a licensee at any competition held other than during the period at which its annual fair is held. Allowance may not be made or consideration given for lump sums, payments or premiums previously arranged and agreed upon for the presentation and display of any animals or products without regard to competition.

Premiums and gratuities used to determine apportionment under this subsection are limited to those paid for:

- A. Livestock and poultry;
- B. Vegetables, grains, fruits and flowers;
- C. Products derived from livestock;
- D. Home-canned, home-cooked and home-baked goods;
- E. Grange and farm exhibits;
- F. Boys' and girls' club exhibits;
- G. Mechanical arts exhibits;
- H. Domestic and fancy articles produced in the home;
- I. Pulling contests for equines and oxen; and
- J. Pulling contests for farm tractors and pickup trucks.

6. Eligibility for stipend. A licensee is not entitled to a stipend under this chapter unless:

- A. The licensee holds a license that is valid for the year for which the stipend is calculated;
- B. Exhibits of vegetables, fruits, grains or dairy products, are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner;
- C. The health status of domestic animals shown or exhibited at the fair satisfies the health requirements established by the commissioner in accordance with section 1811 and rules adopted pursuant to section 1752;
- D. The fair is conducted in accordance with performance standards established in rules adopted pursuant to section 82, subsection 5; and

E. The minimum premiums established in subsection 7 are paid.

7. Minimum premiums required. To be eligible to receive a stipend, a licensee must:

A. Upon receiving an initial license, spend a minimum of \$750 per year on premiums for 3 years for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests; and

B. Upon fulfilling the requirement under paragraph A, continue to spend a minimum of \$1,200 on premiums yearly for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests.

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of \$10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund or the Agricultural Fair Support Fund in accordance with section 91.

§87. Licensees ineligible for stipend

1. Distribution of profits as primary purpose.

A licensee is not eligible for a stipend if the licensee is an entity with stockholders or members and the commissioner determines that the primary purpose of the licensed entity is the distribution of profits to its members or stockholders.

2. Premiums on unregistered males prohibited.

A stipend may not be paid to any licensee offering or paying premiums on unneutered male animals over 6 months of age that are not recorded in the books of record for their respective breeds as recognized by the commissioner. The commissioner may make verification of breed records a part of the sworn certificate required under section 88, subsection 1, paragraph A.

§88. Filing and certification; investigation of complaints

1. Filing requirement. A licensee may not receive payment of a stipend or state aid by special appropriation until:

A. The licensee files a sworn certificate with the commissioner stating the amount of money raised by the licensee in connection with the fair

and the amount actually awarded and paid in premiums; and

B. The commissioner submits a certificate to the executive director of the State Harness Racing Commission stating that the commissioner has examined the claim of the licensee and determined that the licensee has complied with sections 86 and 87 and has awarded and paid as premiums and gratuities a sum equal to or greater than the stipend received by the licensee.

2. Investigation of complaints. Upon receiving a written and signed complaint alleging a violation of this chapter relating to the payment of state aid in any form to a licensee, the commissioner may investigate the alleged violation and employ such agents as necessary to aid in the investigation. Expenses incurred for an investigation under this subsection are paid out of the general appropriation for state aid to licensees. When an investigation determines that a licensee has violated this chapter, the expense of the investigation is paid from the amount that would otherwise have been paid to that licensee. If a licensee against which the complaint is made receives its aid by special enactment, then the expense of the investigation is paid from the appropriation for that licensee.

§89. Licensees holding pari-mutuel racing meets

In addition to other requirements provided in this chapter, a licensee that holds pari-mutuel racing meets must put on an agricultural fair during one racing meet each year to be eligible to receive a stipend. Exhibits must be kept in an attractive display for a minimum of 3 consecutive days during the meet. The total premium payments for these exhibits must be an amount equal to or greater than the premiums paid for pulling contests at the fair and race meet, and not less than 25% of the premiums paid for harness horse races conducted during the annual fair.

The conducting of pari-mutuel betting by an entity licensed by the State Harness Racing Commission in accordance with Title 8, chapter 11 is not cause for withholding that entity's stipend.

§90. Annual reports

1. Annual reports. No later than December 31st of the year for which a stipend is requested, a licensee claiming a stipend shall file with the commissioner a statement setting forth:

A. The financial condition and transactions of the licensee;

B. The amounts paid in premiums in each of the classes or displays used to determine apportionment under section 85, subsection 5; and

C. Additional information requested by the commissioner relative to the character of displays and the conduct of exhibitions.

The licensee shall submit the required information on blanks furnished by the commissioner. Upon receipt and after examination of these statements, and if the commissioner finds the submission to be accurate, complete and in accordance with sections 85 and 86, the commissioner shall issue the certificate required under section 88.

§91. Agricultural Fair Support Fund

1. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Support Fund" and shall credit to it all money received under Title 8, section 1036, subsection 2, paragraph D.

2. Disbursement. No later than January 31st of each year, all funds held as of the end of the previous calendar year in the Agricultural Fair Support Fund must be distributed by the Treasurer of State as follows:

A. Thirty-four percent of these funds must be distributed to all commercial tracks as defined in Title 8, section 275-A and to all fair licensees that during the previous year were licensed to and did accept pari-mutuel wagers on harness horse races. These funds must be distributed in the manner prescribed in Title 8, section 298; and

B. Sixty-six percent of these funds must be divided among all fair licensees that were licensed during the previous year. These funds must be distributed to licensees according to the proportions established by section 86, subsection 5 and may be used at the licensee's discretion. To receive distribution under this paragraph, a licensee holding pari-mutuel racing in the previous year must have been in compliance with section 89.

§92. Constables

The officers of an agricultural society may appoint persons to act as constables at a licensed fair sponsored by that society for the preservation of the public peace and the enforcement of the regulations of the society. An appointment made under this section is valid only within the town where the fair is held and only for the period from noon of the day preceding the commencement of the fair until noon of the day after the termination of the fair. A constable appointed under this section has the powers and duties of a constable under Title 30-A, section 2673.

§93. Property management

An agricultural society may acquire and hold property, real and personal. The annual income from this property must be used for the purposes stated in the society's charter. The treasurer for a society may receive conveyances or leases of property for the society, and hold, sell, mortgage or pledge the property. A treasurer using this authority to manage property shall give bonds to the trustees of the society for safekeeping and the faithful discharge of the treasurer's duties.

§94. Entry fees; lien on animals or articles

1. Payment of entry fee. A person who enters an animal or article in a competition for premiums offered by a licensee must pay the entry fee in accordance with the advertised rules and regulations of the licensee, as long as the rules and regulations are not in conflict with the laws of the State or rules adopted in accordance with the laws of the State.

2. Lien for failure to pay. When an entry fee is not paid as required under subsection 1, a lien is created upon an animal or article to secure payment with costs. The lien may be enforced by a civil action against the person owning the animal or article, or the person entering the animal or article in the competition. Alternatively, the lien may be enforced in the same manner as liens on goods in possession.

3. Exception to lien. A lien under subsection 2 does not affect the ownership of an animal or article when a person who was not responsible for the entry fee and had no notice of the lien purchases the animal or article.

§95. Restriction on sale of goods and refreshments; lease of land

1. Sale of goods and exhibitions restricted. A person who sells refreshments or other merchandise, or exhibits a show or play, unless in that person's own dwelling or usual place of business, within a quarter of a mile of the fairgrounds during the time a licensed fair is conducted is subject to a forfeit of not more than \$100 to the licensee.

2. Lease restricted. A person who leases any land or building adjoining or overlooking the fairgrounds to spectators of an exhibition on the fairgrounds during the time of the exhibition, without the written consent of the licensee, is subject to a forfeit of not more than \$100 to the licensee.

3. Recovery on complaint. A forfeiture under this section may be recovered on complaint of the licensee.

§96. Use of prohibited substance; animals entered in events

1. Prohibition on administration of prohibited substance. A person may not feed, inject, insert or otherwise administer or attempt to administer or instruct, aid or conspire with another person to administer or employ anyone who administers or attempts to administer a prohibited substance to an animal.

2. Prohibited use or exhibition of drugged animal. A person may not enter or use in an event an animal that has been administered a prohibited substance. The commissioner may require that an animal be tested for the presence of a prohibited substance before, during or after an event.

3. Animals subject to examination; scope; request for test. An animal entered in an event is subject to examination under the direction of a licensed veterinarian or an agent of the licensed veterinarian. The licensed veterinarian, with the approval of the commissioner, may appoint technicians and agents to perform duties under this section that are not prohibited by other provisions of law. The examination may include physical, saliva, urine or blood tests or other tests or procedures that the licensed veterinarian considers necessary to carry out the purposes of this section. The licensed veterinarian may examine an animal entered in an event if that animal is on the grounds of the event. The licensed veterinarian also may examine an animal withdrawn by the owner or trainer of the animal within 24 hours prior to an event for which the animal had been entered.

4. Refusal to submit animal for examination. An owner or trainer may not refuse to secure or restrain an animal for examination under this section by a licensed veterinarian or a technician or agent of the licensed veterinarian and may not interfere with the restraining or securing of an animal for that examination.

5. Presence of prohibited substance; prima facie evidence. If the chemical analysis of a test performed under subsection 3 indicates the presence of a prohibited substance, it is prima facie evidence that the substance has been administered to the animal. For purposes of this section, each administration of a prohibited substance to an animal and each occasion on which a prohibited substance was administered in violation of subsection 1 constitutes a separate violation.

6. Authority of commissioner to make rules. The commissioner may adopt rules relating to the administration of tests, the care and custody of test samples and all other matters necessary to carry out

the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Responsibility of owner and trainer for condition of animal; substitute trainer. In the absence of substantial evidence to the contrary, the owner and trainer of an animal are responsible for the condition of the animal, including the presence of a prohibited substance, and are charged with knowledge of all the provisions contained in this section and the regulations adopted pursuant to this section. If a trainer is prevented from performing the trainer's duties, including responsibility for an animal under this subsection, by illness or other cause, or is absent from the event where an animal under the trainer's care is entered and stabled, the trainer immediately shall notify the secretary or general manager of the event. At the time of notification, the trainer shall specify a substitute trainer and the substitute trainer shall place the substitute trainer's name on the entry blank. The substitute trainer has the same responsibilities as the trainer concerning the condition of an animal in that trainer's care.

8. Administrative hearing; suspension. In lieu of a civil action under subsection 9, the commissioner may institute an administrative proceeding on any alleged violation of this section. If the commissioner institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter 4. Upon giving notice to a person who is alleged to be in violation of this section, the commissioner shall immediately prohibit that person from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision following the hearing is received, whichever occurs first, except that the prohibition period is extended by any delays of the hearing requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds the person has committed the violation, the commissioner shall prohibit that person from competing in any event within the State for a period of 2 years and shall also exclude the animal from competing in any event within the State for a period of one year.

9. Civil violations. A person who violates subsection 1, 2 or 4 commits a civil violation for which the following may be adjudged:

A. For the first violation, a fine of not less than \$100 nor more than \$500; or

B. For a 2nd or subsequent violation, a fine of not less than \$500 nor more than \$1,000.

Fines adjudged under this subsection must be deposited in the General Fund.

10. Suspension. When a violation is adjudicated under subsection 9, the commissioner shall immediately suspend the person adjudicated to have committed the violation from participating in events for a period of 2 years and shall also exclude the animal involved from competing in any event for a period of one year. An action by the commissioner based upon an adjudication under this section is automatic, and there is no right to a hearing before the commissioner on the suspension. A person who participated in an event during any period of suspension or prohibition ordered by the commissioner under this subsection or subsection 8 and the owner and trainer of any animal that competes during a period of suspension or prohibition commit an additional violation of this section.

11. Forfeiture. The owner of an animal found to have been administered a prohibited substance in violation of this section forfeits all prize money and any trophies, ribbons and points won at an event by the affected animal. The prize money and trophies, ribbons and points must be redistributed by the secretary or general manager of the event in accordance with its rules or bylaws.

12. Exception; therapeutic use of drugs. This section does not prohibit the administration to an animal of a drug the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in an event. An animal in an event that receives a medication that contains a prohibited substance is not eligible for the event, unless the following requirements have been met and the information requested is submitted as a statement in writing to the secretary or general manager of the event.

A. The medication must be therapeutic and necessary for treatment of an illness or injury.

B. The animal must be withdrawn from the event for a period of at least 24 hours after medication has been administered.

C. Only a licensed veterinarian or a trainer acting under the direction of a licensed veterinarian may administer medication. The trainer may administer medication under the direction of a licensed veterinarian if the licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal, has sufficient knowledge of the animal to make a general or preliminary diagnosis of the animal and is readily available to care for the animal in the event of an adverse reaction to medication or

the failure of a trainer to adhere to a therapy regimen.

D. The amount, strength and mode of administration of medication must be identified.

E. The statement must include the date and time of the administration of medication.

F. The animal must be identified by name, age, sex, color and entry number.

G. The statement must contain the diagnosis and reason for administering the medication.

H. The statement must be signed by the person administering the medication.

I. The statement must be filed with the secretary or general manager of the event within one hour after the administration of medication or one hour after the secretary or general manager of the event returns to duty, if the administration is at a time other than during event hours.

J. The statement must be signed by the secretary or general manager of the event and the time of receipt of the statement must be recorded on the statement by the secretary or general manager.

If the chemical analysis of a sample taken pursuant to subsection 3 from the animal treated under this subsection indicates the presence of a prohibited substance and all the requirements of this subsection have been met, the information contained in the statement and any other relevant evidence must be considered at a hearing provided under subsection 8 in determining whether there has been a violation of any provision of this section.

13. Inapplicability to horse racing. This section does not affect laws governing horse racing or affect horse sales or horse auction sales when those sales are solely for the sale of racehorses or breeding stock that are used in the production of racehorses and when those sales are held or conducted on the premises of a racing association under the jurisdiction of, and with the authorization and approval of, the State Harness Racing Commission.

As used in this subsection, "racehorse" means a live horse, including a stallion, mare, gelding, ridgeling, colt or filly, that is eligible to participate in a horse racing contest in this State where pari-mutuel racing is permitted under the rules adopted by the State Harness Racing Commission. This subsection does not exempt racehorses participating in an event covered by this chapter.

§97. Pulling events between animals

1. Permit required. A person or entity may not sponsor a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner issued in accordance with this section and rules adopted pursuant to this section.

2. Application. A person or entity shall make an application for a permit in writing to the commissioner at least 10 days prior to the date on which a pulling event is intended to take place. The applicant shall provide the name of the person or entity conducting the event, the date and place the event is to be held and the names of the pull superintendent and superintendent assistants appointed to officiate at the event. One application and one permit may include one or more separate events when specified. Permits granted under this section are not transferable.

3. Fees. The commissioner shall charge a permit fee of \$40 per pull day for an event sponsored by a person or entity receiving a stipend under section 86. The commissioner shall charge a seasonal permit fee of \$75 to a person or entity that does not receive a stipend under section 86. The seasonal permit covers all pulls conducted by that entity for the year in which the permit is issued. All revenue derived from the permit fees must be deposited in a nonlapsing dedicated account.

4. Statutory rules. A permit may not be issued under this section unless the person or entity conducting the event has adopted the following rules governing the conduct of each pulling event.

A. All teamsters who are to compete in contests must have their teams ready at the published starting time. All classes must be closed after the positions are drawn. Classes must start as nearly as possible to the published time.

B. Check weighing must be allowed prior to the official weigh-in. All weighing must be done in the forenoon if possible. Teams must have on halters. Horses and ponies must have on shoes.

C. Measuring must be in a straight line to the nearest point on the drag. Line-to-line measuring is allowed. The front of the drag must touch the line before turning. To get the full-line measure, the drag must be turned more than 1/2 way or the back of the drag must be over the line.

D. Teams must stay hooked to the drag at all times. Unhitching and rehitching are not allowed.

E. An actual separation, breaking or bending of equipment constitutes a breakdown. A team breaking down may take the distance pulled or

return to the last position and pull over. Only one breakdown is allowed.

F. Time limits are a maximum of 5 minutes. Time starts when the drag is moved. The time limit to hook on in distance pulls is 3 minutes.

G. On horses, the very light use of the reins on the hindquarters only is allowed and over and under is not allowed. Whips, brads or goads are not allowed. Reins may not be doubled up. Electrical or electronic devices are not allowed. Open bridles are not allowed. Ponies may not be struck except in a sweepstakes, when they may be struck with a cap or bare open hand.

H. On oxen, the use of the goad must be very light. The goad may not have a brad in it, only a plain yoke and chain or pole that may be pulled, except that a rope may be allowed in children's classes as provided in rules adopted pursuant to subsection 5. All chains must be covered to the hook. Plastic goads are not allowed. The goad stick may not be over 4 feet long unless approved by the pull superintendent and may not exceed 1/2 inch in diameter on the small end. The goad stick may be taped but not weighted. The stick may be used lightly on the face to control the oxen but not around the eyes.

I. Any number of helpers is allowed to help hitch. After hitch-on, there may be no more than 2 helpers. The helpers shall stay behind the drag unless needed to help the teamster. The helpers may not have a stick. This paragraph applies to distance pulls only.

J. All participants must be properly dressed. Proper language must be used at all times. Any participant under the influence of alcohol or other intoxicating substances must be disqualified from the contest. Tests may be made to determine intoxication. The drinking of intoxicating beverages by participants in and around the ring is prohibited.

K. The person or entity sponsoring the event decides the splitting of teams.

L. Heading of horses or oxen is not allowed. One inch pulled constitutes a hitch. Stepping over the rail counts as a hitch and 5 minutes are allowed for hitching. Three attempts may be made within that period. Time taken out to position the drag for the next pull may not be counted. Teamsters may not be changed after the first load is pulled. A team deliberately driven over the rail is disqualified from the contest. In case of a tie on the longest distance, the 2nd-longest distances already pulled will take first place. Persons acting as eveners shall remain

quiet after hitching on. This paragraph does not apply to distance pulls.

M. There may not be heading of horses after a pull starts unless there is a mix-up, snarl or breakdown.

N. A substantial barrier must be maintained at the end of the ring toward which the pull is proceeding to prevent or substantially impede run-aways. A teamster losing control of the team is disqualified immediately.

O. There is 100 pounds' tolerance on draft steers and oxen on and after Labor Day weekend.

P. An animal that is thin or dehydrated, shows open sores or is lame is disqualified.

Q. Before a team is allowed to pull, the owner shall provide a certificate of liability insurance in the amount of \$300,000.

5. Rules. The commissioner may, with the advice of the Pull Events Commission, adopt rules necessary to carry out the purposes of this section and sections 98 and 99. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§98. Pull Events Commission

The Pull Events Commission, as authorized by Title 5, section 12004-G, subsection 3-A, is established in accordance with this section.

1. Membership. The Pull Events Commission consists of 9 members:

A. Two members appointed by a statewide association representing owners of draft horses and oxen who participate in pulling events;

B. One member appointed by an association representing owners of oxen who participate in pulling events;

C. One member appointed by an association representing owners of ponies who participate in pulling events;

D. One fair superintendent appointed by a state association of agricultural fairs;

E. One representative appointed by state humane organizations;

F. One member, appointed by the commissioner, representing the general public;

G. One member, appointed by the commissioner, representing the animal pulling industry; and

H. One member appointed by the Animal Welfare Advisory Council.

2. Chair; meetings; secretary. The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. The agricultural fair coordinator from the department shall serve as secretary to the Pull Events Commission.

3. Terms; vacancies. Appointments to the Pull Events Commission must be for terms of 2 years. The appointing authority fills a vacancy for a full 2-year term. The appointing authority may remove a commission member for cause, which includes poor attendance. The chair shall make recommendations to the appointing authority concerning a removal.

4. Rulemaking. The Pull Events Commission shall adopt rules establishing the qualifications and procedure for the certification of pull superintendents and assistant pull superintendents and guidelines for dealing with violations of section 95 and the rules adopted under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Other duties. The Pull Events Commission shall:

A. Periodically review the statutory rules for pulls as contained in section 97, subsection 4 and recommend to the Legislature changes as necessary;

B. Give advice and recommendations to the commissioner on request or as the commission considers necessary; and

C. Coordinate, develop and conduct pull superintendent training seminars.

§99. Pull superintendent

1. Appointment. Each person or entity conducting a pulling event shall appoint a pull superintendent who is certified by the commissioner as qualified in accordance with rules adopted under section 98. The name of the pull superintendent must be submitted in conjunction with the application for a permit to conduct each event. Only a person listed on the application as a pull superintendent or assistant pull superintendent may officiate.

2. Restrictions on officiating. A pull superintendent may not officiate as pull superintendent for a

class in a pulling event in which that pull superintendent is participating as a competitor. An assistant pull superintendent may not officiate as pull superintendent for a class in a pulling event in which that assistant pull superintendent is participating as a competitor.

3. Enforcement responsibilities. A pull superintendent shall enforce the laws and rules governing pulling events and shall report participants who are disqualified, violations of the law and other matters, as appropriate, to the Pull Events Commission.

§100. Enforcement actions by commission

Upon receipt of a report pursuant to section 99, subsection 3, the Pull Events Commission shall send a copy of the report to the sponsor whose name appears on the application for the pulling event and to the person whose conduct has been reported to the commission.

1. Violation by teamster. Upon receipt of a written report alleging that a teamster has violated the laws or rules governing pulling events, the Pull Events Commission may after a hearing disqualify a teamster from participation in pulling events.

2. Violation by pull superintendent or assistant pull superintendent. Upon receipt of a written report alleging that a pull superintendent or assistant pull superintendent has violated the laws or rules governing pulling events or has failed to take appropriate action to enforce the laws and rules governing pulling events, the Pull Events Commission may after a hearing suspend or revoke that person's certification to act as a pull superintendent.

§101. Violations relating to pulling events

1. Conducting pulling event without permit. A person that conducts, causes to be conducted or sponsors a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

2. Prohibition on participating in pulling events. A person who has been convicted of a violation of Title 17, section 1031 or has been adjudicated to have committed a civil violation of section 4011 within the previous 5 years may not participate as an animal owner or handler or in any other capacity, directly or indirectly, in a pulling event. A person who participates in a pulling event in violation of this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

3. Permit revocation. The commissioner may, in accordance with Title 5, chapter 375, revoke or refuse to renew a permit to hold a pulling event:

A. If after receiving notice from the department the sponsor of a pulling event allows a person to participate as an owner or handler or in any other capacity, directly or indirectly, in a pulling event within 5 years of that person's being convicted of a violation of Title 17, section 1031 or being adjudicated of a civil violation of section 4011;
or

B. When the commissioner has received written notification from the Pull Events Commission of violations of laws or rules at a pulling event conducted under a permit held by that sponsor.

Sec. 4. 8 MRSA §271, sub-§2, ¶A, as amended by PL 1993, c. 388, §4, is further amended to read:

A. The revenues to be generated, consistent with the profitability and financial health of the licensee, for the General Fund pursuant to section 275-H; the purse supplements pursuant to section 275-I; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section ~~62~~ 86;

Sec. 5. 8 MRSA §271, sub-§2, ¶E, as enacted by PL 1985, c. 444, §2, is amended to read:

E. With respect to agricultural societies seeking licenses to conduct harness racing meets at the time of their annual fairs, the scheduling of agricultural fairs determined by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, sections ~~65~~ 83 and ~~65-A~~ 84;

Sec. 6. 8 MRSA §287, sub-§3, as enacted by PL 1997, c. 528, §46, is amended to read:

3. Payment to Stipend Fund. Nine percent of the revenue credited to the General Fund under this section that is attributable to amounts in excess of \$35,000,000 must be distributed to the Stipend Fund as provided in Title 7, section ~~62~~ 86.

Sec. 7. 8 MRSA §289, as enacted by PL 1997, c. 528, §46, is amended to read:

§289. Payment to Stipend Fund share

1. Initial distribution to Stipend Fund. The Treasurer of State shall credit .189% of the commission on regular wagers made to interstate commingled pools, .402% of the commission on exotic wagers made to interstate commingled pools, 0.72% of the regular wagers made to all other pools and 0.49% of the exotic wagers made to all other pools to the

Stipend Fund as provided in Title 7, section ~~62~~ 86 and shall distribute the balance as provided in subsection 2.

2. Extended meet account. The Treasurer of State shall distribute the balance of the amount calculated as Stipend Fund share as follows.

A. The first \$400,000 of the total amount, regardless of when actually collected, must be credited to the Stipend Fund as provided in Title 7, section ~~62~~ 86.

B. From the balance of the total amount in excess of \$400,000, regardless of when actually collected, 80% must be paid and returned no later than 30 days after the end of the calendar year to those persons, associations and corporations that during that calendar year conducted an extended meet pursuant to a license granted by the commission in section 271. This payment must be divided in the proportion that the contributions of regular and exotic wagers to pari-mutuel pools on live racing made or conducted at the extended meets of each racing licensee during that calendar year bear to the total contributions of regular and exotic wagers to pari-mutuel pools on live racing made or conducted at the extended meets of all racing licensees during that calendar year.

Licensees sharing in this distribution shall use 1/2 of the funds so received for the purpose of supplementing the purse money.

C. The remaining 20% of the total amount in excess of \$400,000 must be credited to the Stipend Fund as provided in Title 7, section ~~62~~ 86.

Sec. 8. 8 MRSA §295, sub-§2, as amended by PL 2001, c. 567, §5, is further amended to read:

2. Distribution. On May 30th, September 30th and within 30 days after the close of all off-track betting facilities for the year, amounts payable under subsection 1 for distribution in accordance with this subsection must be distributed to all commercial tracks that have provided simulcast transmission of live racing in the State on any date and to those agricultural fair associations that have provided simulcast transmission of live racing in the State on the dates assigned by the commissioner pursuant to Title 7, section ~~65~~ 84. Distribution must be in the proportion that the amount of exotic wagers placed at off-track betting facilities on simulcast races from each licensee up to the last day of the preceding month bears to the total amount of exotic wagers at off-track betting facilities on races simulcast from all commercial racetracks and agricultural fair associations up to that date. The last payment of the calendar year must be adjusted to reflect each licensee's exotic wagers in

proportion to the total of the exotic wagers at off-track betting facilities in that calendar year.

Sec. 9. 8 MRSA §298, sub-§2, as enacted by PL 2003, c. 687, Pt. A, §3 and affected by Pt. B, §11, is repealed and the following enacted in its place:

2. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed to each commercial track, as defined in section 275-A, subsection 1, to each agricultural fair licensee that conducts live racing on fair dates assigned by the commissioner pursuant to Title 7, section 84 and to each agricultural fair licensee that conducts an extended meet as long as that licensee conducted an extended meet in 2005, with each commercial track and each agricultural fair licensee receiving an amount of money determined by multiplying the amount of money available for distribution times a fraction, the numerator of which is the total number of live race dashes assigned to the commercial track or agricultural fair licensee for the year and the denominator of which is the total number of race dashes assigned to all commercial tracks and agricultural fair licensees for the year. The payment in January must be adjusted so that for the prior year each commercial track or agricultural fair licensee entitled to a distribution receives that portion of the total money distributed for the full year from the fund established by this section that is determined by multiplying the total amount of money by a fraction, the numerator of which is the number of live race dashes conducted by the commercial track or agricultural fair licensee during the calendar year that qualify for a distribution and the denominator of which is the total number of race dashes conducted during that calendar year that qualify for a distribution. For purposes of this subsection, a race dash qualifies for distribution if the dash was conducted by a commercial track or by an agricultural fair licensee on dates assigned under Title 7, section 84 or during an extended meet. The number of dashes held at an extended meet that qualify for distribution may not exceed the number of dashes conducted by the licensee during an extended meet in 2005. The funds distributed pursuant to this subsection must be used to supplement harness racing purses.

Sec. 10. 8 MRSA §1036, sub-§2, ¶D, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

D. Three percent of the total gross slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund established in Title 7, section ~~77~~ 91;

Sec. 11. 13-B MRSA §201, sub-§3, ¶E, as amended by PL 1985, c. 737, Pt. A, §35, is further amended to read:

E. ~~County and local agricultural~~ Agricultural societies, as that term is used in Title 7, chapter 34;

Sec. 12. 17 MRSA §330, sub-§1-C, as enacted by PL 2001, c. 672, §1, is amended to read:

1-C. Agricultural society. "Agricultural society" or "fair" means a nonprofit agricultural fair society eligible for ~~the state~~ a stipend under Title 7, ~~section 62~~ chapter 4.

Sec. 13. 17 MRSA §331, sub-§6, ¶A, as repealed and replaced by PL 2001, c. 471, Pt. F, §4 and affected by §5, is amended to read:

A. Any agricultural society eligible for ~~the state~~ a stipend under Title 7, ~~section 62~~ chapter 4, or any bona fide, nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such organization;

Sec. 14. 17 MRSA §332, sub-§1, as amended by PL 2001, c. 538, §2, is further amended to read:

1. Organizations eligible. Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an agricultural society eligible for ~~the state~~ a stipend under Title 7, ~~section 62~~ chapter 4, or to a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire department or to an auxiliary of any of these organizations, any of which must be founded, chartered or organized in this State for a period of not less than 2 consecutive years before applying for a license.

Sec. 15. 22 MRSA §1607, as amended by PL 1987, c. 395, Pt. A, §88, is further amended to read:

§1607. Application

This chapter does not apply to fairs licensed, ~~exhibitions and similar events held by agricultural societies and associations, pomological societies or poultry associations~~ as defined and regulated under Title 7, chapter 34, or military activities. It ~~shall~~ does not apply to persons, associations, corporations, trusts or partnerships licensed under Title 8, chapters 11 and 19.

Sec. 16. 36 MRSA §652, sub-§1, ¶C, as amended by PL 2001, c. 596, Pt. B, §24 and affected

by §25 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption is not entitled to receive directly or indirectly any pecuniary profit from the operation of that organization, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal year in such detail as the tax assessors may reasonably require;

(5) An exemption is not allowed under this subsection in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of a stipend from the "Stipend Fund" provided in Title 7, ~~section 62~~ 86;

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows: Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or

the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or mental retardation;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construc-

tion, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a non-profit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code.

Sec. 17. 38 MRSA §488, sub-§23, as enacted by PL 2005, c. 217, §1, is amended to read:

23. Agricultural fair property. Development on property that is used for one or more agricultural fairs licensed by the Commissioner of Agriculture, Food and Rural Resources under Title 7, chapter ~~3~~ 4 is exempt from review under this article if:

- A. The property is not used for motorized vehicle racing for more than 14 days beyond those days authorized for the operation of the agricultural fair;
- B. Motorized vehicle racing on the property is licensed by the Department of Public Safety;
- C. Use of the property beyond those days authorized for the operation of the agricultural fair meets a noise standard pursuant to section 484, subsection 3. The department shall enforce the noise standard under this paragraph; and
- D. The property has been identified as the location of an agricultural fair in an agricultural fair license issued by the Department of Agriculture, Food and Rural Resources prior to September 15, 2006.

See title page for effective date.

CHAPTER 564

S.P. 271 - L.D. 816

An Act To Replace the Common Enemy Rule with Regard to Changing the Flow of Surface Water

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

Sec. 1. 17 MRSA §2808 is enacted to read:

§2808. Alteration of surface water flow

Unreasonable use of land that results in altered flow of surface water that unreasonably injures another's land or that unreasonably interferes with the reasonable use of another's land is a nuisance.

An action under this section must be commenced within 3 years after the cause of action accrues.

Sec. 2. Application. This Act applies to causes of action accruing on or after the effective date of this Act.

Sec. 3. Effective date. This Act takes effect January 1, 2007.

Effective January 1, 2007.

CHAPTER 565

S.P. 677 - L.D. 1760

An Act To Amend the Maine Health Data Organization and Maine Health Data Processing Center Laws

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

Sec. 1. 10 MRSA §684, sub-§5, as enacted by PL 2001, c. 456, §1, is amended to read:

5. Cooperation with agencies and organizations. Cooperate with and avail itself of the services of government agencies and the University of Maine System and cooperate, assist and otherwise encourage organizations, local or regional, private or public, in the various communities of the State in the collection and processing of health care data; ~~and~~

Sec. 2. 10 MRSA §684, sub-§6, as corrected by RR 2001, c. 2, Pt. B, §22 and affected by §58, is amended to read:

6. Bylaws. Adopt bylaws that are consistent with this chapter for the governance of the affairs of the center, have the general powers accorded corpora-