

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

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

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

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

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

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

Title 1, chapter 13. Records of the board are confidential, are not public records for the purposes of the laws governing freedom of access, Title 1, chapter 13 and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The board shall disclose conclusions and recommendations of the board upon request in a manner that does not identify the parties, victims or witnesses. The board and members of the board may not disclose information, records or data that are otherwise classified as confidential.

**7. Unlawful dissemination.** A member of the board is guilty of unlawful dissemination if the member of the board knowingly disseminates records or information from those records that is confidential pertaining to a homicide, suicide or aggravated assault subject to review by the board. Unlawful dissemination is a Class E crime, punishable by a fine of not more than \$500 or by imprisonment of not more than 30 days.

**8. Report.** The board shall submit a report on the board's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 30, 2009 and biennially thereafter. The committee shall review the report in a public meeting at which members of the public are provided an opportunity to address the committee.

**Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 34-B, section 1931, subsection 2, 2 of the members initially appointed by the Governor to the Mental Health Homicide, Suicide and Aggravated Assault Review Board must be appointed for one-year terms.

See title page for effective date.

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**CHAPTER 610**

**S.P. 849 - L.D. 2206**

**An Act To Amend the  
Tournament Games Laws**

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

**Sec. 1. 17 MRSA §333-A, sub-§3,** as enacted by PL 2007, c. 205, §1, is amended to read:

**3. License.** The license fee for a tournament game license is \$5 \$200 per tournament player.

**Sec. 2. 17 MRSA §333-A, sub-§4,** as enacted by PL 2007, c. 205, §1, is amended to read:

**4. Tournament.** The organization licensed to conduct a tournament game under this section shall display the rules of the game and the license issued to conduct the tournament. The maximum number of

players allowed is 100. Winners are determined by a process of elimination. The use of currency is prohibited as part of tournament play. The maximum entry fee to play in the tournament is \$100, except the organization may add \$5 to the player entry fee to defray the cost of the license application fee, as long as the total additional amount collected from all players does not exceed \$200. Only one entry fee is permitted per person. A tournament must be completed within 48 hours. Other games of chance are prohibited, except for lucky seven or similar sealed tickets.

**Sec. 3. 17 MRSA §333-A, sub-§5,** as enacted by PL 2007, c. 205, §1, is amended to read:

**5. Proceeds.** Seventy-five percent of the entry fees under subsection 4 must be paid as prizes to the winners of the tournament. ~~Of the money remaining after the payment of prizes, 75% must be distributed to the charitable organization or organizations listed on the license application pursuant to this section.~~

See title page for effective date.

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**CHAPTER 611**

**H.P. 1554 - L.D. 2184**

**An Act To Implement the  
Recommendations of the  
Commission To Study the  
Promotion, Expansion and  
Regulation of the Harness  
Racing Industry**

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

**Sec. 1. 4 MRSA §807, sub-§3, ¶N,** as amended by PL 2007, c. 249, §5, is further amended to read:

N. A person who is not an attorney, but is representing the State under section 807-A; ~~or~~

**Sec. 2. 4 MRSA §807, sub-§3, ¶O,** as amended by PL 2007, c. 58, §3 and enacted by c. 249, §6, is further amended to read:

O. A person who is not an attorney, but who is representing a party in any hearing, action or proceeding before the Maine Public Employees Retirement System; ~~or~~

**Sec. 3. 4 MRSA §807, sub-§3, ¶P** is enacted to read:

P. A person who is not an attorney but who, as the executive director of the State Harness Racing Commission, is representing the Department of Agriculture, Food and Rural Resources at adjudicatory hearings before the commission in accordance with Title 8, section 263-C.

**Sec. 4. 8 MRSA §263-C, sub-§4, ¶A**, as repealed and replaced by PL 2003, c. 687, Pt. B, §2 and affected by §11, is amended to read:

A. Management of the work of the commission, including:

- (1) Rulemaking;
- (2) Processing appeals;
- (3) Licensing of tracks and off-track betting facilities;
- (4) Setting race dates; ~~and~~
- (5) Making reports to the Governor and Legislature and recommendations to the commissioner regarding harness racing and off-track betting operations and the need for changes in statutes and rules; and
- (6) Presenting evidence in adjudicatory hearings before the commission regarding alleged violations of this chapter or rules adopted in accordance with this chapter; and

**Sec. 5. 8 MRSA §273** is amended to read:

**§273. Penalties**

Any person, association or corporation holding or conducting, or any person or persons aiding or abetting in the holding or conducting of, any harness horse race or meet for public exhibition within the State without a license duly issued by ~~said the commission; or any person, association or corporation who violates any of the provisions of this chapter or who violates any of the rules and regulations prescribed by the commission shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both when a license is required under sections 269 and 270 commits a Class D crime.~~

**Sec. 6. 8 MRSA §279-A, first ¶**, as amended by PL 1999, c. 482, §3, is further amended to read:

For the purpose of enabling the commission to exercise and maintain a proper control over racing conducted under this chapter, the commission may adopt rules for the licensing, with or without fee in the discretion of the commission, of owners, trainers, drivers, grooms and all other persons participating in harness horse racing, including pari-mutuel employees and race officials. The commission may issue conditional licenses to owners, trainers, drivers, grooms and all other persons participating in harness racing, including pari-mutuel employees and race officials if one or more criteria are not met as contained in the commission rules. A person issued a license as a trainer shall submit a horse for testing in accordance with section 279-E.

**Sec. 7. 8 MRSA §279-B, first ¶**, as amended by PL 1991, c. 579, §14, is further amended to read:

To enforce the provisions of this chapter and the rules referred to in section 279-A, the commission is authorized to establish a schedule for fines ~~not to exceed \$1,000~~ for each violation of this chapter or the rules. The commission is authorized to levy a fine, after notice and hearing, for each violation of this chapter or the rules.

**Sec. 8. 8 MRSA §279-E** is enacted to read:

**§279-E. Trainers; duty to submit a horse for testing for use of prohibited substances**

Upon request of the commission, a person who signs an application for and receives a trainer's license in accordance with this chapter and rules adopted under section 279-A shall submit a horse trained by that licensee, qualified to race and identified by the commission for the purpose of obtaining a blood sample to test for the use of prohibited substances.

**1. Obtaining a sample.** Pursuant to this section, the commission may require a licensed trainer to:

A. Transport the horse to a designated site where a veterinarian employed by the commission or the department may draw a blood sample; or

B. Allow a veterinarian employed by the commission or the department, or a veterinarian designated by the commission and accompanied by a state steward, access to the premises where the horse is kept for the purpose of obtaining a blood sample.

**2. Rulemaking.** The commission shall adopt rules establishing a procedure for obtaining blood samples and ensuring a secure chain of custody for transporting the sample to a laboratory for testing. The rules must consider travel distances and costs associated with obtaining a sample when designating a testing site and may assess a fee to defray travel costs for the veterinarian and the state steward. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Refusal.** Refusal to comply with the commission's directives for obtaining a sample under this section is a basis for suspension of a trainer's license.

**Sec. 9. 8 MRSA §280, sub-§5** is enacted to read:

**5. Investigation by State Police.** The State Police may assist in investigating alleged violations of subsection I when:

A. The commission requests assistance; and

B. A sample submitted for testing under rules adopted pursuant to section 279-A or 279-E yields a positive test result.

**Sec. 10. 8 MRSA §1001, sub-§36**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

**Sec. 11. 8 MRSA §1035**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**§1035. Location of slot machines**

Slot machines may be located only on the premises of a commercial track. For the purposes of this section, "premises of a commercial track" means property owned by the person who owns the property on which a commercial track is located and that is either within 200 feet of the outside edge of the racing oval or, if the commercial track was owned by a municipality when a license to operate slot machines in association with that commercial track was issued, within 2,000 feet of the center of the racing oval.

See title page for effective date.

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**CHAPTER 612**

**H.P. 1676 - L.D. 2316**

**An Act Regarding Flavored Cigarettes and Cigars**

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

**Whereas**, the First Regular Session of the 123rd Legislature enacted into law, as the Maine Revised Statutes, Title 22, section 1560-D, a ban on certain flavored cigarettes and cigars and authorized the Attorney General to adopt major substantive rules to implement the law; and

**Whereas**, in the process of adopting major substantive rules to implement the new law the Attorney General determined that amendment to Title 22, section 1560-D would strengthen the law and provide additional clarity that will help in enforcement of the law and in the exemption process; 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. 22 MRSA §1560-D, sub-§5**, as enacted by PL 2007, c. 467, §3, is amended to read:

**5. Exemptions.** For flavored cigarettes and flavored cigars that were first on the market after January

1, 1985, the Attorney General shall establish and administer a process by rule for granting exemptions based on a determination by the Attorney General that the characterizing flavor ~~and the associated packaging, promotion and brand style do not directly or indirectly target~~ is not one known to appeal or likely to appeal to youth or encourage the initiation of smoking.

A. After an exemption has been granted for a flavored cigarette or flavored cigar under this subsection, a person or entity to whom an exemption has been granted has an affirmative duty to inform the Attorney General at the time that a material change is made in the characterizing flavor of the flavored cigarette or flavored cigar. A violation of the duty to inform imposed by this paragraph constitutes a civil violation for which a fine of not more than \$10,000 may be adjudged.

B. The Attorney General may revoke an exemption granted under this subsection if the Attorney General determines that a material change has been made to the product's characterizing flavor.

**Sec. 2. Emergency rulemaking.** The Attorney General shall amend Chapter 10, Rules for Exemptions to the Ban on Flavored Cigarettes and Cigars to conform to the changes in section 1 of this Act. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and may be adopted on an emergency basis in order to avoid a threat to the public health and safety.

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

Effective April 14, 2008.

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**CHAPTER 613**

**H.P. 998 - L.D. 1424**

**An Act Requiring Long-range Budget Planning**

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

**Sec. 1. 5 MRSA §1664, sub-§1, ¶F**, as enacted by PL 2005, c. 601, §1, is amended to read:

F. Include statements of the bonded indebtedness of the State Government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds; ~~and~~

**Sec. 2. 5 MRSA §1664, sub-§1, ¶G**, as enacted by PL 2005, c. 601, §1, is amended to read: