

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Legal and Veterans' Affairs*

July 2003

Staff:

*Danielle D. Fox, Legislative Analyst
Lucia Nixon, Legislative Analyst*

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*

Members:

*Sen. Kenneth T. Gagnon, Chair
Sen. Kenneth F. Lemont
Sen. Arthur F. Mayo III*

*Rep. Joseph E. Clark, Chair
Rep. John L. Patrick
Rep. Patricia A. Blanchette
Rep. Marilyn E. Canavan
Rep. Rodney C. Jennings
Rep. Roger A. Landry
Rep. Gary W. Moore
Rep. Kevin J. Glenn
Rep. Richard B. Brown
Rep. Randy E. Hotham*

Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Legal and Veterans' Affairs

party committees to file reports of contributions and expenditures by specifying that this schedule would only apply to state party committees.

House Amendment "A" to Committee Amendment "A" (H-329) proposed to require that political literature that is not authorized by a candidate must clearly and conspicuously state that the communication is not authorized by any candidate. This amendment proposed to specify the point size, font and typeface of this statement, as well as the exact words to be used.

Enacted Law Summary

Public Law 2003, chapter 302 creates a specific schedule for state party committees to file reports of expenditures and contributions. It also specifies the point size, font and type face of the disclaimer "not paid for or authorized by any candidate" where that disclaimer is required under current law.

LD 674 **An Act To Require Winners of State and Congressional Elections to Receive a Simple Majority of the Total Vote** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON CLARK	ONTP	

LD 674 proposed to require that if no one candidate receives more than 50% of the votes in a race in a general election, a run-off election between the 2 candidates receiving the most votes in the original election must be conducted.

LD 704 **An Act Relating to Harness Racing Laws** **PUBLIC 401
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LUNDEEN BRYANT	OTP-AM	H-397 H-479 CLARK

Current law specifies that the Department of Agriculture, Food and Rural Resources "take the lead" in developing state policy with respect to harness racing. LD 704 proposed instead to direct the department to cooperate with the State Harness Racing Commission in developing such state policy.

It also proposed to direct the State Harness Racing Commission to share the duty of reviewing racing-related statutes and rules on an ongoing basis and would require that the appointment of the executive director receive the commissioner's approval.

It proposed to identify the executive director's duty to report and recommend changes regarding harness racing as the work of the commission, rather than as the work of the department.

This bill proposed to repeal the provision requiring the establishment of trust accounts and instead would require the licensee to pay to an association of horsemen up to 1.5% of all amounts generated for the purpose of supplementing purses.

Joint Standing Committee on Legal and Veterans' Affairs

It would also specify that if a commercial track ceases operation, a separate racetrack operated by the owner of the now-closed racetrack would be considered to be the same racetrack as the track that ceased operation.

It proposed to authorize the sale of common pari-mutuel pools for simulcast races and change the method of determining market area.

Finally, this bill proposed to require an applicant for an owner's license to provide proof of insurance of not less than \$300,000 on the applicant's horses.

Committee Amendment "A" (H-397) proposed to add an emergency preamble and emergency clause to the bill and clarify language regarding the role of the Harness Racing Commission in policy making and review of statutes governing the harness racing industry. It proposed to amend the bill by requiring that horsepersons pay up to 1 1/2% of supplemental purse money to an association of horsepersons. It also proposed to clarify language that would determine the market area for commercial racetracks and off-track betting facilities. The amendment would also make the requirement for horse owners liability insurance effective January 1, 2004.

House Amendment "A" (H-479) proposed to specify that the presiding judge and associate judges appointed by the State Harness Racing Commission would be deemed to be employees of the State for purposes of the Maine Tort Claims Act. The amendment also proposed to specify that the Harness Racing Promotional Board and its employees would be considered a state agency for purposes of the Maine Revised Statutes, Title 5, section 191, which directs the Attorney General's office to appear for state agencies in civil actions and proceedings.

Enacted Law Summary

Public Law 2003, chapter 401 does the following:

1. It directs the department to work in conjunction with the State Harness Racing Commission in developing State harness racing policy. Current law specifies that the Department of Agriculture, Food and Rural Resources "take the lead" in developing state policy with respect to harness racing;
2. It directs the State Harness Racing Commission to share the duty of reviewing racing-related statutes and rules on an ongoing basis and requires that the appointment of the executive director receive the commissioner's approval;
3. It identifies the executive director's duty to report and recommend changes regarding harness racing as the work of the commission, rather than as the work of the department;
4. It repeals the provision requiring the establishment of trust accounts and instead requires the licensee to pay to an association of horsemen up to 1.5% of all amounts generated for the purpose of supplementing purses;
5. It specifies that if a commercial track ceases operation, a separate racetrack operated by the owner of the now-closed racetrack is considered to be the same racetrack as the track that ceased operation;
6. It authorizes the sale of common pari-mutuel pools for simulcast races;
7. It clarifies the method of determining market area for commercial race tracks and off-track betting facilities; and;

Joint Standing Committee on Legal and Veterans' Affairs

8. It specifies that the presiding judge and associate judges appointed by the State Harness Racing Commission are deemed to be employees of the State for purposes of the Maine Tort Claims Act. The amendment also specifies that the Harness Racing Promotional Board and its employees are considered a state agency for purposes of the Maine Revised Statutes, Title 5, section 191, which directs the Attorney General's office to appear for state agencies in civil actions and proceedings.

Public Law 2003, chapter 401 was enacted as an emergency measure effective June 3, 2003.

LD 730

Resolve, Allowing Christy Reposa To Sue the State

RESOLVE 86

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOY	OTP-AM MAJ	H-356
	ONTP MIN	H-383 TWOMEY

LD 730 proposed to authorize Christy Reposa and Michaela Corbin-Bumford to sue the State for damages resulting from alleged wrongful removal of a child from their respective homes.

Committee Amendment "A" (H-356) replaced the resolve. The amendment proposed to authorize Christy Reposa and John Wagg, the parents of Logan Marr, to sue the State under the State's wrongful death laws. The amendment clarified that the resolve authorizes suit against the Department of Human Services and constitutes a waiver of the State's defense of immunity under the Maine Tort Claims Act. The amendment also clarified that the maximum amount of recovery is \$400,000, including costs, interest and punitive damages.

House Amendment "A" to Committee Amendment "A" (H-383) proposed to remove the authority for John Wagg to sue the Department of Human Services. The amendment also proposed to require that the proceeds of any recovery by Christy Reposa in her suit against the Department of Human Services, not including costs and reasonable attorney's fees as determined by the court, must be deposited with a 3rd-party trustee determined by counsel for Christy Reposa, subject to approval by the court, and disbursed only to pay for postsecondary educational expenses for a sibling of Logan Marr. If these proceeds so deposited are not disbursed to pay for postsecondary educational expenses for a sibling of Logan Marr, they must be deposited in the Victims' Compensation Fund established in the Maine Revised Statutes, Title 5, section 3360-H and, notwithstanding Title 5, chapter 316-A, used only for the payment of claims arising under Title 5, chapter 316-A based on a crime against a person who has not attained 18 years of age.

Enacted Law Summary

Resolve 2003, chapter 86 authorizes Christy Reposa, the parent of Logan Marr, to sue the State under the State's wrongful death laws. The law provides that the proceeds of any recovery by Christy Reposa in her suit against the Department of Human Services, not including costs and reasonable attorney's fees as determined by the court, must be deposited with a 3rd-party trustee determined by counsel for Christy Reposa, subject to approval by the court, and disbursed only to pay for postsecondary educational expenses for a sibling of Logan Marr.