

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

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Legislative Document

No. 1809

H.P. 1322

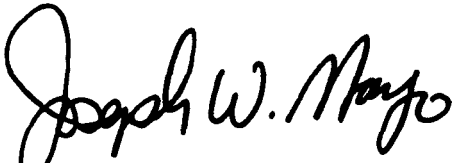
House of Representatives, February 27, 1996

**An Act Strengthening the Laws That Prohibit the Drugging of Animals  
Competing in Pulling Events and Livestock Exhibitions.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on Agriculture, Conservation and Forestry suggested and  
ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative WHITCOMB of Waldo.  
Cosponsored by Representative SPEAR of Nobleboro and  
Representatives: KNEELAND of Easton, TRUE of Fryeburg.

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

4 **Sec. 1. 7 MRSA §74**, as repealed and replaced by PL 1987, c.  
111, is repealed.

6 **Sec. 2. 7 MRSA §74-A** is enacted to read:

8 **§74-A. Certain drugging of animals prohibited**

10 **1. Definitions.** As used in this section, unless the  
12 context otherwise indicates, the following terms have the  
following meanings.

14 **A. "Animal" means an animal entered in an event.**

16 **B. "Event" means a public pulling competition or livestock  
exhibition.**

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

22 **D. "Prohibited substance" means a stimulant, depressant,  
24 tranquilizer or local anesthetic that could affect the  
conduct, actions, endurance, strength, speed, performance or  
26 disposition of an animal; or a drug, regardless of how  
harmless or innocuous, that interferes with the detection of  
28 any prohibited substance. It also means a metabolite or  
derivative of a prohibited substance.**

30 **E. "Trainer" means a person who has the responsibility for  
32 the care, training, custody or performance of a horse,  
including, but not limited to, any person who signs an entry  
34 blank for an event.**

36 **2. Administration of prohibited substance.** A person may  
38 not feed, inject, insert or otherwise administer or attempt to  
administer or instruct, aid or conspire with another person to  
40 administer or employ anyone who administers or attempts to  
administer a prohibited substance to an animal. The commissioner  
42 may require that an animal be tested for the presence of a  
prohibited substance before, during or after an event.

44 **3. Prohibited use or exhibition of drugged animal.** An  
animal that has been administered a prohibited substance may not  
46 be used in an event.

48 **4. Animals subject to examination; scope; request for  
test.** An animal entered in an event is subject to examination  
50 under the direction of a licensed veterinarian or an agent of the

2 licensed veterinarian. The licensed veterinarian, with the  
3 approval of the commissioner, may appoint technicians and agents  
4 to perform duties under this section that are not prohibited by  
5 other provisions of law. The examination may include physical,  
6 saliva, urine or blood tests or other tests or procedures that  
7 the licensed veterinarian considers necessary to carry out the  
8 purposes of this section. The licensed veterinarian may examine  
9 any of the animals entered in an event if those animals are on  
10 the grounds of the event. The licensed veterinarian also may  
11 examine an animal withdrawn by the owner or trainer of the animal  
12 24 hours prior to an event for which the animal had been entered.

13 **5. Refusal to submit animal for examination.** An owner or  
14 trainer who refuses to submit an animal for examination or to  
15 cooperate with the licensed veterinarian, or technicians or  
16 agents of the licensed veterinarian, is in violation of this  
17 section and subject to the penalties set forth in subsection 9.

18 **6. Presence of prohibited substance; prima facie evidence.**  
19 If the chemical analysis of a test performed under subsection 4  
20 indicates the presence of a prohibited substance, it is prima  
21 facie evidence that the substance has been administered to the  
22 animal. For purposes of this section, each administration of a  
23 prohibited substance to an animal and each occasion on which a  
24 prohibited substance was administered in violation of this  
25 section constitutes a separate violation.

26 **7. Responsibility of owner or trainer for condition of**  
27 **animal; substitute trainer.** The owner or trainer, or both, in  
28 the absence of substantial evidence to the contrary, is  
29 responsible for the condition of the animal, including the  
30 presence of a prohibited substance, and is charged with knowledge  
31 of all the provisions contained in this section and the  
32 regulations adopted pursuant to this section. If a trainer is  
33 prevented from performing the trainer's duties, including  
34 responsibility for an animal in the trainer's care, by illness or  
35 other cause, or is absent from the event where an animal under  
36 the trainer's care is entered and stabled, the trainer  
37 immediately shall notify the secretary or manager of the event.  
38 At the time of notification, the trainer shall specify a  
39 substitute trainer and the substitute trainer shall place the  
40 substitute trainer's name on the entry blank. The substitute  
41 trainer has the same responsibilities as the trainer has for the  
42 condition of an animal in that trainer's care.

43 **8. Administrative hearing; suspension.** In addition to or  
44 in lieu of the civil action authorized by subsection 9, the  
45 commissioner may institute an administrative proceeding. If the  
46 commissioner institutes an administrative proceeding, the  
47 commissioner shall give notice and an opportunity for hearing

2 under the Maine Revised Statutes, Title 5, chapter 375,  
3 subchapter IV, on any alleged violation of this section. Upon  
4 giving notice, the commissioner shall prohibit immediately the  
5 person against whom the violation is alleged from competing in an  
6 event within the State. This prohibition remains in effect for  
7 30 days or until the commissioner's decision is received,  
8 whichever occurs first, exclusive of any delays resulting from  
9 continuances requested by the person against whom the violation  
10 is alleged.

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

17 **9. Violation.** A person who violates this section is  
18 subject to the provisions of this subsection.

19 A. The following forfeitures may be adjudged and collected  
20 by the commissioner in a civil action:

21 (1) For the first violation, a forfeiture of not less  
22 than \$100 nor more than \$500; or

23 (2) For a 2nd or subsequent violation, a forfeiture of  
24 not less than \$500 nor more than \$1,000.

25 B. In addition to the forfeitures specified in paragraph A,  
26 the commissioner may suspend the owner or trainer, or both,  
27 from all events for a period of not less than 90 days nor  
28 more than one year for each violation. A person who  
29 participates in an event during the period of suspension  
30 commits a violation of this section.

31 C. The owner of an animal found to have received a  
32 prohibited substance in violation of this section forfeits  
33 all prize money and any trophies, ribbons and points won at  
34 an event by the drugged animal. The prize money and  
35 trophies, ribbons and points must be redistributed by the  
36 general manager of the event in accordance with its rules or  
37 bylaws.

38 **10. Therapeutic drugs.** This section does not prohibit the  
39 administration to an animal of a drug, the use of which is  
40 required for treatment of an illness or condition unrelated to  
41 the performance of the animal in the event. An animal in an  
42 event that receives a medication that contains a prohibited  
43 substance is not eligible for the event, unless the following  
44

2 requirements have been met and the facts requested are submitted  
3 to the commissioner in writing.

4 A. Medication must be therapeutic and necessary for  
5 treatment of an illness or injury.

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

10 C. Only a licensed veterinarian or trainer may administer  
11 medication.

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

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

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

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

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

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

32 J. The statement must be signed by the general manager of  
33 the event and time of receipt of the statement recorded on  
34 the statement by the general manager.

36 If the chemical analysis of the sample taken from the animal  
37 treated under this subsection indicates the presence of a  
38 prohibited substance and all the requirements of this subsection  
39 have been complied with, the information contained in the  
40 statement and any other relevant evidence must be considered at a  
41 hearing provided under this section in determining whether there  
42 has been a violation of any provision of this section.

44 11. Authority of the commissioner to make rules. The  
45 commissioner may adopt rules relating to the administration of  
46 tests, the care and custody of test samples and all other matters  
47 necessary to carry out the purposes of this section.

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

10       As used in this subsection, "racehorse" means a live horse,  
11 including a stallion, mare, gelding, ridgeling, colt or filly,  
12 that is eligible to participate in a horse racing contest in this  
13 State where parimutuel racing is permitted under the regulations  
14 promulgated by the State Harness Racing Commission. This  
15 subsection does not exempt racehorses participating in an event  
16 covered by this section.

18       Sec. 3. 7 MRSA §75, sub-§2, ¶K, as enacted by PL 1987, c. 849,  
19 §2, is repealed.  
20

## 22    STATEMENT OF FACT

24       This bill strengthens the current laws prohibiting the  
25 drugging of animals entered in pulling contests and expands the  
26 prohibition to include animals entered in livestock exhibitions.  
27 The bill shifts the burden to the owner or trainer who is  
28 responsible for an animal that tests positive for a prohibited  
29 substance to prove that the person responsible did not administer  
30 the prohibited substance to the animal.

32       As in the current law, the bill allows the use of  
33 therapeutic drugs, but requires a written statement to be filed  
34 within one hour of the administration of medication indicating,  
35 among other pertinent information, the type of medication and the  
36 reason for the treatment. A minimum forfeiture for violations is  
37 specified. In addition, all prize money and trophies won by the  
38 animal have to be returned.