

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

Sec. 1. 17 MRSA §313-A, as enacted by PL 1981, c. 166, is amended to read:

§313-A. Exemption for elderly

Clubs, groups or organizations, ~~comprised only of members who~~ composed of individuals at least 90% of whom are at least 62 years of age or older, which that operate "beano" or "bingo" games for their own entertainment and recreation and not for profit, are exempt from application and licensing provisions of this chapter.

Sec. 2. 17 MRSA §326 is enacted to read:

§326. Proceeds

1. Remuneration for illness, injury or loss. An organization licensed to operate "beano" or "bingo" games may pay the proceeds or part of the proceeds from games to a member, auxiliary member, officer or employee of the organization as remuneration for a serious illness or injury or casualty loss if the organization makes an application pursuant to this section and the application is approved by the State Police, Licensing Division.

2. Application. An application must be made in such form and contain such information as the licensing division requires.

A. In the case of serious illness or injury, the licensing division may require certification by a licensed physician setting out the facts in support of the application.

B. In the case of a casualty loss, the licensing division may require statements or reports from a law enforcement agency, rescue or other emergency services personnel or an insurance agency to support the application.

C. The licensing division may deny an application if it appears that the person who would receive the proceeds has other adequate means of financial support, including, but not limited to, insurance or workers' compensation benefits.

3. Rules. The Chief of the State Police shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375 to carry out this section.

Sec. 3. 17 MRSA §335, as repealed and replaced by PL 1975, c. 424, §2, is repealed and the following enacted in its place:

§335. Proceeds

1. Prohibition. Proceeds of any games of chance may not be used to provide salaries, wages or other remuneration to members, officers or employees of any organization authorized to conduct games of chance under this chapter.

2. Exception. Notwithstanding subsection 1, a licensee may pay the proceeds or part of the proceeds of games of chance to a member, auxiliary member, officer or employee of the licensed organization as remuneration for a serious illness or injury or casualty loss, if the licensee makes an application pursuant to this section and the application is approved by the State Police, Licensing Division.

A. An application must be made in such form and contain such information as the licensing division requires.

(1) In the case of serious illness or injury, the licensing division may require certification by a licensed physician setting out the facts in support of the application.

(2) In the case of a casualty loss, the licensing division may require statements or reports from a law enforcement agency, rescue or other emergency services personnel or an insurance agency to support the application.

(3) The licensing division may deny an application if it appears that the person who would receive the proceeds has other adequate means of financial support, including, but not limited to, insurance or workers' compensation benefits.

3. Rules. The Chief of the State Police shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375 to carry out this section.

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

Effective April 10, 1990.

CHAPTER 826

H.P. 1600 - L.D. 2224

An Act to Provide Additional Remedies for Consumers Injured by Unfair Insurance Trade Practices

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

24-A MRSA §12-A, sub-§§1-A and 6 are enacted to read:

1-A. Equitable relief; actual damages. In addition to a civil penalty awarded pursuant to subsection 1, the Superior Court may award to any injured insured or applicant for insurance who is represented by the Attorney General reasonable equitable relief and actual damages.

6. Restitution. The superintendent may order restitution for any insured or applicant for insurance injured by a violation for which a civil penalty may be assessed pursuant to this section.

See title page for effective date.

CHAPTER 827

H.P. 1409 - L.D. 1957

An Act to Clarify the Laws Governing Prelitigation Screening Panels

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

Whereas, questions have arisen regarding how to terminate cases pending before medical malpractice prelitigation screening panels created by Public Law 1985, chapter 804; and

Whereas, questions have also emerged regarding how to commence an action before the panels when the person accused of professional negligence is not available for service; and

Whereas, these questions must be clarified immediately in order to facilitate the movement of numerous cases currently pending before the panels; 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. 24 MRSA §2853, sub-§1, as amended by PL 1989, c. 361, §§4 and 10, is further amended to read:

1. Notice of claim; filing fee. Any person serving a notice of claim of professional negligence pursuant to section 2903 shall also serve a copy ~~upon~~ with return of service on the clerk of the Superior Court in the county where a complaint based on the claim would be filed ~~or was filed~~ within 10 days of serving the notice of claim under section 2903, with ordinary mail notice of service to the person or persons accused of professional negligence in the notice. The notice of claim and all other documents filed with the clerk in the matter during the prelitigation screening process shall be confidential. At the time of filing the notice, the claimant shall also pay to the clerk a filing fee of \$200 per notice filed.

Sec. 2. 24 MRSA §2853, sub-§7, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

7. Extensions of time. All requests for extension of time under this subchapter ~~shall~~ must be made to the panel ~~chairman~~ chair. The ~~chairman~~ chair may extend any time period under this subchapter for good cause, except that the chair may not extend any time period that would result in the hearing being held more than one year from the service of notice of claim upon the clerk unless extraordinary cause is shown.

Sec. 3. 24 MRSA §2853, sub-§8 is enacted to read:

8. Dismissal. Cases pending before the panels may be dismissed as follows.

A. Voluntary dismissal will be governed as follows.

(1) Any action before the panel may be dismissed by the plaintiff by filing a notice of dismissal at any time prior to the appointment of the panel or by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal, stipulation or order, the dismissal is without prejudice.

(2) Except as provided in subparagraph (1), an action shall not be dismissed on the plaintiff's motion except on order of the chair of the panel and on terms and conditions the chair deems proper.

B. Involuntary dismissal will be governed as follows.

(1) On failure of the plaintiff to prosecute or to comply with rules or any order of the chair, and on motion by the chair or any defendant, after notice to all parties has been given, and in the absence of the showing of good cause, the chair may dismiss the action.

(2) Unless the chair of the panel in its order for dismissal otherwise specifies, a dismissal under this paragraph shall be a dismissal with prejudice. A dismissal with prejudice shall be deemed the equivalent of a finding for the defendant on all issues before the panel.

Sec. 4. 24 MRSA §2859, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

§2859. Statute of limitations

The applicable statute of limitations concerning actions for professional negligence ~~shall be~~ is tolled from the date upon which notice of claim is served or filed in Superior Court until 30 days following the day upon which the claimant receives notice of the findings of the panel pursuant to section 2856 ~~or 175 days after service of the notice of claim pursuant to section 2903, whichever first occurs.~~ After the passage of 175 days, the claimant may bring suit if the panel has not rendered a decision, but