

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION
December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION
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J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 683

H.P. 1434 - L.D. 2046

An Act to Permit the State Lottery Commission to Approve Promotions Involving the Use of Lottery Tickets

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

Sec. 1. 8 MRSA §374, sub-§1, ¶H, as enacted by PL 1987, c. 505, §2, is amended to read:

H. The method to be used in selling tickets or shares and the types of sales promotions that may be conducted utilizing tickets or shares as approved in advance by the commission or the director;

Sec. 2. 8 MRSA §379, as enacted by PL 1987, c. 505, §2, is amended by adding after the first ¶ a new ¶ to read:

Nothing in this section may be construed to prohibit a person from transferring tickets or shares as part of a sales promotion provided the promotion has been approved in advance by the commission or director pursuant to rules adopted under section 374, subsection 1, paragraph H.

Sec. 3. 8 MRSA §380, as enacted by PL 1987, c. 505, §2, is repealed and the following enacted in its place:

§380. Sales to persons under 18 years of age; gifts

1. Sale to person under 18 years of age. A ticket or a share may not be sold to a person under 18 years of age. This does not prohibit a person 18 years of age or older from purchasing a ticket or a share for the purpose of making a gift to a person less than 18 years of age. A licensee who knowingly sells or offers to sell a lottery ticket or share to a person under 18 years of age commits a civil violation for which a forfeiture of not more than \$200 may be adjudged.

2. Transfer of ticket or share as part of sales promotion. A person authorized by the commission or the director to conduct a sales promotion may not transfer a lottery ticket or share to a person under 18 years of age as part of that sales promotion. This does not prohibit a person who receives a ticket or a share in an authorized sales promotion from transferring the ticket or the share to a person under 18 years of age as a gift. A person who knowingly transfers or offers to transfer a lottery ticket or share to a person under 18 years of age as part of a sales promotion commits a civil violation for which a forfeiture of not more than \$200 may be adjudged.

Sec. 4. Report by State Lottery Director. The State Lottery Director shall submit a report on promo-

tions authorized under this Act to the joint standing committee of the Legislature having jurisdiction over legal affairs by September 1, 1994. The report must include the number of promotions approved by the State Lottery Commission or the director, a summary of any complaints received by the commission or the director regarding the promotions or the means used to advertise the promotions and a summary of any concerns and recommendations the director or the commission wishes to bring to the attention of the committee regarding sales promotions using lottery tickets or shares.

See title page for effective date.

CHAPTER 684

H.P. 1570 - L.D. 2212

An Act to Amend the Laws Governing the State Claims Commission

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

Sec. 1. 23 MRSA §152, first ¶, as amended by PL 1989, c. 503, Pt. B, §98, is further amended to read:

The State Claims Commission, established by Title 5, section 12004-B, subsection 5, ~~shall consist~~ consists of 5 members. Four of the members ~~shall must~~ be appointed by the Governor, 2 of whom ~~shall must~~ be qualified appraisers certified as general real estate appraisers pursuant to Title 32, chapter 123 and 2 of whom ~~shall must~~ be attorneys-at-law. The Governor shall designate one of the attorneys-at-law to be chair. The members of the commission appointed by the Governor shall serve for terms of 4 years. They ~~shall must~~ be sworn, and for inefficiency, willful neglect of duty or for malfeasance in office may, after notice and hearing, be removed by the Governor on the address of both branches of the Legislature or by impeachment. In case of a vacancy occurring through death, resignation or removal, the Governor shall appoint a successor for the whole term of the member whose place that successor takes, subject to removal as provided in this section.

Sec. 2. 23 MRSA §156, 3rd and 4th ¶¶, as amended by PL 1987, c. 395, Pt. A, §98, are repealed and the following enacted in their place:

No interest may be allowed on so much of the net damage that has been paid to the owner or owners.

An attested copy of each award must be sent immediately to the Department of Transportation and to the party or parties named in the award. The State Claims Commission shall state by letter the date it forwarded the award and all parties shall within 30 days designate to the commission the award or awards from which an

appeal will be taken to Superior Court. If no appeal is taken within 30 days of the date of issuance of the commission award, the State Claims Commission shall promptly notify the Department of Transportation. The Department of Transportation shall, within 60 days from the date of issuance of the commission award, pay the awarded amount to the party or parties named in the award.

Sec. 3. 23 MRSA §156, 5th ¶ is repealed and the following enacted in its place:

Service as required by this section must be made in the manner prescribed by Rule 5 of the Maine Rules of Civil Procedure.

Sec. 4. 23 MRSA §156, 6th ¶, as amended by PL 1987, c. 395, Pt. A, §98, is further amended to read:

Upon certification by the Department of Transportation that after due diligence the address of owners of record ~~cannot~~ can not be determined or ~~where when the commission's State Claims Commission notice by registered or certified mail is returned to the commission unclaimed or unknown or where personal service cannot~~ can not be made, the chairman chair of the commission may order service by publication. ~~The chairman of the commission may appoint a guardian ad litem to protect the interests and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation to be paid to that guardian ad litem. This compensation shall be paid by the Department of Transportation.~~ Notice of the time and place of the review and hearing ~~shall must~~ must be published once a week for 3 successive weeks in a newspaper of general circulation in the county in which the subject property is located. ~~The last of these notices shall be published no later than 7 days prior to the hearing.~~ The commission shall then proceed with the hearing as in other cases and the appeal provisions ~~shall must~~ must be available to the Department of Transportation and the record owner or owners, or any one of them, who appears and makes application for appeal pursuant to section 157.

Sec. 5. 23 MRSA §156, as amended by PL 1987, c. 395, Pt. A, §98, is further amended by adding after the 6th paragraph a new paragraph to read:

The chair of the State Claims Commission may appoint a guardian ad litem to protect the interest and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation for that guardian ad litem. This compensation must be paid by the Department of Transportation.

Sec. 6. 23 MRSA §156, next to last ¶, as amended by PL 1987, c. 395, Pt. A, §98, is further amended to read:

After the appeal period from the decree of the State Claims Commission or a judgment of any court has

expired, any sum of money directed by a decree of the commission or by a judgment of any court to be paid over, ~~which that remains unclaimed for 60 days, shall~~ must be disposed of consistent with Title 33, chapter 27 37.

Sec. 7. 23 MRSA §156, last ¶, as enacted by PL 1979, c. 487, §5, is amended to read:

Notwithstanding Title 1, section 302, this section ~~shall apply~~ applies to all actions and proceedings pending on the effective date of this Act September 14, 1979.

Sec. 8. 23 MRSA §157, first ¶, as amended by PL 1987, c. 395, Pt. A, §99, is repealed and the following enacted in its place:

The Department of Transportation or any party or parties aggrieved by an award by the State Claims Commission may appeal to the Superior Court in the county where the land is situated within 30 days from the date the award was forwarded by the commission. This appeal is de novo and is taken by filing a complaint setting forth substantially the facts upon which the case will be tried like other civil cases.

Sec. 9. 23 MRSA §157, 4th ¶, as amended by PL 1987, c. 395, Pt. A, §99, is further amended to read:

If either the owner or owners of record or the department appeal and the just compensation finally awarded, exclusive of interest, is not less than the gross damage determined by the State Claims Commission, exclusive of any interest allowed, then the court shall give judgment to the owner or owners for the amount in which the final award is in excess of the ~~money deposited in court, plus the amount paid the owner or owners; exclusive of any interest awarded by the State Claims Commission;~~ and for interest on such excess from the date of taking and for costs from the time of appeal. ~~No interest may be allowed on so much of any award as has been paid into court or on any amount paid to the owner or owners.~~ The clerk shall certify the final judgment of the court to the department, which shall enter the same of record; and order the same to be paid by the Treasurer of State. The judgment and certificate of judgment shall specify the withholding, if any, authorized pursuant to section 244-A, subsection 4.

Sec. 10. 23 MRSA §158, as amended by PL 1987, c. 395, Pt. A, §100, is repealed.

See title page for effective date.

CHAPTER 685

H.P. 1450 - L.D. 2062

An Act to Allow Transfer of Commercial Moorings