

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

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Augusta, Maine
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§1660-L. Advisory Committee to the Commissioner

There is established the Advisory Committee to the Commissioner, referred to in this section as the "advisory committee." The advisory committee must be appointed by the commissioner and consists of 7 members. Three members must represent the Department of Human Services, the Department of Mental Health and Mental Retardation and the Office of Substance Abuse. Three members must represent community agencies. One member must represent the independent audit community. The chair must be elected by the committee from its members. All members of the advisory committee serve without compensation or reimbursement for expenses. The advisory committee must prepare an annual written report to the Legislature on the experience of the department with this chapter.

§1660-M. Appeals

Any person aggrieved under this chapter is entitled to judicial review, as provided in the Maine Administrative Procedure Act. The commissioner shall consult with the Advisory Committee to the Commissioner about additional appeal procedures and may adopt rules providing for such procedures.

Sec. C-11. 5 MRSA §12004-I, sub-§29, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. C-12. Consolidation of audit services

Effective July 1, 1995, the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the Advisory Committee to the Commissioner shall undertake a study of the consolidation of the several audit divisions with responsibilities for audits and cost determinations of agreements and community agencies covered by the Maine Revised Statutes, Title 5, chapter 148-C. The study must identify all audit groups, identify their functions and recommend how best to consolidate those functions to achieve operational efficiency to the audit process. The results of the study must be reported to the Joint Standing Committee on State and Local Government and to the Governor by December 31, 1995.

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

Effective July 3, 1995.

CHAPTER 403

S.P. 240 - L.D. 637

An Act to Change the Commissions Payable to the State from Off-track Betting

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

Whereas, off-track betting parlors in smaller markets are struggling financially; and

Whereas, those parlors provide badly needed jobs and tax dollars for the communities they serve; 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. 8 MRSA §275-O is enacted to read:

§275-O. Reduced payments

1. Eligible licensees. This section grants reduced payments to off-track betting licensees that were licensed and open for business before January 1, 1995 and that have a market area, as described in section 275-D, subsection 4, with a population of less than 50,000.

2. Reduced payments formula. For an off-track betting license that meets the conditions described in subsection 1, the reduction in payments due are calculated as follows.

A. For the first \$40,000 of all wagers into commingled pools on interstate simulcast races in any calendar week, the amounts payable by the licensee are 20% of the amounts prescribed by the sections listed in subsection 3.

B. For all wagers totaling over \$40,000 and \$80,000 or under into commingled pools on interstate simulcast races in any calendar week, the amounts payable by the licensee are 60% of the amounts prescribed by the sections listed in subsection 3.

C. For all wagers totaling over \$80,000 into commingled pools on interstate simulcast races in any calendar week, the amounts payable by

the licensee are 100% of the amounts prescribed by the sections listed in subsection 3.

3. Reduced payments. Notwithstanding any other provisions of law, the amounts payable to the Treasurer of State or to the State Harness Racing Commission are reduced, as prescribed in subsection 2, for the following:

- A. Section 275-F, subsection 1;
- B. Section 275-G, subsection 1;
- C. Section 275-I, subsection 1, paragraph A; and
- D. Section 275-L, subsection 1.

4. Retention of commissions. Any amount not required to be paid to the Treasurer of State or the State Harness Racing Commission as a result of this section is added to the amount retained by the off-track betting parlor under section 275-K.

5. Repeal. This section is repealed on July 2, 1997.

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

Effective July 3, 1995.

CHAPTER 404

S.P. 129 - L.D. 321

An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing

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

Sec. 1. 5 MRSA §19201, sub-§§1-A and 1-B are enacted to read:

1-A. Bona fide occupational exposure. "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment.

1-B. Employer; employer of the person exposed. "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person.

Sec. 2. 5 MRSA §19201, sub-§4-A, as enacted by PL 1987, c. 811, §1, is amended to read:

4-A. HIV test. "HIV test" means a test for the presence of an antibody to HIV or a test for an HIV antigen or other diagnostic determinants specific for HIV infection.

Sec. 3. 5 MRSA §19201, sub-§5, as repealed and replaced by PL 1987, c. 539, is amended to read:

5. HIV infection; HIV infection status. "HIV infection" means the state wherein HIV has invaded the body and is being actively harbored by the body. "HIV infection status" means the results of an HIV test.

Sec. 4. 5 MRSA §19203, sub-§2, as repealed and replaced by PL 1987, c. 811, §3, is amended to read:

2. Designated health care provider. To a health care provider designated by the subject of the test in writing. When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's ~~physician~~ health care provider may make these results available only to other health care providers working directly with the patient, and only for the purpose of providing direct medical or dental patient care. Any ~~physician~~ health care provider who discloses HIV test results in good faith pursuant to this subsection ~~shall be~~ is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

Sec. 5. 5 MRSA §19203-A, sub-§1, as amended by PL 1987, c. 811, §4, is further amended to read:

1. Individual tested. Except as provided in this section and section 19203, subsections 4 and 5, no person may perform an HIV test without first obtaining the written informed consent of the person to be tested. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection. Anonymous test sites under section 19203-B; are exempt from the requirement that the informed consent be in writing.

Sec. 6. 5 MRSA §19203-A, sub-§4, as enacted by PL 1987, c. 811, §5, is amended to read:

4. Occupational exposure. Consent need not be obtained when a ~~health care provider, an employee of a health care facility or a patient in a health care facility~~ is exposed to the blood or body fluids of another and the bona fide occupational exposure creates a significant risk of infection provided that a court order has been obtained under section 19203-C.