

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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
1995

Pingree located in T.6, R.8, W.E.L.S.; any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper Company located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation Tribal Government, provided that the mutual agreement must be finalized prior to August 31, 1991; ~~and~~ any lands in Lakeville acquired by the Penobscot Nation before January 1, 1991; and all the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation located in Township 1, Range 6 W.E.L.S.

Sec. 2. Effective date. This Act does not take effect unless, within 60 days of the adjournment of the Second Regular Session of the 117th Legislature, the Secretary of State receives written notification by the Tribal Council of the Penobscot Nation that the Penobscot Nation has agreed to the provisions of this Act pursuant to the United States Code, Title 25, Section 1725(e)(1), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives.

See title page for effective date, unless otherwise indicated.

CHAPTER 602

H.P. 1322 - L.D. 1809

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

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

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

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

§74-A. Certain drugging of animals prohibited

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

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

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

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

D. "Prohibited substance" means:

(1) A stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

(2) Any substance that the commissioner by rule determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

(3) A drug, regardless of how harmless or innocuous, that interferes with the detection of any prohibited substance; or

(4) A metabolite or derivative of a prohibited substance.

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

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

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

4. Animals subject to examination; scope; request for test. An animal entered in an event is

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

5. Refusal to submit animal for examination.

An owner or trainer may not refuse to secure or restrain an animal for examination by a licensed veterinarian or a technician or agent of the licensed veterinarian and may not interfere with the restraining or securing of an animal for that examination.

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

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

8. Administrative hearing; suspension. In addition to or in lieu of the civil action authorized by subsection 9, the commissioner may institute an administrative proceeding. If the commissioner

institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter IV, on any alleged violation of this section. Upon giving notice, the commissioner shall prohibit immediately the person against whom the violation is alleged from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision is received, whichever occurs first, exclusive of any delays resulting from continuances requested by the person against whom the violation is alleged.

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

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

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

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

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

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

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

10. Therapeutic drugs. This section does not prohibit the administration to an animal of a drug, the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in the event. An animal in an event that receives a medication that contains a prohibited substance is not eligible for the event, unless the following requirements have been met and the facts requested are submitted in writing to the manager of the event.

A. The medication must be therapeutic and necessary for treatment of an illness or injury.

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

C. Only a licensed veterinarian or a trainer acting under the direction of the licensed veterinarian may administer medication. The trainer may administer medication under the direction of the licensed veterinarian if the licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal, has sufficient knowledge of the animal to make a general or preliminary diagnosis of the animal and is readily available to care for the animal in the event of an adverse reaction to medication or the failure of a trainer to adhere to a therapy regimen.

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

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

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

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

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

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

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

If the chemical analysis of a sample taken pursuant to subsection 4 from the animal treated under this subsection indicates the presence of a prohibited substance and all the requirements of this subsection have been met, the information contained in the statement and any other relevant evidence must be considered at a hearing provided under subsection 8 in determining whether there has been a violation of any provision of this section.

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

12. Inapplicability to horse racing. This section does not affect existing laws governing horse racing or affect horse sales or horse auction sales when those sales are solely for the sale of racehorses or breeding stock that are used in the production of racehorses and when those sales are held or conducted on the premises of a racing association under the jurisdiction of, and with the authorization and approval of, the State Harness Racing Commission. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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

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

Sec. 4. Transition; rules. Rules adopted pursuant to the Maine Revised Statutes, Title 7, former section 74 remain in effect until rescinded or amended.

See title page for effective date.

CHAPTER 603

H.P. 1295 - L.D. 1777

An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law

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

Sec. 1. 36 MRSA §1109, sub-§5, as amended by PL 1977, c. 467, §10, is further amended to read:

5. Owner obligation. If the owner or owners of any parcel of land subject to taxation under this subchapter fail to submit the schedules under the foregoing provisions of this section, or fail to respond, within 60 days of receipt, to written questions or interrogatories of the assessor, or fail within 60 days of receipt of notice as provided in this section; to appear before the assessor to respond to questions or interrogatories, or fail to provide information after notice duly received as provided under this section, ~~such that~~ owner or owners ~~shall be~~ are deemed to have waived all rights of appeal.