

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

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

Effective June 11, 1997.

CHAPTER 474

H.P. 1239 - L.D. 1756

An Act Regarding the Economic Security and Safety of Harness Horsepersons

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

Sec. 1. 8 MRSA §271, sub-§6 is enacted to read:

6. Term of license and race date assignment. Notwithstanding any provision of this chapter to the contrary, each license to conduct live racing or to engage in simulcast wagering, including by operating an off-track betting facility as defined in section 275-A and all awards of race dates issued or made by the commission, beginning with licenses issued and race dates awarded for 1998, may be for a 2-year period; except, that if a commercial track does not use during the first year of any such 2-year license a race date that it was entitled to receive for both years pursuant to section 275-N, then the commission may hold a hearing prior to the 2nd year or the term of that racing license to determine whether the award of that race date for the second year of the term should be revoked.

Sec. 2. 8 MRSA §272-A is enacted to read:

§272-A. Trust account

1. Establishment; deposits. Each licensee conducting live racing in the State shall establish a trust account for the benefit of the horsepersons who race at that licensee's facility. Except as provided in subsections 2, 3, 4 and 5 of this section, all funds that by statute must be used to pay purses must be deposited in that account and used exclusively to pay purses, including:

A. All funds distributed to or retained by the licensee to pay or supplement purses pursuant to sections 275-F, 275-H and 275-I, except that any funds may be used to reimburse a licensee for purse overpayment during its race meet. Reimbursement for purse overpayment to a licensee commences in 1998 for any overpayment in the previous calendar year and for any subsequent calendar year in which an overpayment occurs.

2. Bargaining agent funding. One and one-half percent of the amounts deposited in the trust account each month must be paid to the exclusive bargaining agent for horsepersons at that race track if that a representative has been elected pursuant to section 285.

3. Loan permitted. Each licensee may borrow for its operation and not deposit into the trust account established pursuant to subsection 1 money distributed to it pursuant to sections 275-F, 275-H and 275-I, even if the money is not a reimbursement, subject to the following conditions.

A. The amount of money borrowed pursuant to this subsection and not yet repaid at any point in time may not exceed the total amount the licensee paid into the trust account or paid in purses during the prior calendar year over and above the amounts it was required by statute to pay or deposit.

B. Any money borrowed pursuant to this subsection must be repaid to the licensee's trust account with interest calculated equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date from which the interest is calculated, plus 4%, in equal daily deposits over the balance of the calendar year beginning with the day after the money is borrowed, except that prepayment may be made without penalty and without consent being required. Repayment on a different schedule is permitted pursuant to the written authorization of the exclusive bargaining agent elected pursuant to section 285, but in any event any repayment must be paid no later than December 31st of the year the funds were borrowed.

4. Payment if licensee goes out of business. If a licensee fails to conduct a race meet during a calendar year, all remaining funds held in the trust account established under this section by that licensee must be returned to the commission, which shall return to the licensee any amount that represented a reimbursement that equaled an overpayment of purses. Any remaining balance of the trust account must be redistributed by the commission to the trust account of all racetracks that continue to conduct live racing in the State with each track receiving that portion of money determined by multiplying the amount of money available for redistribution by a fraction, the numerator of which is the number of race dates at that racing venue during the prior year, and the denominator of which is the total number of race dates throughout the State during that year.

5. Repayment from distribution under section 275-J. If by January 1st of any year a licensee has not repaid in full any money borrowed pursuant to subsection 3, the exclusive bargaining agent elected pursuant to section 285 at that track shall notify the commission of the amount of the outstanding debt. The commission shall withhold that amount from the next payment due to that licensee under section 275-J and conduct a hearing to determine whether in fact money borrowed pursuant to subsection 3 has not been repaid. If the commission finds that any borrowed amount remains unpaid, the commission shall deposit directly into the licensee's trust account the amount of the withheld money needed to repay the loan and shall tender any balance to the licensee.

Sec. 3. 8 MRSA §275-A, sub-§1, ¶¶ A and B, as enacted by PL 1993, c. 388 §8, are amended to read:

A. If the population within the 50-mile radius of the track is 300,000 or more, conducted racing on more than 100 days in the previous 2 calendar years, except that if a racetrack that qualified as a commercial racetrack under this subsection goes out of business, one new race track opening in a location with a population within a 50-mile radius of the track of 300,000 or more qualifies as a commercial track if it races more than 100 days in a calendar year; or

B. If the population within the 50-mile radius of the track is less than 300,000, conducted racing on more than 25 days in the previous 2 calendar years, except that if a racetrack that qualified as a commercial racetrack under this subsection goes out of business, one new racetrack opening in a location with a population within a 50-mile radius of the track of 300,000 or less qualifies as a commercial track if it races more than 25 days in a calendar year.

Sec. 4. 8 MRSA §275-I, sub-§2, ¶E is enacted to read:

E. For wagers placed at a racetrack in the State on a simulcast race conducted at another racetrack in the State 1.512% of regular wagers and 4.305% of exotic wagers, which must be sent to the track in the state where the harness race was conducted and .986% of regular wagers and .990% of exotic wagers, which must be sent to the commission for distribution in accordance with subsection 3.

Sec. 5. 8 MRSA §285 is enacted to read:

§285. Bargaining agent

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

A. "Eligible voter," with respect to each racing segment, means those owners, trainers and drivers who are licensed by this State and who participated during at least 15% of the race dates actually conducted within a racing segment. Any licensed owner, trainer or driver who believes that licensed owner, trainer or driver would have participated in at least 15% of the race dates actually conducted within a racing segment except for extraordinary circumstances beyond the licensed owner's, trainer's or driver's control may petition the commission during the following January. If the commission finds that special circumstances in fact did exist and did prevent the licensed owner, trainer or driver from qualifying, the commission shall certify the person as an "eligible voter" with respect to that racing segment.

B. "Exclusive bargaining agent" means the agent elected pursuant to this section to represent licensed harness horse owners, trainers and drivers at race meets conducted within a racing segment.

C. "Participation" means owning, training or driving a horse or horses that actually start a race during a race date at a racing segment.

D. "Racing segment" means:

(1) The racing season during a calendar year at each commercial track within the State; or

(2) All racing conducted during a calendar year at a track that is not a commercial track.

2. Elections to be held. For each racing segment, the commission shall certify, biannually beginning in 1998, eligibility of voters, and shall conduct and certify an election to determine who will be the exclusive bargaining agent to represent licensed harness horse owners, trainers and drivers at each racetrack within that racing segment. During each January preceding such an election, the commission, in consultation with the racetracks within each racing segment and in consultation with the existing representatives of licensed harness horse owners, trainers and drivers within that racing segment shall prepare a list of eligible voters within each racing segment. During February of each year for which elections are to be held, the commission shall prepare and forward to each eligible voter within each racing segment a ballot for the election of the exclusive bargaining agent within that racing segment. The ballot must include the name of any incorporated entity that

during the preceding January has requested in writing to have its name included on the ballot for that racing segment. Eligible voters for each racing segment are entitled to vote in the election held for that racing segment either by returning the commission's official mailed ballot to the commission not later than the following February 28th or by appearing and voting in person, by secret ballot, at the public polling conducted pursuant to subsection 3.

3. Public polling to be held. Every eligible voter within a racing segment must be afforded the opportunity to vote at a public polling for the exclusive bargaining agent to represent horse owners, trainers and drivers within that racing segment. With respect to each commercial track, the public polling must be conducted at the commercial track on one of the first 3 live race dates assigned to the track within the calendar year during which the election is conducted. The public polling with respect to the racing segment that consists of racing at all tracks other than commercial tracks must be conducted during May at a place to be determined by the commission. Notice of the right to vote at such public polling and of the date, time and place of the public polling must be included with the ballot mailed by the commission pursuant to subsection 2.

4. Results certified by commission. If one entity receives more than 50% of the total ballots cast under subsections 2 and 3 for election of an exclusive bargaining agent within a racing segment, that bargaining agent shall be certified by the commission as the exclusive bargaining agent within that segment. If no entity receives more than 50% of the ballots, a runoff election among the 2 entities receiving the most votes must be conducted as described in subsection 2. The entity receiving the most votes at that runoff election must be certified by the commission as the exclusive bargaining agent for that racing segment.

5. Term of certification. Certification of the exclusive bargaining agent with a racing segment is for a 2-year term.

6. Expenses. Any expenses incurred by the commission in conducting an election must be borne in equal assessments by those organizations requesting to be placed on the ballot for that election.

7. Repeal. This section is repealed January 1, 2000.

Sec. 6. Effective date. This Act takes effect October 15, 1997.

Effective October 15, 1997.

CHAPTER 475

H.P. 858 - L.D. 1163

An Act to Amend Child Protective Laws

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

Sec. 1. 22 MRSA §4035, sub-§4, as amended by PL 1995, c. 481, §2, is further amended to read:

4. Final protection order. The court shall issue a final protection order within ~~18~~ 12 months of the filing of the child protection petition ~~unless good cause is shown why the order should not be issued within that time period.~~

Notwithstanding any other provision of this subsection, if the court makes a finding pursuant to ~~section 4055, subsection 1-A~~ 2, then the court shall issue a final protection order within ~~12~~ 9 months of the filing of the child protection petition ~~unless good cause is shown why the order should not be issued within that time period. Good cause does not include a scheduling problem. if:~~

A. The parent has acted toward a child in a manner that is heinous or abhorrent to society or has failed to protect a child in a manner that is heinous or abhorrent to society, without regard to the intent of the parent;

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

- (1) Murder;
- (2) Felony murder;
- (3) Manslaughter;
- (4) Aiding or soliciting suicide;
- (5) Aggravated assault;
- (6) Rape;
- (7) Gross sexual misconduct or gross sexual assault;
- (8) Sexual abuse of minors;
- (9) Incest;
- (10) Kidnapping;
- (11) Promotion of prostitution; or