

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 EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

If the meeting is adjourned sine die before a tie vote is resolved or the tie vote is discovered after the meeting adjourns sine die and more than one candidate remains, a new meeting must be called to conduct a run-off election by the method described in this subsection.

See title page for effective date.

CHAPTER 734

H.P. 1469 - L.D. 2060

An Act Regarding Personal Care Assistance Services

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

Whereas, persons receiving personal care assistance services through the program administered by the Department of Labor will benefit from the transfer of that program to the Department of Human Services on July 1, 1998; and

Whereas, transfer of the program can occur in an orderly manner on July 1, 1998 only if this legislation is enacted on an emergency basis; 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. 22 MRSA §5107-B, sub-§1, as enacted by PL 1995, c. 696, Pt. B, §5, is amended to read:

1. Membership; terms. The committee consists of ~~9~~ 11 members appointed by the Governor.

A. ~~Two~~ Four members must be adults with disabilities who are consumers of independent living services, at least one of whom is a consumer of services under the consumer-directed home-based care program. Two members must be family members of individuals who are consumers of long-term care services, one of whom must represent persons with Alzheimer's disease or other dementia. Five members must be individuals over 65 years of age.

B. A member of the committee may not have any financial or governance interest in the provision of long-term care services.

Sec. 2. 22 MRSA §§5107-C to 5107-F are enacted to read:

§5107-C. Program established

The department shall establish a program of personal care assistance services, including consumer-directed personal care assistance services, for adults with long-term care needs who are eligible under section 5107-D.

§5107-D. Eligibility for services under the personal care assistance program

An adult with long-term care needs is eligible for personal care assistance services under the personal care assistance program under section 5107-C, referred to in this section as the "program," if the department or its designee determines that the adult:

1. Severe disability. Has a severe disability;

2. Need for services. Needs personal care assistance services or an attendant at night or both, which services are necessary to prevent or remove the adult from inappropriate placement in an institutional setting; and

3. Income and support. Has no or insufficient personal income or other support from public services, family members or neighbors. A sliding scale must be established for services provided under the program. The sliding scale must be based on the net income of individuals who receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual.

§5107-E. Evaluation teams

1. Team designation. The commissioner shall designate evaluation teams in the State to assist the department with evaluations of adults with long-term care needs who apply for personal care assistance services under section 5107-C.

2. Membership. Each evaluation team must include at least one registered nurse or registered occupational therapist and the adult with long-term care needs.

3. Duties. For each adult with long-term care needs evaluated by an evaluation team, the team shall assist the department to:

A. Determine the eligibility of the adult for personal care assistance services;

B. Determine the capability of the adult, at the time of evaluation or after skills training provided pursuant to subsection 4, to hire and direct a personal care assistant;

C. Reevaluate the adult periodically to determine the adult's continuing need for the services; and

D. Consult when possible with the adult's attending physician.

4. Skills training. The commissioner may authorize an evaluation team to arrange for skills training for an adult with long-term care needs who applies for consumer-directed personal care assistance services under section 5107-C. Skills training may be provided in the following areas by the following individuals:

A. Personal health management to maximize personal well-being in relation to the adult's disability, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled, including all aspects of prevention, maintenance and treatment techniques;

B. Personal care assistant management, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled, including training in recruiting, hiring and managing a personal care assistant, scheduling and potential problems; and

C. Functional skills required to maximize the adult's abilities in activities of daily living, provided by a registered occupational therapist or other qualified person experienced in the rehabilitation of the severely disabled.

§5107-F. Reimbursement

The department shall reimburse providers who are spouses of individuals who are eligible for personal care assistance services for severely physically disabled adults under section 5107-C.

Sec. 3. 22 MRSA §7323, sub-§2, as corrected by RR 1991, c. 2, §87, is amended to read:

2. Membership. Each multidisciplinary team must include at least one social services' professional; ~~one~~ or health care professional and, whenever possible, the adult with long-term care needs and a family or designated representative.

Sec. 4. 26 MRSA c. 19, sub-c.II, art. IX is repealed.

Sec. 5. Study and report. The Commissioner of Human Services, in conjunction with the

Long-term Care Steering Committee, shall undertake a study of reimbursement rates for personal care assistance services. In conducting the study the commissioner and the committee shall consult with the Department of Labor, Bureau of Rehabilitation; the statewide independent living council; and other interested parties. The commissioner and the committee shall consider and make recommendations on the future role and duties of the committee. The commissioner shall report findings and recommendations to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 1999.

Sec. 6. Transition report. The Commissioner of Human Services and the Commissioner of Labor shall report by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the transfer of the personal care assistance services program from the Department of Labor, under the Maine Revised Statutes, Title 26, sections 1421 to 1421-C, to the Department of Human Services, under Title 22, sections 5107-C to 5107-F. The report must address the progress of the departments in making the transfer, the experience of consumers receiving services during the transition, any problems encountered in the transition and any recommended legislative or administrative action to address any problems or to improve the administration of the program.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

**Long Term Care - Human
Services**

All Other	\$2,409,149
-----------	-------------

Provides funds, transferred from the Department of Labor, to reflect the transfer of responsibility for the personal care assistance program.

**DEPARTMENT OF
HUMAN SERVICES
TOTAL**

\$2,409,149

**LABOR, DEPARTMENT OF
Rehabilitation Services**

All Other (\$2,409,149)

Deappropriates funds to be transferred to the Department of Human Services to reflect the transfer of responsibility for the personal care assistance program.

DEPARTMENT OF LABOR
TOTAL (\$2,409,149)
TOTAL APPROPRIATIONS -\$0-

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1998.

Effective July 1, 1998.

CHAPTER 735

H.P. 1542 - L.D. 2169

An Act Regarding the Employment of Harness Race Track Officials

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

Sec. 1. 8 MRSA §264, as amended by PL 1997, c. 528, §7, is repealed and the following enacted in its place:

§264. Employees

The department may employ such personnel as it considers necessary to provide adequate oversight and enforcement and to carry out the purposes of this chapter, subject to the Civil Service Law. The department may fix the compensation of the employees on a per diem basis, subject to the Civil Service Law.

Notwithstanding the provisions of this section, all officials whose presence is regularly required at a race meet must be licensed by the commission and hired on an annual basis by the licensee. The commission shall provide the list of approved judges in accordance with section 279-C. The licensee may terminate the employment of a presiding or associate judge hired under this section only with the consent of the commission.

In determining whether a presiding or associate judge may be terminated by a licensee, the commission shall consider improper conduct on behalf of the employee, failure to enforce the rules prescribed by

the commission, malfeasance, violation of commission rules or behavior detrimental to the conduct of racing.

Sec. 2. 8 MRSA §272-A, sub-§2, as enacted by PL 1997, c. 474, §2 and affected by §6, is amended to read:

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~~ racetrack if ~~that~~ a representative has been elected pursuant to section ~~285~~ 285-A.

Sec. 3. 8 MRSA §272-A, sub-§3, ¶B, as enacted by PL 1997, c. 474, §2 and affected by §6, is amended to read:

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~~ 285-A, but in any event any repayment must be paid no later than December 31st of the year the funds were borrowed.

Sec. 4. 8 MRSA §272-A, sub-§5, as enacted by PL 1997, c. 474, §2 and affected by §6, is amended to read:

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~~ 285-A 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. 5. 8 MRSA §275-D, sub-§13, as enacted by PL 1997, c. 528, §24, is amended to read: