

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

Sec. 5. 7 MRSA §2179, as enacted by PL 1999, c. 84, §3, is amended to read:

§2179. License required

~~Except as provided in section 2180, a~~ A person may not advertise, consult, solicit, contract or in any way engage for compensation in the business of an arborist, or make representation as being able to do so, without being licensed as an arborist.

Sec. 6. 7 MRSA §2180, as enacted by PL 1999, c. 84, §3, is repealed.

Sec. 7. 7 MRSA §2184, 2nd ¶, as enacted by PL 1999, c. 84, §3, is repealed.

Sec. 8. 7 MRSA §2191 is enacted to read:

§2191. Advisory council established

The Maine Arborist Advisory Council, as established in Title 5, section 12004-I, subsection 1-A and referred to in this section as the "council," advises the commissioner on the licensing and enforcement of arborists in the State.

1. Membership; terms; meetings; removal.

The council consists of 7 members appointed by the commissioner. Of the 7 members, one must be a member representing the public and 6 must be arborists licensed by the State. Of the 6 arborists, one must be a licensed arborist employed by a municipality of the State; one must be an employee of an electrical transmission company; one must be a self-employed arborist; and one must serve on the governing council of a statewide professional organization for licensed arborists. All regions of the State must be represented on the council.

Members serve for a term of 3 years. At the end of a term an outgoing member serves until a successor has been appointed. A member may not serve more than 2 consecutive terms.

The council shall meet at least annually to conduct business and to elect officers. A quorum consists of at least 4 members. The affirmative vote of a majority of the members present is necessary to decide any business brought before the council.

A member may be removed by the commissioner for:

- A. Failure to attend council meetings;
- B. Failure to maintain a valid arborist license, if required to do so;
- C. Moving out of the State; or
- D. Cause, as determined by the commissioner.

Members may not be compensated except for expenses incurred in attending meetings. A commercial arborist who is a present or former member of the council may not use membership on the council in the advertising of the arborist's business.

2. Duties of council. The council shall:

A. Consult with the department on matters in which the members have individual or collective expertise;

B. Assist the department in developing and updating arborist exams;

C. Recommend to the department amendments to arborist licensing laws and rules to ensure they properly regulate the activities of licensed arborists in the State; and

D. Assist the department with investigating complaints of unprofessional conduct and recommend a course of action to resolve such complaints.

See title page for effective date.

CHAPTER 300

H.P. 1052 - L.D. 1415

**An Act to Amend the Laws
Regarding Harness Racing**

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

Whereas, certain clarifications of the laws governing harness racing are necessary in order for funds to be distributed appropriately prior to the end of the racing season; 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-E, sub-§1, as enacted by PL 1993, c. 388, §8, is amended to read:

1. Commissions. Except as provided in subsection 2, the total commission on pools of regular wagers is 18% of each dollar wagered and the total commission on pools of exotic wagers is 26% of each dollar wagered, plus the odd cents of all redistribution

to be based on each dollar wagered, whether regular wagers or exotic wagers, exceeding a sum equal to the next lowest multiple of 10, known as "breakage," which must be retained by the licensee. Notwithstanding anything in this chapter to the contrary, the minimum payoff on a winning show wager must be 5% above the amount wagered.

Sec. 2. 8 MRSA §292, as enacted by PL 1997, c. 528, §46, is amended to read:

§292. Horsemen's purse share

Amounts calculated as horsemen's purse share under section 286 must be retained by the licensee to supplement purse money at the track where the wager was placed, except that, for wagers placed at a racetrack in the State on a simulcast race conducted at another racetrack in the State, 1.512% of the regular wagers and 4.305% of the exotic wagers must be sent to the track in the State where the harness race was conducted.

Sec. 3. 8 MRSA §295, sub-§2, as enacted by PL 1997, c. 528, §46, is amended to read:

2. Distribution. On May 30th, September 30th and within 30 days after the close of all off-track betting facilities for the year, amounts payable under subsection 1 for distribution in accordance with this subsection must be distributed only for the dates assigned by the commissioner pursuant to Title 7, section 65 to the commercial racetracks and the agricultural fair associations that provide simulcast transmission of live racing in the State. Distribution must be in the proportion that the amount of exotic wagers placed at off-track betting facilities on simulcast races from each licensee up to the last day of the preceding month bears to the total amount ~~wagered~~ of exotic wagers at off-track betting facilities on races simulcast from all commercial racetracks and agricultural fair associations up to that date. The last payment of the calendar year must be adjusted to reflect each licensee's exotic wagers in proportion to the total ~~wagered~~ of the exotic wagers at off-track betting facilities in that calendar year.

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

Effective May 29, 2001.

CHAPTER 301

H.P. 544 - L.D. 699

An Act to Allow Access to Highways for Certain Purposes

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

Sec. 1. 23 MRSA §704, sub-§6, as enacted by PL 1999, c. 676, §1, is amended to read:

6. Access denied. The Department of Transportation and the municipalities shall deny ingress to and egress from property abutting the highway when access rights have been acquired by the department, except that the Commissioner of Transportation may allow access for the development of state and state aid highways.

See title page for effective date.

CHAPTER 302

H.P. 168 - L.D. 179

An Act to Protect Sensitive Geologic Areas from Oil Contamination

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

Sec. 1. 38 MRSA §563-C is enacted to read:

§563-C. Prohibition on siting new underground oil storage facilities near drinking water supplies

1. Prohibition. Except as provided in this section, after September 30, 2001, a person may not register, install, or cause to be installed, a new underground oil storage facility, referred to in this section as a "facility," that is:

A. Within the source water protection area of a public drinking water supply mapped by the Department of Human Services prior to the registration or installation of the facility, or within 1,000 feet of the public water supply, whichever is greater; or

B. Within 300 feet of a private water supply in existence at the time the facility owner applied to register the facility.

The commissioner may grant a variance for all or any part of the prohibitions in this subsection as provided in subsection 3. For the purposes of this section, "source water protection area" means an area that contributes recharge water to a public water supply well for a public drinking water supply that is mapped by the Department of Human Services.

2. Exemptions. The prohibitions in subsection 1 do not apply to: