

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

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:

A. Replacement or expansion of a facility registered and installed on or before September 30, 2001, provided the replacement or expansion occurs on the same property and the owner or operator continues to pay the annual registration fee as required under section 563. Failure to pay the annual fee disqualifies a facility from being considered exempt under this section;

B. Conversion of an aboveground oil storage facility registered and installed on or before September 30, 2001 to an underground oil storage facility, provided the conversion occurs on the same property;

C. A facility used solely for the storage of heating oil that is consumed on site;

D. Underground piping associated with an aboveground oil storage facility; or

E. A well located on the same property as a facility and serving only users on that property.

3. Variances. The commissioner may grant a variance from the provisions of subsection 1 that involves a public drinking water supply serving a school or a community water supply system, or a private drinking water supply well, only if the applicant demonstrates that no hydrogeologic connection exists between the proposed facility and the water supply at issue. For other public drinking water supply systems, the commissioner may grant a variance from the provisions of subsection 1 if the commissioner determines that the engineering and monitoring measures proposed by the applicant exceed regulatory requirements and will effectively minimize releases of oil and the likelihood of drinking water contamination. In considering whether to grant a variance, the commissioner may consider the importance of the groundwater resource, any engineering or monitoring measures proposed by the applicant, the hydrogeology of the site and other relevant factors.

The commissioner may deny a variance request or approve a request with or without conditions.

The commissioner shall provide public notice and an opportunity for public comment on each variance request.

Decisions made by the commissioner under this subsection may be appealed to the board under section 341-D, subsection 4, paragraph A.

4. Illegal facilities may be enjoined; eligibility from fund. The commissioner may enjoin the operation of any facility installed in violation of this section. Clean-up costs and 3rd-party damages resulting from discharges from a facility installed in

violation of this section are not eligible for coverage under the Ground Water Clean-up Fund.

5. Municipal authority. Nothing in this section may be construed to prevent a municipality from imposing siting restrictions more stringent than the prohibitions in this section or in rules adopted by the Board of Environmental Protection.

Sec. 2. 38 MRSA §568-A, sub-§1, ¶¶J and K are enacted to read:

J. An applicant is not eligible for coverage for any underground oil storage facility installed in violation of the provisions of section 563-C.

K. An applicant whose facility is subject to the provisions of section 563-C is not eligible for coverage for costs related to providing treatment or temporary or permanent water supply replacement and 3rd-party damage claim costs related to an oil discharge at a facility installed after September 30, 2001 and affecting that property's drinking water supply system.

Sec. 3. Rules. The Board of Environmental Protection shall adopt rules setting forth standards for siting new underground oil storage facilities used to store motor fuels or used in the marketing or distribution of oil within sand and gravel aquifers and their recharge areas that are mapped by the Maine Geologic Survey. Those rules must provide for variances from those standards in appropriate instances, including when engineering and monitoring measures proposed by the applicant exceed regulatory requirements and will effectively minimize releases of oil and the likelihood of groundwater contamination. Rules adopted under this section are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A. The board must provisionally adopt and submit these rules to the Legislature for its consideration prior to March 3, 2002. Notwithstanding Title 5, section 8072, subsections 7 and 8, if the Legislature fails to act on a major substantive rule submitted pursuant to this section, the board may not finally adopt or implement any part of that rule. The board may submit that provisionally adopted rule, without the necessity of repeating the rulemaking process, to a subsequent Legislature for consideration according to the provisions of Title 5, chapter 375, subchapter II-A.

Sec. 4. Report. The Commissioner of Environmental Protection shall submit a report to the Joint Standing Committee on Natural Resources on the variance criteria included in the Maine Revised Statutes, Title 38, section 563-C, subsection 3. That report must include an analysis of the Department of Environmental Protection's experience in administering the variance criteria and any recommendations on

amending those criteria. The report must be submitted to the committee at the same time the major substantive rules required under section 3 are submitted to the Legislature.

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

2001-02

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management

All Other \$3,000

Allocates funds for the additional costs of adopting rules pertaining to the siting of certain underground oil storage facilities.

See title page for effective date.

CHAPTER 303

H.P. 1054 - L.D. 1417

An Act to Amend the Membership of the Substance Abuse Services Commission

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

Sec. 1. 5 MRSA §20065, sub-§3, ¶E, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

E. One representative from nominations by ~~the National Council on Alcoholism in Maine, Incorporated,~~ a statewide alliance for addiction recovery appointed by the Governor;

See title page for effective date.

CHAPTER 304

S.P. 145 - L.D. 489

An Act to Designate Equal Pay Day and to Require the Department of Labor to Report on Progress

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

Sec. 1. 1 MRSA §140 is enacted to read:

§140. Equal Pay Day

The first Tuesday in April is designated as Equal Pay Day, and the Governor shall annually issue a proclamation inviting and urging the people of the State to observe this day with appropriate activity.

Sec. 2. 26 MRSA §628, as amended by PL 1983, c. 652, §4, is further amended to read:

§628. Equal pay

An employer ~~shall~~ may not discriminate between employees in the same establishment on the basis of sex; by paying wages to any employee in any occupation in this State at a rate less than the rate at which ~~he~~ the employer pays any employee of the opposite sex for comparable work on jobs ~~which~~ that have comparable requirements relating to skill, effort and responsibility. Differentials ~~which~~ that are paid pursuant to established seniority systems or merit increase systems; or difference in the shift or time of the day worked, ~~which~~ that do not discriminate on the basis of sex; are not within this prohibition. ~~No~~ An employer may not discharge or discriminate; against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this section.

The Department of Labor shall annually report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section. The report must be issued annually on Equal Pay Day as designated pursuant to Title 1, section 140.

See title page for effective date.

CHAPTER 305

S.P. 296 - L.D. 1007

An Act to Change the Party Responsible for Payment of a Penalty under the Tree Growth Tax Law when a Subdivision Results in a Parcel of Less than 10 Acres

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

Sec. 1. 36 MRSA §581-A, as amended by PL 1987, c. 772, §10, is further amended to read:

§581-A. Sale of portion of parcel of forest land