

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
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FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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Penmor Lithographers
Lewiston, Maine
2003

in-service training program for court security officers. This program must include:

A. Preservice law enforcement training under section 2804-B;

B. An additional 40-hour basic court security training program developed and approved by the board that is specific to the duties of a court security officer; and

C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

Court security officers are exempt from section 2804-C, but completion of basic training under section 2804-C exempts a person from the preservice training requirement under paragraph A;

Sec. 6. 25 MRSA §2804-K is enacted to read:

§2804-K. Law enforcement training for court security officers

As a condition to the continued employment of any person as a full-time court security officer, that person must successfully complete, within the first 12 months of employment, the training required under section 2803-A, subsection 8-B. Thereafter, as a condition of continued employment as a full-time court security officer, the officer must satisfactorily maintain the court security officer certification by completing recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend that period for not more than 90 days.

See title page for effective date.

CHAPTER 401

H.P. 521 - L.D. 704

**An Act Relating to Harness Racing
Laws**

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

Whereas, the harness racing season is already underway for 2003; and

Whereas, what constitutes a "commercial track" and what constitutes a "market area" for commercial racetracks and off-track betting facilities need to be clarified; 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 §263-B, sub-§§2 and 3, as enacted by PL 1997, c. 528, §6, are amended to read:

2. Leadership in policy making. The department, in conjunction with the commission, shall ~~take the lead in developing~~ develop state policy with regard to the harness racing industry and shall address the needs of the industry to remain competitive.

3. Review of statutes. The department, in conjunction with the commission, shall maintain an ongoing review of the statutes ~~and rules~~ relating to harness racing and make recommendations to the Governor, and the Legislature ~~and the commission~~ regarding the need for changes in statutes ~~and rules~~ to improve the condition of the harness racing industry and the conduct and regulation of harness racing and off-track betting.

Sec. 2. 8 MRSA §263-C, sub-§1, as reallocated by PL 1999, c. 790, Pt. A, §8, is amended to read:

1. Position. The executive director is ~~an unclassified~~ a classified position within the department.

Sec. 3. 8 MRSA §263-C, sub-§2, as reallocated by PL 1999, c. 790, Pt. A, §8, is repealed and the following enacted in its place:

2. Appointment. The commissioner shall appoint an executive director with the approval of the commission. The executive director is the principal administrative, operational and executive employee of the commission.

Sec. 4. 8 MRSA §263-C, sub-§4, ¶¶A and B, as reallocated by PL 1999, c. 790, Pt. A, §8, are amended to read:

A. Management of the work of the commission, including:

- (1) Rulemaking;
- (2) Processing appeals;
- (3) Licensing of tracks and off-track betting facilities; ~~and~~
- (4) Setting race dates; and

(5) Making reports to the Governor and Legislature and recommendations to the commissioner regarding harness racing and off-track betting operations and the need for changes in statutes and rules; and

B. Management of the work of the department regarding harness racing and off-track betting, including:

- (1) Supervision of all staff involved in harness racing and off-track betting functions;
- (2) Management of the collection and distribution of revenues under this chapter;
- (3) Budget development and management;
- (4) Policy development with regard to harness racing and off-track betting;
- (5) Management of participant licensing;
- (6) Enforcement of harness racing and off-track betting statutes and rules;
- (7) Investigation of harness racing and off-track betting violations; and
- (8) Facilitating the development of positive working relationships in the harness racing industry and State Government; and
- ~~(9) Making reports to the Governor and Legislature and recommendations to the commissioner regarding harness racing and off track betting operations and the need for changes in statutes and rules.~~

Sec. 5. 8 MRSA §264, 2nd ¶, as amended by PL 2001, c. 567, §1, is further amended to read:

Notwithstanding the provisions of this section, all officials whose presence is regularly required at a race meet must be licensed by the commission. The commission shall appoint the presiding judge and associate judges on an annual basis with the consent of the licensee. The licensee shall employ judges appointed in accordance with this section on an annual basis. The commission shall provide the list of approved judges in accordance with section 279-C. For purposes of the Maine Tort Claims Act, the presiding judge and associate judges appointed pursuant to this section are deemed to be employees of the State, as those terms are defined in Title 14, section 8102, subsections 1 and 4. The licensee may terminate the employment of a presiding or associate judge hired under this section only with the consent of the commission.

Sec. 6. 8 MRSA §270, first ¶, as amended by PL 2001, c. 567, §2, is further amended to read:

Any person, association or corporation licensed to conduct pari-mutuel betting desiring to hold a harness horse race or meet for public exhibition if pari-mutuel betting is permitted shall apply to the commission for a license to do so. The application must be signed and sworn to by the person or executive officer of the association or corporation and must contain the following information:

Sec. 7. 8 MRSA §272, as amended by PL 1969, c. 526, §2, is further amended to read:

§272. Bonds

Every person, association or corporation licensed under this chapter shall, before said license is issued, give bond or irrevocable letter of credit to the State in such reasonable sum, not exceeding \$100,000, as may be fixed by the commission, with a surety or sureties to be approved by the commission, conditioned to faithfully make the payments prescribed by this chapter and to keep its books and records and make reports as provided, and to conduct its racing in conformity with this chapter and the rules and regulations prescribed by the commission.

Sec. 8. 8 MRSA §272-A, as amended by PL 1999, c. 482, §1, is repealed.

Sec. 9. 8 MRSA §272-B is enacted to read:

§272-B. Association funding

The licensee, as described in section 271, may pay up to 1 1/2% of all amounts generated for the purpose of supplementing purses, as described in section 286, to an association of horsemen.

Sec. 10. 8 MRSA §275-A, sub-§1, ¶¶A and B, as repealed and replaced by PL 1999, c. 482, §2 and affected by §10, are amended to read:

A. If the population of the region is 300,000 or more, based on the 1990 U.S. Census, conducted racing on more than 100 days in each of the previous 2 calendar years, except that if a racetrack that qualifies as a commercial track under this paragraph ceases operation, a separate racetrack operated by the owner or operator of the racetrack that ceased operation qualifies as a commercial track, and for all purposes is considered the same commercial track as the track that ceased operation, if the population of the region of that separate racetrack is 300,000 or more, based on the 1990 U.S. Census, and the sum of the number of days on which racing was conducted at the track that ceased operation and the number of days on which racing was conducted at the separate racetrack equals at least 100 days in each of the 2 preceding calendar years; or

B. If the population of the region is less than 300,000, based on the 1990 U.S. Census, conducted racing on more than 25 days in each of the previous 2 calendar years, except that if a racetrack that qualifies as a commercial track under this paragraph ceases operation, a separate racetrack operated by the owner or operator of the racetrack that ceased operation qualifies as a commercial track, and for all purposes is considered the same commercial track as the track that ceased operation, if the population of the region of that separate racetrack is less than 300,000, based on the 1990 U.S. Census, and the sum of the number of days on which racing was conducted at the track that ceased operation and the number of days on which racing was conducted at the separate racetrack equals at least 26 days in each of the 2 preceding calendar years.

Sec. 11. 8 MRSA §275-B, sub-§1, as enacted by PL 1993, c. 388, §8, is amended to read:

1. Racetracks. A person licensed pursuant to section 271 to conduct harness horse racing with pari-mutuel betting may sell pari-mutuel pools and common pari-mutuel pools for simulcast races. The seller must be within the enclosure of the racetrack where the licensed race or race meet is conducted.

Sec. 12. 8 MRSA §275-D, sub-§3, as amended by PL 1997, c. 528, §20, is further amended to read:

3. Notice to commercial racetracks; objections. An applicant shall send written notice of its application for an off-track betting license to any commercial racetrack in whose market area the facility will be located and shall present proof to the commission that it has provided the notice. The notice must include all information contained in the application except information described in subsection 2, paragraph Q. A commercial racetrack shall notify the commission within 30 days of receiving notice if the racetrack objects to the location of the facility based on adverse impact to the commercial track. The commission shall suspend consideration of the application for the 30-day objection period. If the commission receives an objection from a racetrack in whose market area the facility would be located within the 30-day period, the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. For purposes of this section, the market area is the area within a 50-mile radius of the commercial racetrack subsection, the market area is determined by measuring a distance of 50 miles from the center of the racetrack along the most commonly used roadway adjacent to the racetrack, as determined by the Department of

Transportation, drawing a circle around the center of the racetrack using that 50-mile measurement.

Sec. 13. 8 MRSA §275-D, sub-§4, as corrected by RR 1993, c. 2, §6, is amended to read:

4. Notice to off-track betting facilities; objections. An applicant shall send written notice of its application for an off-track betting license to any existing off-track betting facility in whose market area the proposed facility will be located and shall present proof to the commission that it has provided the notice. The notice must include all information contained in the application except information described in subsection 2, paragraph Q. An existing off-track betting facility shall notify the commission within 30 days of receiving notice if the facility objects to the location of the proposed facility. The commission shall suspend consideration of the application for the 30-day objection period. If the commission receives an objection from an off-track betting facility in whose market area the facility would be located within the 30-day period, the commission shall reject the application. If the commission does not receive an objection within that period, the commission may proceed to consider the application. For purposes of this section, the market area is the area within a 35-mile radius of the off-track betting facility subsection, the market area is determined by measuring a distance of 35 miles from the off-track betting facility along the most commonly used roadway adjacent to the off-track betting facility, as determined by the Department of Transportation, drawing a circle around the center of the off-track betting facility using that 35-mile measurement.

Sec. 14. 8 MRSA §275-N, as amended by PL 2001, c. 567, §4, is further amended to read:

§275-N. Limitations on off-track betting facilities

The commission may not allow interstate simulcasting or license any off-track betting facility for any calendar year unless during the preceding 2 calendar years there were at least 150 race dates on which live racing actually was conducted at the commercial tracks. Interstate simulcasting always must be allowed at any commercial track that conducted at least 136 race dates during the immediately preceding 2 calendar years or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B at which at least 35 race dates were conducted during the preceding 2 years if the interstate simulcasting at the commercial track is conducted during the regular meeting. For the purposes of this section, any race date that the commission determines was canceled due to a natural or other disaster must be counted as a race date. For the purposes of this section and for the purpose of meeting the requirements of section 275-A, subsection 1, any race date that is canceled at a

commercial race track due to the inability to meet the requirements of section 275-A, subsection 9-A because of a horse shortage, as verified by the state steward, is counted as a race date ~~for the purpose of meeting the requirements of section 275-A, subsection 4.~~

Sec. 15. 8 MRSA §279-D is enacted to read:

§279-D. Insurance

Beginning January 1, 2004, applicants for an owner's license must provide proof of liability insurance on horses owned by the applicant in an amount not less than \$300,000. Copies of that liability insurance coverage must accompany the application for an owner's license.

Sec. 16. 8 MRSA §283, as amended by PL 1999, c. 482, §5, is further amended to read:

§283. Reciprocal disciplinary action

The department shall act to obtain current listings from other states racing jurisdictions of persons in harness racing occupations regulated by the state racing jurisdiction who have been refused a license or who have had their license revoked or suspended. The commission shall refuse to license or shall suspend the license of these persons until notification that they are again eligible for licensing in the state racing jurisdiction or states racing jurisdictions in question.

Sec. 17. 8 MRSA §285, sub-§2, ¶C, as enacted by PL 1997, c. 528, §46 and affected by §47, is amended to read:

C. Notwithstanding paragraphs A and B:

- (1) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter 1;
- (2) For the purposes of the Maine Tort Claims Act, the board is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102. The board and its employees are considered a state agency for purposes of Title 5, section 191;
- (3) Funds received by the board pursuant to this chapter must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and
- (4) Except for representation of specific interests required by subsection 3, members of the board are governed by the conflict of interest provisions set forth in Title 5, section 18.

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

Effective June 3, 2003.

CHAPTER 402

H.P. 1172 - L.D. 1598

An Act To Ensure Access to Intelligence and Investigative Information

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

Sec. 1. 16 MRSA §614, sub-§3, ¶¶B and C, as enacted by PL 2001, c. 532, §2, are amended to read:

- B. A state agency responsible for investigating abuse, neglect or exploitation of children under Title 22, chapter 1071 or incapacitated or dependent adults under Title 22, chapter 958-A for use in the investigation of suspected abuse, neglect or exploitation; ~~or~~
- C. An accused person or that person's agent or attorney if authorized by:
 - (1) The district attorney for the district in which that accused person is to be tried;
 - (2) A rule or ruling of a court of this State or of the United States; or
 - (3) The Attorney General; or

Sec. 2. 16 MRSA §614, sub-§3, ¶D is enacted to read:

D. A victim or victim's agent or attorney, subject to reasonable limitations to protect the interest described in subsection 1.

See title page for effective date.

CHAPTER 403

H.P. 1087 - L.D. 1482

An Act To Revise Certain Provisions of Maine's Fish and Wildlife Laws

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