

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

Sec. 2. 22 MRSA §1542, sub-§2, ¶L, as amended by PL 2005, c. 223, §2, is further amended to read:

L. Smoking is not prohibited in a tobacco specialty store. The on-premises service, preparation or consumption of food or drink, if the tobacco specialty store is not licensed for such service or consumption prior to January 1, 2007, is prohibited in such a store. Smoking a waterpipe or hoo-kah is prohibited in a tobacco specialty store that is newly licensed or that requires a new license after January 1, 2007.

See title page for effective date.

CHAPTER 181

H.P. 680 - L.D. 905

An Act To Amend the Maine Administrative Procedure Act To Strengthen Safeguards for Small Businesses

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

Sec. 1. 5 MRSA §8052, sub-§5-A, as enacted by PL 1989, c. 574, §4, is amended to read:

5-A. Impact on small business. In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation, or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees ~~and gross annual sales not exceeding \$2,500,000.~~

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule;

B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

C. A brief statement of the probable impact on affected small businesses; and

D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule.

Sec. 2. 5 MRSA §8053, sub-§3, ¶D, as amended by PL 1985, c. 77, §2, is further amended to read:

D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; ~~and~~

Sec. 3. 5 MRSA §8053, sub-§3, ¶E, as enacted by PL 1985, c. 77, §2, is amended to read:

E. Refer to the substantive state or federal law to be implemented by the rules; ~~and~~

Sec. 4. 5 MRSA §8053, sub-§3, ¶F is enacted to read:

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained.

Sec. 5. 5 MRSA §8057, sub-§1, as amended by PL 1985, c. 680, §5, is further amended to read:

1. Rules; exception. Rules adopted in a manner other than that prescribed by section 8052, subsections 1, 2, 3, 4, ~~5-A~~ and 7 and by ~~section~~ sections 8053 and 8054 ~~shall be~~ are void and of no legal effect, ~~provided~~ except that insubstantial deviations from the requirements of section 8053 ~~shall do~~ not invalidate the rule subsequently adopted. Rules in effect prior to July 1, 1978, ~~shall~~ become void and of no legal effect on July 1, 1979, unless originally adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing or unless adopted in accordance with ~~chapter 375~~, this subchapter H.

Sec. 6. 5 MRSA §8057-A, sub-§1, ¶D, as enacted by PL 1989, c. 574, §7, is amended to read:

D. ~~An analysis of the rule, including a description of how the agency considers whether the rule would impose an economic burden on small business as described in section 8052, subsection 5-A.~~

See title page for effective date.

CHAPTER 182

H.P. 682 - L.D. 907

An Act To Ensure the Safety of Facilities Dispensing Flammable Liquids

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

Sec. 1. 25 MRSA §2481, sub-§5, as enacted by PL 1999, c. 652, §9, is amended to read:

5. Permit. "Permit" means the nontransferable permission granted by the commissioner for a person to install, construct or otherwise establish an above-ground flammable liquid storage facility or a retail motor fuel facility dispensing flammable liquids to the public.

Sec. 2. 25 MRSA §2482, sub-§2, ¶B, as enacted by PL 1999, c. 652, §9, is amended to read:

B. This section does not apply to the storage of ~~flammable substances or dispensing of propane and natural gas~~ that ~~are~~ is regulated by the Department of Professional and Financial Regulation under Title 32.

Sec. 3. 25 MRSA §2483, as enacted by PL 1999, c. 652, §9, is amended to read:

§2483. Permits; requirements; fees

A person may not install, construct or otherwise establish an aboveground flammable liquid storage facility or a retail motor fuel facility dispensing flammable liquids to the public without a permit. The commissioner shall issue a permit to a person who:

1. Application. Submits to the commissioner a completed application form furnished by the commissioner accompanied by any required fees; and

2. Construction plans; technical specifications. Submits with the application a complete set of construction plans and technical specifications showing the layout of the aboveground flammable liquid storage facility or retail motor fuel facility dispensing flammable liquids to the public, demonstrating compliance with all rules adopted pursuant to this subchapter.

See title page for effective date.

CHAPTER 183

H.P. 699 - L.D. 924

**An Act To Preserve
Agricultural Fairs in Rural
Maine**

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

Whereas, it is imperative that this legislation take effect immediately so that agricultural fairs may share in the revenues generated by the racino this fair 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 §298, sub-§2, as repealed and replaced by PL 2005, c. 563, §9 and by c. 576, §1, is repealed and the following enacted in its place:

2. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed to each commercial track, as defined in section 275-A, subsection 1, to each agricultural fair licensee that conducts live racing on fair dates assigned by the commissioner pursuant to Title 7, section 84 and to each agricultural fair licensee that conducts an extended meet as long as that licensee conducted an extended meet in 1998, with each commercial track and each agricultural fair licensee receiving an amount of money determined by multiplying the amount of money available for distribution by a fraction, the numerator of which is the total number of live race dashes assigned to the commercial track or agricultural fair licensee for the year and the denominator of which is the total number of race dashes assigned to all commercial tracks and agricultural fair licensees for the year. The payment in January must be adjusted so that for the prior year each commercial track or agricultural fair licensee entitled to a distribution receives that portion of the total money distributed for the full year from the fund established by this section that is determined by multiplying the total amount of money by a fraction, the numerator of which is the number of live race dashes conducted by the commercial track or agricultural fair licensee during the calendar year that qualify for a distribution and the denominator of which is the total number of race dashes conducted during that calendar year that qualify for a distribution. For purposes of this subsection, a race dash qualifies for distribution if the dash was conducted by a commercial track or by an agricultural fair licensee on dates assigned under Title 7, section 84 or during an extended meet. The funds distributed pursuant to this subsection must be used to supplement harness racing purses.

This subsection is repealed December 31, 2009.

Sec. 2. 8 MRSA §298, sub-§2-A is enacted to read:

2-A. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not