

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 TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

Sec. 6. 10 MRSA §1495-F, sub-§3-A is enacted to read:

3-A. Accounting standards and escrow requirement. To facilitate the administrator's compliance examination responsibilities, a payroll processor shall maintain a trust account for client funds in accordance with generally accepted accounting principles, international accounting standards or other recognized accounting standards. A payroll processor may not commingle funds held on behalf of its clients with the payroll processor's operating funds.

See title page for effective date.

CHAPTER 309

H.P. 361 - L.D. 468

An Act To Amend the Laws Governing Bear Hunting

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

Sec. 1. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

E. Buying or selling bear, hunting or trapping bear after having killed ~~one~~ 2 or exceeding the bag limit on bear, in violation of section 11217 ~~or~~, 11351 or 12260;

Sec. 2. 12 MRSA §11351, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §162 and affected by §422, is further amended to read:

1. Hunting or trapping bear; 2-bear limit. A person may not hunt or trap bear after that person has killed or registered one during ~~any~~ an open season under section 11251 and one during the open season on trapping bear under section 12260.

Sec. 3. 12 MRSA §11351, sub-§2, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §163 and affected by §422, is further amended to read:

2. Exceeding bag limit on bears. A person may not possess more than ~~one bear~~ 2 bears in any calendar year, except a person may keep more than one legally obtained bear in that person's home or as otherwise provided in law.

Sec. 4. 12 MRSA §12051, sub-§1, ¶C, as amended by PL 2009, c. 550, §7, is further amended to read:

C. A resident may train up to 6 dogs at any one time on bear from July 1st to the ~~first day of~~ 4th day preceding the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9.

Sec. 5. 12 MRSA §12260, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Trapping bear after having killed one. A person may not trap a bear after that person has killed or registered one ~~during any open season~~ trapped pursuant to this section. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not ~~to~~ to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

Sec. 6. 12 MRSA §12260, sub-§5, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §222 and affected by §422, is further amended to read:

5. Exceeding bag limit on bears. Except as otherwise provided in this Part, a person may not possess more than ~~one bear~~ 2 bears in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

See title page for effective date.

CHAPTER 310

H.P. 1116 - L.D. 1513

An Act To Clarify the Maine State Lottery Agent Licensing Process

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

Sec. 1. 8 MRSA §371, sub-§5, as enacted by PL 1987, c. 505, §2, is amended to read:

5. Person. "Person" means an individual, association, corporation, limited liability company, limited partnership, limited liability partnership, partnership, club, trust, estate, society, company, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" means all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

Sec. 2. 8 MRSA §372, sub-§2, ¶¶A, B and D, as enacted by PL 1987, c. 505, §2, are amended to read:

A. Supervise the operation of lotteries in accordance with this chapter and chapter 16 and with the rules ~~promulgated~~ adopted under this chapter and chapter 16;

B. Act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter and chapter 16. The personnel ~~shall~~ must be employed with the approval of the commissioner and are subject to the Civil Service Law, except for the deputy director who ~~shall be~~ is appointed by and serve serves at the pleasure of the director;

D. In accordance with this chapter and chapter 16 and the rules ~~promulgated~~ adopted under this chapter and chapter 16, license as agents to sell lottery tickets such persons who, in ~~his~~ the director's opinion, will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent in such amount as provided by rule. Every licensed agent shall prominently display ~~his~~ the agent's license, or a copy of ~~his~~ the license, as provided by rule;

Sec. 3. 8 MRSA §372, sub-§2, ¶F, as enacted by PL 1987, c. 505, §2, is repealed.

Sec. 4. 8 MRSA §374, sub-§1, ¶H, as amended by PL 1991, c. 683, §1, is further amended to read:

H. The method to be used in selling tickets or shares and the types of sales promotions that may be conducted utilizing tickets or shares as approved in advance by the commission or the director or the director's designee;

Sec. 5. 8 MRSA §374, sub-§1, ¶I, as enacted by PL 1987, c. 505, §2, is amended to read:

I. The ~~licensing of agents issuing of licenses~~ to sell tickets or shares, ~~but a person under the age of~~ to qualified persons who are at least 18 shall not be licensed as an agent years of age and the ~~denial, suspension and revocation of those licenses~~;

Sec. 6. 8 MRSA §374, sub-§1, ¶J, as enacted by PL 1987, c. 505, §2, is amended to read:

J. The license fee to be charged to ~~agents~~ persons applying for a license;

Sec. 7. 8 MRSA §374, sub-§1, ¶K, as amended by PL 1997, c. 301, §1, is further amended to read:

K. The manner and amount of compensation to be paid ~~licensed sales agents~~ to persons licensed to sell lottery tickets or shares necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public;

Sec. 8. 8 MRSA §374, sub-§4, as enacted by PL 1993, c. 397, §1, is repealed.

Sec. 9. 8 MRSA §375, as amended by PL 1993, c. 641, §1 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§375. Lottery sales; licensing; appeals

1. Factors. A license ~~as an agent~~ to sell lottery tickets or shares may be issued by the director or the director's designee to any qualified person. Before issuing the license, the director or the director's designee shall consider at least the following factors:

- A. The financial responsibility and security of the person and the person's business or activity;
- B. The accessibility of the person's place of business or activity to the public;
- C. The sufficiency of existing licensees to serve the public convenience; and
- D. The volume of expected sales.

2. Appeals. ~~An applicant who is denied a license~~ If the director or the director's designee denies a person a license to sell lottery tickets or shares, the person may appeal the director's decision to the commission by filing a written appeal with the commission within 15 days of the mailing of the director's decision. An applicant A person aggrieved by a decision of the commission may appeal the commission's decision by filing a complaint with the District Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 30 days of the mailing of the commission's decision.

Sec. 10. 8 MRSA §376, sub-§1, as enacted by PL 1987, c. 505, §2, is amended to read:

1. Reasons for suspension or revocation. ~~The~~ the ~~commission~~ director or the director's designee may suspend or revoke, after notice and hearing in a manner consistent with the Maine Administrative Procedure Act, ~~Title 5, chapter 375~~, any license issued pursuant to this chapter. The license may be temporarily suspended by the ~~commission~~ without prior notice director or the director's designee, pending any prosecution, investigation or hearing. A license may be suspended or revoked by the ~~commission~~ director or the director's designee for just cause, including actions inconsistent with those considered appropriate for an agent operating a business on behalf of the State, or one or more of the following reasons:

- A. Failure to account for tickets received or the proceeds of the sale of tickets or to file a bond, if required ~~by the commission~~, or to comply with ~~instructions of the commission~~ provisions of this chapter or rules adopted under this chapter concerning the licensed activity;
- B. Conviction of any criminal offense;
- C. Failure to file any return or report, to keep records or to pay any tax;

D. Engaging in fraud, deceit, misrepresentation or conduct prejudicial to public confidence;

E. Insufficiency of the number of tickets sold by ~~the sales agent~~ a person licensed to sell lottery tickets or shares; or

F. A material change, since issuance of the license, with respect to any of the matters required to be considered by the director under section 375 or as defined by rules adopted under this chapter.

Sec. 11. 8 MRSA §376, sub-§2, as enacted by PL 1987, c. 505, §2, is repealed.

Sec. 12. 8 MRSA §409, sub-§2, as enacted by PL 1983, c. 732, §1, is repealed.

Sec. 13. 8 MRSA §411, as enacted by PL 1983, c. 732, §1, is repealed.

Sec. 14. 8 MRSA §412, as enacted by PL 1983, c. 732, §1, is repealed.

See title page for effective date.

CHAPTER 311

S.P. 453 - L.D. 1462

An Act To Amend the Department of Marine Resources' Administrative Suspension Process

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

Sec. 1. 12 MRSA §6371, as amended by PL 2009, c. 561, §12, is further amended to read:

§6371. Administrative suspension

1. Suspension for refusal to allow inspection. Refusal to allow inspection or seizure under section 6306 is grounds for suspension of any licenses issued under marine resources laws. In order to suspend a license because of a refusal to allow inspection or seizure, the commissioner shall follow the procedures of section 6372.

2. Suspension for refusal to allow a shellfish inspection by a department shellfish inspector. Refusal to allow a shellfish inspection under section 6852-A or 6856 ~~or violation of shellfish sanitation rules adopted under section 6856~~ is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate ~~for these reasons~~ under this subsection, the commissioner shall follow the procedures of section ~~6373~~ 6372.

3. Suspension for violations. ~~Violation~~ Except as provided in subsections 1 and 2, violation of any section of marine resources laws or rules adopted un-

der this Part is grounds for suspension under section 6374 of any licenses or certificates issued under this Part. In order to suspend a license or certificate for a violation, the commissioner shall follow the procedures for license suspension or revocation in the District Court, as provided under Title 4, chapter 5.

Sec. 2. 12 MRSA §6372, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Notwithstanding the Maine Administrative Procedure Act, the procedure for suspending a license ~~or~~ for refusal to allow inspection or seizure under section 6306 ~~shall be~~ or refusal to allow inspection under section 6852-A or section 6856 is as follows.

Sec. 3. 12 MRSA §6373, as amended by PL 1999, c. 547, Pt. B, §30 and affected by §80, is repealed.

Sec. 4. 12 MRSA §6374 is enacted to read:

§6374. Procedure for suspending without criminal conviction or civil adjudication

Except as provided in section 6371, subsections 1 and 2, the procedure for suspending a license or certificate for a violation of marine resources law without a criminal conviction or civil adjudication is governed by this section.

1. Initiation and notice. If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of marine resources law has been committed, the commissioner shall immediately examine the affidavit and determine if a suspension is necessary. If the commissioner determines based on a preponderance of the evidence that a suspension is necessary, the commissioner shall immediately notify in writing the person who violated the law. The notice must state that there is an opportunity for a hearing, if the person requests the hearing in writing within 10 days of the notice.

2. Hearing. A hearing requested under subsection 1 must be held within 10 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than 10 business days after the request if the delay is requested by the person requesting the hearing. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether the person requesting the hearing had a license and whether that person committed a violation of marine resources law; and

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.