

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

and a motor vehicle dealer may not be denied renewal of that dealer's license solely because of a failure to meet minimum sales requirements under Title 29-A, section 903, subsection 3.

Emergency clause. In view of the emergency cited in the preamble, that section of this Act that imposes a moratorium on dealer plate reduction and dealer license denial and those sections of this Act that enact the Maine Revised Statutes, Title 29-A, section 1412 and repeal Public Law 2011, chapter 134 take effect when approved.

Effective June 15, 2011.

CHAPTER 357

S.P. 507 - L.D. 1575

An Act To Conform the Authority of the Department of Environmental Protection to Federal Law

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

Whereas, a recent letter from the Attorney General has brought into question the eligibility of members of the Board of Environmental Protection to legally serve; and

Whereas, this uncertainty has a negative impact on the work of State Government; and

Whereas, the economic health of the State of Maine will suffer if this uncertainty is not remedied with all due speed; 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. 38 MRSA §341-A, sub-§3, ¶B, as amended by PL 1997, c. 794, Pt. A, §2, is further amended to read:

~~B. When the State receives authority to issue permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not serve as commissioner who~~ The commissioner may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal

or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the commissioner receives, or during the previous 2 years prior to appointment has received, a significant portion of income directly or indirectly from license or National Pollutant Discharge Elimination System permit holders or applicants for a license or permit under the Federal Water Pollution Control Act. If the commissioner's authority is restricted under this paragraph, the commissioner shall delegate duties related to the restricted matter to employees of the department who do not hold major policy-influencing positions pursuant to Title 5, section 938 and who do not receive or have not received during the previous 2 years a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Duties that must be delegated include National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency. If a person with a conflict under this paragraph is nominated for the position of commissioner, the Governor shall submit to the President of the Senate and Speaker of the House of Representatives a plan for delegating the duties required to be delegated under this paragraph. The plan must be submitted with the information packet required to be provided by the Governor to the President of the Senate and Speaker of the House of Representatives under Title 3, section 154.

Sec. 2. 38 MRSA §341-A, sub-§3, ¶D is enacted to read:

D. The commissioner is subject to the conflict-of-interest provisions of Title 5, section 18.

Sec. 3. 38 MRSA §341-C, sub-§8, as amended by PL 1997, c. 794, Pt. A, §3, is further amended to read:

~~**8. Federal standards.** When the State receives authority to grant permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not~~

~~serve as a~~ A board member who may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the board member receives, or during the previous 2 years prior to appointment has received, a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit under the Federal Water Pollution Control Act National Pollutant Discharge Elimination System. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Board members whose participation is restricted under this paragraph shall recuse themselves and may not participate in any National Pollutant Discharge Elimination System matter as long as the restriction applies. The recusal must be from all National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this subsection may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency.

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

Effective June 15, 2011.

**CHAPTER 358
H.P. 319 - L.D. 393**

**An Act To Implement the
Recommendations Regarding
the Legislative Review of the
Allocation of Slot Machine
Revenue**

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

Sec. 1. 7 MRSA §82, sub-§5, as enacted by PL 2005, c. 563, §3, is amended to read:

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distri-

bution of slot machine revenue in accordance with Title 8, section 1036, subsection 2 to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §82, sub-§6 is enacted to read:

6. Report on revenues from the operation of slot machines. The commissioner shall coordinate with the executive director of the State Harness Racing Commission to submit a report regarding the distribution of slot machine revenues as required by Title 8, section 1037.

Sec. 3. 8 MRSA §263-A, sub-§1, ¶C, as enacted by PL 1997, c. 528, §6, is amended to read:

C. The licensing of individuals participating in harness racing and off-track betting facilities, including rules requiring applicants to submit information sufficient for the report required to be submitted by the executive director of the commission as required by section 1037;

Sec. 4. 8 MRSA §1036, sub-§2, ¶H, as amended by PL 2005, c. 663, §12, is further amended to read:

H. Four percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Fund to Encourage Racing at Maine's Commercial Tracks, established in section 299; however, the payment required by this paragraph is terminated when all commercial tracks have obtained a license to operate slot machines in accordance with this chapter, in which case, that 4% of the net slot machine income must be credited to the General Fund as undedicated revenue;

Sec. 5. 8 MRSA §1036, sub-§5, as enacted by PL 2009, c. 571, Pt. FFF, §1, is repealed.

Sec. 6. 8 MRSA §1037 is enacted to read:

§1037. Annual report on use of funds

Beginning February 15, 2012, the executive director of the State Harness Racing Commission, in consultation with the Commissioner of Agriculture, Food and Rural Resources, annually shall submit a report to the joint standing committees of the Legislature having jurisdiction over slot machines, harness racing, agricultural fairs and appropriations and financial affairs regarding the use of slot machine revenue deposited in funds under section 1036, subsection 2, paragraphs B, C, D, H and I. The executive director and the commissioner shall obtain the information as described in this section. The report required by this section must be completed using budgeted resources. The