

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-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

the cash, other property or real estate has not been forfeited, the court, before ordering the cash or other property returned to the defendant or discharging the real estate bail lien, shall determine whether the cash, other property or real estate or any portion of the cash, other property or real estate is subject to setoff as authorized by this section. The court may order all or a portion of the bail owned by a defendant that has not been forfeited to be first paid and applied to one or more of the following:

- A. Any fine, forfeiture, penalty or fee imposed upon a defendant as part of the sentence for conviction of any offense arising out of the criminal proceeding for which the bail has been posted and the sentence for conviction of any offense in an unrelated civil or criminal proceeding;
- B. Any amount of restitution the defendant has been ordered to pay as part of the sentence imposed in the proceeding for which bail has been posted and in any unrelated proceeding;
- C. Any amount of attorney's fees or other expense authorized by the court at the request of the defendant or attorney and actually paid by the State on behalf of the defendant on the ground that the defendant has been found to be indigent in the proceeding for which bail has been posted and in any unrelated proceeding; and
- D. Any surcharge imposed by Title 4, section 1057.

The court shall apply any bail collected pursuant to this subsection first to restitution.

3-A. Setoff of 3rd party's property. When a person other than the defendant has deposited cash or other property owned by the person as bail on behalf of the defendant or has offered real estate owned by the person and subject to a bail lien as bail on behalf of the defendant and the cash, other property or real estate has not been forfeited, the court, before ordering the cash or other property returned to the person or discharging the real estate bail lien, shall determine whether the cash, other property or real estate or any portion of the cash, other property or real estate is subject to setoff as authorized by this section. The court may order all or a portion of the bail owned by the person that has not been forfeited to be first paid and applied to one or more of the following:

- A. Any fine, forfeiture, penalty or fee owed by the person arising out of any civil or criminal proceeding;
- B. Any amount of restitution the person has been ordered to pay as part of any court proceeding;
- C. Any amount of attorney's fees or other expense authorized by the court at the request of the person or the person's attorney and actually paid by the State on behalf of the person on the ground

that the person has been found to be indigent in any proceeding; and

D. Any surcharge imposed by Title 4, section 1057.

The court shall apply any bail collected pursuant to this subsection first to restitution.

4. Enforcement orders. If the court determines that bail owned by a defendant or 3rd party should be ordered set off as authorized by this section, the court may issue any appropriate orders considered necessary to enforce the setoff. The orders may include, but are not limited to:

- A. A direction to the clerk of courts to pay cash bail directly to a specified person, organization or government;
- B. An order directed to a public official or the defendant requiring that other property or real estate be sold and the proceeds paid to a specified person, organization or government; and
- C. An order requiring the defendant to convey clear and marketable title or other evidence of ownership of interest in real estate or other property to a specified person, organization or government.

See title page for effective date.

CHAPTER 212

S.P. 130 - L.D. 350

An Act To Amend the Laws Governing Gambling

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

Whereas, licensed casinos provide a draw for tourists to enter the State during the summer season, resulting in a need for increasing the number of employees; and

Whereas, an employee licensing system that allows employees to work in casinos pending license approval will allow for adequate staffing of casinos and provide needed employment opportunities; and

Whereas, in order to allow the State's casino industry to prepare for this year's summer season, this legislation must take effect within the 90-day period; 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 preserva-

tion 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 §1001, sub-§2, as amended by IB 2009, c. 2, §1, is further amended to read:

2. Associated equipment. "Associated equipment" means any component part used, or intended for use, in a slot machine or table game, ~~including, but not limited to, software, integrated circuit chips, printed wired assemblies, printed wired boards, printing mechanisms, video display monitors and metering devices.~~

Sec. 2. 8 MRSA §1001, sub-§13-A is enacted to read:

13-A. Electronic facsimile. "Electronic facsimile" means a game approved by the board that is played in an electronic or electromechanical format that replicates a table game by incorporating all of the characteristics of the game. "Electronic facsimile" does not include a slot machine.

Sec. 3. 8 MRSA §1001, sub-§20, as amended by IB 2009, c. 2, §7, is further amended to read:

20. Gaming employee. "Gaming employee" means any person connected directly with a gambling facility, including cashiers, change personnel, counting room personnel, hosts, persons who extend credit or offer complimentary services, machine mechanics, security personnel, supervisors or managers. "Gaming employee" also includes employees of a slot machine distributor ~~or~~ table game distributor or gambling services vendor whose duties are directly involved with repair or distribution of slot machines, gaming devices or table games.

Sec. 4. 8 MRSA §1001, sub-§27, as amended by IB 2009, c. 2, §9, is further amended to read:

27. Key executive. "Key executive" means any executive of a licensee having power to exercise a significant influence over decisions concerning the operation or distribution of slot machines ~~or~~ table games or gambling services.

Sec. 5. 8 MRSA §1001, sub-§34, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

34. Payback percentage. "Payback percentage" means the percentage, ~~on an annual average basis,~~ of the total value of money or tokens, credits or similar objects or things of value used to play a slot machine that is returned to players of that slot machine as winnings, prizes or credits.

Sec. 6. 8 MRSA §1001, sub-§36-A, as enacted by PL 2009, c. 266, §1, is amended to read:

36-A. Promotional credit. "Promotional credit" means any noncashable electronic thing of value used solely to play a slot machine that is provided by a slot machine operator or a casino operator to customers and approved by the Gambling Control Board. Promotional credits played by slot machine customers have no value attributed to their use for purposes of calculating gross slot machine income, net slot machine income and payback percentage.

Sec. 7. 8 MRSA §1001, sub-§45, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

Sec. 8. 8 MRSA §1003, sub-§2, ¶H, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

H. Pursuant to subchapter 5, cause the department to investigate all complaints made to the board regarding ownership, distribution or operation of slot machines or table games and all violations of this chapter or rules adopted under this chapter;

Sec. 9. 8 MRSA §1003, sub-§2, ¶L, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

L. Ensure that the slot machine operator or casino operator does not have access to any system that is capable of programming slot machines;

Sec. 10. 8 MRSA §1003, sub-§3, ¶I, as amended by IB 2009, c. 2, §25, is further amended to read:

I. Establishment of a list of persons who are to be excluded or removed from any slot machine facility or casino, including those persons who voluntarily request that their names be included on the list of excluded persons. ~~These rules must define the standards for exclusion and removal and include standards regarding persons who are career or professional offenders, as defined by rules of the board, whose presence in a slot machine facility or casino would, in the opinion of the board, be inimical to the interest of the State;~~

(1) Define the standards for exclusion and removal and include standards regarding persons who are career or professional offenders, as defined by rules of the board, whose presence in a slot machine facility or casino would, in the opinion of the board, be inimical to the interest of the State; and

(2) Provide that, before making a payout of winnings in an amount equal to or greater than the amount for which the licensee is required to file a Form W-2G or substantially equivalent form with the United States Internal Revenue Service, the licensee, after any interception of winnings required by law to

pay child support debt or other obligations, shall intercept money or anything of value that an excluded person is seeking to redeem as a result of wagers made by the person after that person has been excluded. The rules must offer the excluded person the right to an administrative hearing with reasonable notice to contest the interception of winnings. Winnings intercepted must be remitted by the licensee to the board or its designee for deposit in an Other Special Revenue Funds account within the office of substance abuse within the Department of Health and Human Services to address gambling addiction.

Sec. 11. 8 MRSA §1004-A, sub-§2, ¶B, as enacted by IB 2009, c. 2, §26, is amended to read:

B. The casino must contain a count room and such other secure facilities as may be required by the board for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons and other devices or items of value used in wagering and approved by the board that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. A drop box or other device in which these items are deposited at the gaming tables, and any area in which these boxes and devices are kept while in use, must be equipped with a locking device ~~to which there are 2 keys, one of which must be under the exclusive control of the board and the other of which must be under the exclusive control of the casino operator~~ approved by the board. These drop boxes and other devices may not be brought into or removed from a casino room except at such times, in such places and according to such procedures as the board may require.

Sec. 12. 8 MRSA §1006, sub-§8 is enacted to read:

8. Voluntary exclusion. Notwithstanding Title 1, section 401, records and information obtained or developed by the board as part of establishing and administering the list of persons who voluntarily request exclusion from any slot machine facility or casino under section 1003, subsection 3, paragraph I are confidential except that information may be released with the written consent of the person requesting voluntary exclusion and as is necessary to inform the slot machine facility or casino licensee and enforce the voluntary exclusion. Statistical data and general information that do not allow for a person on the voluntary exclusion list to be personally identified are not confidential.

Sec. 13. 8 MRSA §1015, sub-§1, as amended by IB 2009, c. 2, §32, is further amended to read:

1. License required. A person may not be employed by a slot machine operator, casino operator, slot machine distributor, table game distributor or gambling services vendor unless the person is licensed to do so by the board, temporarily authorized as an employee pursuant to subsection 4 or granted a waiver by the board pursuant to subsection 3.

Sec. 14. 8 MRSA §1015, sub-§§4 and 5 are enacted to read:

4. Employees authorized temporarily. A new employee of a slot machine operator, casino operator, slot machine distributor, table game distributor or gambling services vendor is temporarily authorized to work in a position requiring an employee license pursuant to subsection 1 as of the date a completed employee license application is received by the board. A completed employee license application is composed of:

- A. The completed form for application for an employee license approved by the board;
- B. Two complete sets of the fingerprints of the applicant;
- C. The fee for processing the employee license application as prescribed by the board; and
- D. The results of the background investigation conducted by the employer.

If the department determines after receiving an employee license application under this subsection that the application is incomplete, it may suspend the new employee's temporary authorization until such time as the new employee files a completed application.

Temporary authorization is not available for renewal of employee licenses.

5. Termination of temporary authorization. Unless suspended or revoked, a temporary authorization under subsection 4 continues until the granting or denial of the new employee's employee license application in accordance with sections 1016, 1017 and 1019 and any applicable rules adopted by the board. An applicant whose temporary authorization is suspended or revoked is not eligible for employment in a position requiring an employee license pursuant to subsection 1 until such time as the suspension or revocation is withdrawn or an employee license is issued.

Sec. 15. 8 MRSA §1016, sub-§1, ¶D, as amended by IB 2009, c. 2, §33, is further amended to read:

D. In the case of a person applying to be a slot machine operator or casino operator, the person has sufficient knowledge and experience in the business of operating slot machines or casinos to effectively operate the slot machine facilities or casino to which the license application relates in

accordance with this chapter and the rules and standards adopted under this chapter; and

Sec. 16. 8 MRSA §1016, sub-§1, ¶E, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

Sec. 17. 8 MRSA §1016, sub-§1, ¶F, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

F. If the applicant is a business organization, the applicant is organized in this State, although that business organization may be a wholly or partially owned subsidiary of an entity that is organized pursuant to the laws of another state or a foreign country; and.

Sec. 18. 8 MRSA §1016, sub-§1, ¶G, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

Sec. 19. 8 MRSA §1016, sub-§1-A is enacted to read:

1-A. Further qualifications. In addition to the qualifications set forth in subsection 1, and notwithstanding Title 5, chapter 341, the board may refuse to grant a license if the person has had a gambling-related license application denied or an adverse action taken against a gambling-related license by authorities in this State or any other jurisdiction. For purposes of this subsection, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action. In making a determination under this subsection, the board shall consider whether the person has established sufficient rehabilitation to warrant the public trust.

Sec. 20. 8 MRSA §1016, sub-§2, as amended by PL 2009, c. 487, Pt. B, §3, is further amended to read:

2. Suitability. In addition to the ~~minimum~~ qualifications set forth in subsection 1 and subsection 1-A, a person may not receive a license unless the board determines that the person is suitable and that the public interest is served by granting or renewing the person's license. In making a determination of suitability, the board shall consider whether the person:

A. Is of good moral character. In determining whether a person is of good moral character, the board shall consider qualities that include but are not limited to honesty, candor, trustworthiness, diligence, reliability, observance of fiduciary and financial responsibility and respect for the rights of others;

B. Has not in any jurisdiction been convicted of or pled guilty or nolo contendere to a crime punishable by one year or more of imprisonment;

C. Has not been adjudicated of committing a civil violation or been convicted of a criminal violation involving dishonesty, deception, misappropriation or fraud;

D. Has not engaged in conduct in this State or any other jurisdiction that would constitute a violation of this chapter, chapter 11 involving gambling, Title 17, chapter 13-A or 62 or Title 17-A, chapter 39 or substantially similar offenses in other jurisdictions;

E. Is not a fugitive from justice, a drug abuser, a drug addict, a drug-dependent person, an illegal alien or a person who was dishonorably discharged from the Armed Forces of the United States;

F. Is current in filing all applicable tax returns and in the payment of all taxes, penalties and interest owed to this State, any other state or the Internal Revenue Service, excluding items under formal appeal; and

G. Has demonstrated financial responsibility. For the purposes of this paragraph, "financial responsibility" means a demonstration of a current and expected future condition of financial solvency sufficient to satisfy the board that the person can successfully engage in business without jeopardy to the public health, safety and welfare. "Financial responsibility" may be determined by an evaluation of the total history concerning the person, including past, present and expected condition and record of financial solvency, business record and accounting and managerial practices.

Title 5, chapter 341 does not apply to this section.

Sec. 21. 8 MRSA §1016, sub-§3, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

3. Applicant other than individual. If the person required to meet the ~~minimum~~ qualifications and suitability requirements specified in subsections 1, 1-A and 2 is a business organization, the key executives, directors, officers, partners, shareholders, creditors, owners and associates of the person must meet the suitability requirements specified in subsection 2.

Sec. 22. 8 MRSA §1017, sub-§1, ¶¶C and D, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, are amended to read:

C. A record of previous issuances and denials of or any adverse action taken against a gambling-related license or application under this chapter or in any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not

limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license, or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action;

D. All information the board determines is necessary or appropriate to determine whether the applicant satisfies the ~~minimum~~ qualifications specified in section 1016, ~~subsection~~ subsections 1 and 1-A; and

Sec. 23. 8 MRSA §1020, sub-§2, ¶D, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is repealed.

Sec. 24. 8 MRSA §1020, sub-§2, ¶G, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

G. Must have a minimum average daily aggregate payback percentage of 89% computed for all slot machines operated at each slot machine facility or casino on a ~~weekly~~ quarterly basis; and

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

Effective June 10, 2013.

CHAPTER 213
H.P. 83 - L.D. 101

**An Act To Allow a Junior
Hunter To Take One Antlerless
Deer without an Antlerless
Deer Permit**

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

Sec. 1. 12 MRSA §11109, sub-§3, ¶A, as amended by PL 2009, c. 213, Pt. OO, §2, is further amended to read:

A. A resident junior hunting license, for a person 10 years of age or older and under 16 years of age, is \$7. Notwithstanding the permit fees established in subchapter 3, a resident junior hunting license includes all permits, stamps and other permissions needed to hunt at no additional cost. A resident junior hunting license does not include an antlerless deer permit.

Sec. 2. 12 MRSA §11109, sub-§3, ¶F, as amended by PL 2009, c. 213, Pt. OO, §2, is further amended to read:

F. A nonresident junior hunting license, for a person 10 years of age or older and under 16 years of age, is \$34. A nonresident junior hunting license does not include an antlerless deer permit.

Sec. 3. 12 MRSA §11152, sub-§8 is enacted to read:

8. Junior hunter consideration. An antlerless deer permit system adopted by the commissioner pursuant to this section may include a provision giving special consideration to persons with a valid junior hunting license. As part of the special consideration to junior hunters, the commissioner shall provide at least 25% of the available antlerless deer permits in a wild-life management district to persons with a valid junior hunting license who apply for an antlerless deer permit in that district.

See title page for effective date.

CHAPTER 214
S.P. 179 - L.D. 447

**An Act To Increase Patient
Choice in Health Care
Facilities and Health Care
Settings**

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

Sec. 1. 22 MRSA §1831, as enacted by PL 1997, c. 337, §1, is amended to read:

§1831. Patient referrals

1. Provision of information. In order to provide for informed patient or resident decisions, a hospital or nursing facility shall provide ~~lists~~ a standardized list of licensed providers of care and services and available physicians for all patients or residents prior to discharge for whom home health care, hospice care, acute rehabilitation care, a hospital swing bed as defined in section 328, subsection 15 or nursing care is needed. The list must include a clear and conspicuous notice of the rights of the patient or resident regarding choice of providers.

A. For all patients or residents requiring home health care or hospice care, the list must include all licensed home health care and hospice providers that request to be listed and any branch offices, including addresses and phone numbers, that serve the area in which the patient or resident resides.

B. For all patients or residents requiring nursing facility care or a hospital swing bed, the list must include all nursing appropriate facilities that request to be listed that serve the area in which the patient or resident resides or wishes to reside and the physicians available within those facilities that request to be listed.

C. The hospital or nursing facility shall disclose to the patient or resident any direct or indirect fi-