

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

spection or copying and is subject to appeal as provided in section 409.

Sec. 3. 1 MRSA §409, sub-§1, as amended by PL 2011, c. 559, Pt. A, §1 and c. 662, §6, is repealed and the following enacted in its place:

1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to any Superior Court within the State as a trial de novo. The agency or official shall file an answer within 14 calendar days. If a court, after a trial de novo, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

See title page for effective date.

CHAPTER 351

S.P. 529 - L.D. 1447

An Act To Grow the Maine Economy by Promoting Maine's Small Breweries and Wineries

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

Sec. 1. 28-A MRSA §1052-B, sub-§1, as amended by PL 2011, c. 629, §17, is further amended to read:

1. Special taste-testing festival license. ~~Malt liquor manufacturers licensed under section 1401 and manufacturers~~ Manufacturers of malt liquor or wine licensed as ~~small~~ breweries or small wineries under section 1355-A or a similarly licensed brewery or winery in another state may apply jointly for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and may be issued ~~once up to 5 times~~ annually.

Sec. 2. 28-A MRSA §1052-B, sub-§§2 and 3, as enacted by PL 1999, c. 677, §2, are amended to read:

2. Fee. The license fee for the special taste-testing festival license is ~~\$20~~ \$50 for each manufacturer of malt liquor and each manufacturer of wine.

3. Application. ~~The licensees must apply jointly~~ Applications for a special taste-testing festival license must be submitted by filing a written application with the bureau at least 5 days, not including Saturdays,

Sundays or legal holidays, before the event. The application must include the following:

- A. Name and address of each ~~licensee~~ applicant;
- B. Title and purpose of the event;
- C. Date, time and duration of the event;
- D. Location of the event;
- E. The method by which the ~~licensees~~ applicants will monitor the number of samples served to each person attending the festival; and
- F. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality where the proposed special taste-testing festival will be located, which, notwithstanding section 653, may be granted without public notice.

See title page for effective date.

CHAPTER 352

H.P. 662 - L.D. 938

An Act To Update the Laws Relating to the Tri-state Lotto and the Payment of Prizes to Minors

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

Sec. 1. 8 MRSA §371, sub-§4-A is enacted to read:

4-A. Electronic funds transfer. "Electronic funds transfer" means a transaction using an electronic device for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

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

- A. The types of lotteries to be conducted and which, if any, will be sold as part of the Tri-state Lotto Compact under chapter 16;

Sec. 3. 8 MRSA §385, as corrected by RR 1993, c. 1, §18, is amended to read:

§385. Persons under 18 years; payment of prizes

~~If the person entitled to a prize or any winning ticket is under the age of 18 years and the prize is less than \$5,000, the director may direct payment of the prize by delivery of a check or draft payable to the order of the minor to an adult member of the minor's family or a guardian of the minor. If the person entitled to a prize or on any winning ticket is under the age of 18 years and the prize is \$5,000 or more of age, the director or the director's designee may direct make~~

payment in the amount of the prize to the minor by depositing the amount of the prize in a check made payable to an adult member of the minor's family or a guardian as custodian of the minor or by an electronic funds transfer to any bank financial institution to the credit an account in the name of an adult member of the minor's family or guardian as custodian for the minor. The person named as custodian has the same duties and powers as a person designated as a custodian in a manner prescribed by the "Maine Uniform Transfers to Minors Act." For purposes of this section, the terms "adult member of a the minor's family," "guardian of a minor" "custodian" and "bank" "financial institution" have the same meanings as set out in that Act. The director or the director's designee is relieved of all further liability upon payment of a prize to a minor pursuant to this section.

Sec. 4. 8 MRSA §403, as enacted by PL 1983, c. 732, §1, is amended to read:

§403. Statement of purpose

This compact is enacted to implement the operation of Tri-state Lotto for the purpose of raising additional revenue for each of the party states. Tri-state Lotto is not intended to replace any existing lottery games in the party states but, rather, to be run in addition to those games. Tri-state Lotto tickets will be sold in each of the party states and processed in a central area to be determined by the commission. ~~Fifty percent~~ Not less than 50% of the gross sales from each state will be aggregated in a common prize pool, and operating costs will be charged proportionally, according to sales, to the party states. The remaining revenues generated within each state ~~will~~ remain in that particular state.

Sec. 5. 8 MRSA §404, sub-§2-A is enacted to read:

2-A. Electronic funds transfer. "Electronic funds transfer" means a transaction using an electronic device for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

Sec. 6. 8 MRSA §409, sub-§1, ¶B, as enacted by PL 1983, c. 732, §1, is amended to read:

B. The price of the tickets sold under the authority of this chapter or chapter 14-A;

Sec. 7. 8 MRSA §409, sub-§1, ¶E, as enacted by PL 1983, c. 732, §1, is amended to read:

E. The frequency of the drawings or selections of winning tickets for lottery games administered under this chapter or chapter 14-A;

Sec. 8. 8 MRSA §409, sub-§1-A is enacted to read:

1-A. Rules; exemption. Rules adopted under subsection 1 are not subject to the Maine Administrative Procedure Act.

Sec. 9. 8 MRSA §415, sub-§2, as amended by PL 1999, c. 64, §1, is further amended to read:

2. Tri-state Lotto Prize Account. Within one week after a Tri-state Lotto drawing ~~has been held or selection of winning tickets sold under the authority of this chapter or chapter 14-A~~, the party state lottery or commission shall pay to the commission, who in turn shall promptly pay to an account known as the Tri-state Lotto Prize Account, such money as is necessary for the payment of prizes, less actual prizes paid by the respective party state in the preceding week, but not ~~to exceed 60%~~ less than 50% of the total amount for which tickets have been sold.

Sec. 10. 8 MRSA §416, sub-§2, as enacted by PL 1983, c. 732, §1, is amended to read:

2. Payment; persons under 18 years of age. ~~If the person entitled to a prize on any winning ticket is under 18 years of age and the prize is less than \$5,000, the commission may make payment by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of the minor. If the person entitled to a prize on any winning ticket is under 18 years of age and if the prize is \$5,000 or more, the commission may make payment in the amount of the prize to the minor by depositing the amount of the prize in a check made payable to an adult member of the minor's family or a guardian as custodian of the minor or by an electronic funds transfer to any bank financial institution to the credit an account in the name of an adult member of the minor's family or a guardian of the minor as custodian for the minor. The person named as custodian has the same duties and powers as a person designated as a custodian in a manner prescribed by the Maine Uniform Transfers to Minors Act. For purposes of this subsection, "adult member of the minor's family," "custodian" and "financial institution" have the same meanings as set out in that Act. The commission shall be is discharged of all further liability upon payment of a prize to a minor pursuant to this subsection.~~

Sec. 11. 8 MRSA §416-A, sub-§10, as enacted by PL 1995, c. 652, §2 and affected by §4, is amended to read:

10. Child support and other state debts. This compact recognizes that each party state has enacted laws authorizing a party state agency to ~~collect offset against lottery winnings debts owed for child support debts and arrearages, unemployment overpayment and tax liability.~~ Upon receipt of notice from a party state agency, the commission shall suspend payment of winnings in the amount of the ~~child support debt or arrearage~~ and notify the winner. Child support Any debts and arrearages of a winner under this subsection

must be offset by the commission in the manner in which the state lottery or commission of a party state is required by law to offset those debts and arrearages.

Sec. 12. 8 MRSA §417, as enacted by PL 1983, c. 732, §1, is amended to read:

§417. Unclaimed prize money

Unclaimed prize money for the prize on a winning ticket shall ~~must~~ be retained by the commission for payment to the person entitled ~~thereto~~ to the prize money for one year after the drawing or selection of a winning ticket in which the prize was won. If ~~no~~ a claim is not made for the prize within one year from the date of the drawing or selection of a winning ticket, the prize money shall ~~must~~ be credited to the prize pool. Upon the expiration of a one-year time period from the drawing date or selection of a winning ticket, the ticket holder shall ~~forfeit~~ forfeits any claim or entitlement to the prize ~~moneys~~ money.

See title page for effective date.

CHAPTER 353

H.P. 820 - L.D. 1155

An Act To Ensure the Integrity of Neuropsychological and Psychological Testing Materials and Data

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

Whereas, current law does not protect from disclosure neuropsychological and psychological testing materials; and

Whereas, disclosure of neuropsychological and psychological testing materials and distribution to even just one person who is the subject of testing or to many persons who may be the subjects of the testing will compromise and invalidate such testing; and

Whereas, maintaining the integrity of the testing materials is critical to test results and to the functioning of the system of neuropsychological and psychological testing in this State and requires the immediate action of the Legislature; 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. 22 MRSA §1725 is enacted to read:

§1725. Neuropsychological and psychological evaluations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Neuropsychological evaluation" means a testing method through which a neuropsychologist or a psychologist can acquire data about a person's cognitive, behavioral and emotional functioning for purposes of diagnosing or confirming a diagnosis of cognitive deficit or abnormalities in the central nervous system.

B. "Neuropsychological or psychological test data" means raw and scaled scores, a person's responses to test questions or stimuli, a neuropsychologist's or psychologist's notes and recordings concerning the person's statements and behavior during a neuropsychological evaluation or psychological evaluation and those portions of neuropsychological or psychological test materials that include the person's responses.

C. "Neuropsychological or psychological test materials" means manuals, instruments, protocols, assessment devices, scoring keys, test questions and stimuli used in conducting a neuropsychological evaluation or psychological evaluation.

D. "Psychological evaluation" means a testing method through which a psychologist acquires data about a person's cognitive and emotional functioning for purposes of determining cognitive ability, diagnosing a mental health condition or confirming a mental health diagnosis.

2. Disclosure of neuropsychological or psychological test materials and neuropsychological or psychological test data. The disclosure of neuropsychological or psychological test materials and neuropsychological or psychological test data is governed by this subsection.

A. Except as provided in paragraph B, neuropsychological or psychological test materials and neuropsychological or psychological test data, the disclosure of which would compromise the objectivity or fairness of the evaluation methods or process, may not be disclosed to anyone, including the person who is the subject of the test, and are not subject to disclosure in any administrative, judicial or legislative proceeding.

B. A person who is the subject of a neuropsychological evaluation or psychological evaluation is entitled to have all records relating to that evaluation, including neuropsychological or psychological test materials and neuropsychological or psychological test data, disclosed to any neuropsychologist or psychologist who is qualified to