

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)

STATE OF MAINE
130TH LEGISLATURE
SECOND REGULAR SESSION



Disposition of bills and summaries of all laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2022

MEMBERS:

SEN. ANNE M. CARNEY, CHAIR
SEN. HEATHER B. SANBORN
SEN. LISA M. KEIM

REP. THOM HARNETT, CHAIR
REP. CHRISTOPHER W. BABBIDGE
REP. JOYCE MCCREIGHT*
REP. BARBARA A. CARDONE*
REP. LOIS GALGAY RECKITT
REP. STEPHEN W. MORIARTY
REP. ERIN R. SHEEHAN
REP. DAVID G. HAGGAN
REP. LAUREL D. LIBBY*
REP. JENNIFER L. POIRIER
REP. JAMES F. THORNE*
REP. JEFFREY EVANGELOS
REP. RENA D. NEWELL

STAFF:

MARGARET REINSCH, SR. LEGISLATIVE ANALYST
JANET STOCCO, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670
<http://legislature.maine.gov/opla/>

*Committee member for portion of session

JOINT STANDING COMMITTEE ON JUDICIARY

LD 585 An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering

ENACTED LAW SUMMARY

Part A of Public Law 2021, chapter 681 enacts the Tribal-State Collaboration Act, which requires 14 departments within the Executive Branch, the Office of the Public Advocate and the Public Utilities Commission each to designate a tribal liaison and to develop and implement a policy that promotes positive government-to-government relations between the State and the federally recognized Indian tribes within the State; promotes cultural competency in the agency's interactions with Indian tribes and tribal members; and establishes a process for collaboration between the agency and Indian tribes regarding the agency's programs, rules and services that substantially and uniquely affect the Indian tribes or tribal members. The Act also directs the Governor to meet at least annually with the leaders of the Indian tribes in a Tribal-State Summit to address issues of mutual concern, including implementing the Tribal-State Collaboration Act, improving communication between the State and the Indian tribes and implementing the requirement to include Maine Native American studies in the Department of Education's system of learning results. Part A also includes the Houlton Band of Maliseet Indians within the list of parties that may join an interlocal cooperation agreement under the Maine Revised Statutes, Title 30-A, chapter 115.

Part B explains that the amendments to the State's tax laws in Parts C through H of Public Law 2021, chapter 681 are designed to improve the economic opportunities available to and welfare of the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians and their tribal members; to encourage economic development within their tribal lands, the benefits of which will accrue not only to these tribes and their tribal members but also to surrounding communities and the State; and to clarify and simplify the application of the State's tax laws to these tribes, their tribal lands and tribal members, in order to reduce the costs of tax compliance and administration. Parts C through H achieve these goals by:

1. Providing that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are deemed to act in a governmental capacity and not in a business capacity for purposes of applying the State's sales tax and income tax laws and are therefore exempt from these taxes;
2. Creating an exemption from the State's sales tax for sales to the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians for sales occurring on or after January 1, 2023;
3. Creating an exemption from the State's sales tax for sales to tribal members or tribal entities of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians that are sourced to tribal lands for sales occurring on or after January 1, 2023, but providing that the use tax applies to such sales if the exempt property or service is used primarily outside of tribal land during the first year after purchase;

JOINT STANDING COMMITTEE ON JUDICIARY

4. Expanding the provision of law that returns sales tax revenue collected by the State attributable to sales occurring on the Passamaquoddy reservations at Pleasant Point and Indian Township to the Passamaquoddy Tribe on a monthly basis by, effective January 1, 2023, both providing for the return of sales tax revenue attributable to sales occurring on all of the Passamaquoddy Indian territory and providing for the return to the Houlton Band of Maliseet Indians and to the Penobscot Nation of sales tax revenue collected by the State attributable to sales occurring on Houlton Band Trust Land or Penobscot Indian territory, respectively;
5. Exempting tribal land of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians from the commercial forestry excise tax; wild blueberries grown on such tribal land from the wild blueberry tax; and potatoes grown on such tribal land from the potato tax, all effective January 1, 2023;
6. Providing that, effective January 1, 2023, the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and tribal corporations organized by these tribes under Section 17 of the federal Indian Reorganization Act are not subject to the Maine corporate income tax; and
7. Creating income tax modifications applicable to tax years beginning on or after January 1, 2023 for tribal members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians residing on tribal land and for the estates of a decedent who was such a tribal member residing on tribal land for the amount of income or loss derived from or connected with sources on tribal land.

Part I of Public Law 2021, chapter 681 sets forth the Legislature's findings that, if conducted by federally recognized Indian tribes in the State, mobile sports wagering will serve as an effective economic development tool for tribal governments and tribal members and will provide economic stimulus to rural areas of the State; that authorizing the federally recognized Indian tribes in the State to conduct mobile sports wagering is fair and equitable because those Indian tribes previously have been excluded from conducting most forms of gaming in the State; that the conduct of facility-based sports wagering by licensed commercial tracks, casinos and off-track betting facilities will support the harness racing industry and that these entities are well suited to conduct facility-based sports wagering because of their infrastructure and experience with similar forms of wagering in the State.

Part J of Public Law 2021, chapter 681 amends the laws governing fantasy contests to allow such contests to be based on the performances of participants in collegiate athletic events and authorizes the conduct of sports wagering in the State subject to the regulatory oversight of the Department of Public Safety, Gambling Control Unit.

Commercial tracks not located in Bangor, casinos and off-track betting facilities are eligible to apply for the up to 10 total facility sports wagering licenses that may be issued to conduct in-person sports wagering in the State. Each of the State's four federally recognized Indian tribes is eligible to apply for a mobile sports wagering license to conduct sports wagering through which individuals physically located within the State make wagers using mobile applications or digital

JOINT STANDING COMMITTEE ON JUDICIARY

platforms. Facility sports wagering licenses and mobile sports wagering licenses are nontransferable, except that a federally recognized Indian tribe may transfer its mobile sports wagering license to a business entity that is wholly owned by that federally recognized Indian tribe. The four-year initial and renewal fee for a facility sports wagering license is \$4,000 and the four-year initial and renewal fee for a mobile sports wagering license is \$200,000.

Facility and mobile sports wagering licensees, referred to as operators, may purchase or lease equipment, systems or services for sports wagering from entities with a supplier license, whose equipment, systems or services must meet standards established by rule. An operator may also enter into a written contract approved by the director of the Gambling Control Unit with a single management services licensee that has sufficient knowledge and experience in the business of operating sports wagering to effectively conduct sports wagering on behalf of the operator. If a management services licensee enters into a contract with more than one operator, its method for separately accounting for each operator's gross receipts and adjusted gross sports wagering receipts from each operator must be approved by the director. The fee paid by an operator to a management services licensee may not exceed 30% of the operator's adjusted gross sports wagering receipts, except that the director may approve a contract authorizing the management services licensee to receive up to 40% of the operator's adjusted gross sports wagering receipts if the management services demonstrates that the fee is commercially reasonable. A person employed by an operator to be engaged directly in sports wagering-related activities must be licensed by the Gambling Control Unit.

Operators may accept wagers on professional, collegiate and amateur sports events, including international events, as well as on the individual performances of athletes, motor vehicle races and electronic sports. Operators may not accept sports wagers on high school events, other events where a majority of participants are under 18 years of age and events involving Maine-based colleges and universities, except that an operator may accept a wager on a game or match that is part of a tournament in which a Maine collegiate sports team participates, as long as a Maine collegiate sports team does not participate in that game or match. Operators also may not accept wagers on the occurrence of injuries or penalties, the outcome of player disciplinary rulings or replay reviews and additional categories of sports wagers that, upon the request of the relevant sports governing body, the director determines will undermine the integrity or perceived integrity of the sports governing body or its sports events. Operators are required to report abnormal wagering activity to the director and to the relevant sports governing body.

Operators may not accept sports wagers from individuals under 21 years of age; participants in the sports event, including athletes and officials; persons with an interest in the outcome of the sports event identified by the director by rule; the operator's own directors or employees or persons living in their households; persons voluntarily or involuntarily placed on a list maintained by the Gambling Control Unit of persons not authorized to make sports wagers; persons making wagers on behalf of another person; and Gambling Control Unit employees. Mobile operators also may not accept sports wagers from persons who are not physically located within the State.

Rules adopted by the director governing the marketing or advertising of sports wagering must require that an operator disclose its identity as a licensed commercial track, licensed casino, licensed off-track betting facility, federally recognized Indian tribe in the State or business entity

JOINT STANDING COMMITTEE ON JUDICIARY

wholly owned by a federally recognized Indian tribe in the State; must prohibit the use of misleading, deceptive or false sports wagering advertising; and must restrict, to the extent permissible, the marketing or advertising of sports wagering that is designed to reach or to appeal to persons under 21 years of age.

Operators must remit 10% of their adjusted gross sports wagering receipts to the State. One percent of adjusted gross sports wagering receipts must be deposited in the General Fund for the administrative expenses of the Gambling Control Unit; 1% of the adjusted gross sports wagering receipts must be deposited in the Gambling Addiction Prevention and Treatment Fund; 0.55% of the adjusted gross sports wagering receipts must be distributed by the State Harness Racing Commission to entities that conduct live harness racing in the State; 0.55% of the adjusted gross sports wagering receipts must be deposited in the Sire Stakes Fund; and 0.4% of the adjusted gross sports wagering receipts must be deposited in the Agricultural Fair Promotion Fund, which is established to provide monetary support to eligible nonprofit organizations that have had, for at least the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the State. The remaining adjusted gross sports wagering receipts remitted to the State must be deposited in the General Fund.

Part J of Public Law 2021, chapter 681 also establishes that each federally recognized Indian tribe in the State has the right to conduct mobile gaming under any law of the State newly authorizing such mobile gaming that is enacted on or after the effective date of this legislation.

LD 598 An Act To Prohibit Discrimination in Employment and School Based on Hair Texture or Style

ENACTED LAW SUMMARY

Public Law 2021, chapter 643 amends the Maine Human Rights Act to prohibit discrimination in employment and education based on hair texture or hairstyle. It also provides that use of the term “race” within the relevant subchapters of the Maine Human Rights Act includes traits that are associated with race, including hair texture, Afro hairstyles and protective hairstyles. “Protective hairstyles” includes braids, twists and locks. The text of Public Law 2021, chapter 643 is based on language adopted in Maryland and referred to as the CROWN Act, which is an acronym for Creating a Respectful and Open World for Natural Hair.

LD 679 An Act To Establish a Statewide Electronic Warrant System

ENACTED LAW SUMMARY

Public Law 2021, chapter 684 directs the State Court Administrator to establish a secure system for the application, issuance and return of arrest warrants and search warrants that is electronic and that provides access to authorized users statewide. Once established, the electronic warrant system may be used to apply for a search warrant or an arrest warrant when the application is presented to a District Court judge or a Superior Court justice or to a justice of the peace who is authorized