

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 164, SUBSECTION 6.

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PORTLAND LITHOGRAPH COMPANY  
PORTLAND, MAINE  
1977

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PUBLIC LAWS  
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If the superintendent finds, as a result of the comprehensive evaluation and development of the prescriptive program plan that the resident is not in need of the services provided at the facility or that there are less restrictive alternatives to the care at the facility, consistent with the best interests of the resident, the superintendent shall, within 90 days of the completion of the evaluation and plan, have completed the steps required to prepare the resident for discharge, as specified under Title 34, section 2657, subsections 8 and 9.

The superintendent shall discharge each such resident, pursuant to Title 34, section 2657, subsection 10 but in no case later than 270 days after the completion of the evaluation or plan.

2. **Clients in community placements.** Notwithstanding the provisions of Title 34, section 2657, subsection 10, each mentally retarded person who is a client of either the Pineland Center or the Levinson Center, but who is residing in the community for the purpose of preparation for discharge on the effective date of this Act shall be discharged from the particular facility from which he has been placed into the community, within one year of the effective date of this Act.

**Sec. 6. Appropriation.** There is appropriated from the General Fund the sum of \$30,000 to the Department of the Attorney General for fiscal years 1977-78 and 1978-79 and the sum of \$182,000 to the District Court for the State of Maine for fiscal years 1977-78 and 1978-79. The breakdown shall be as follows:

	1977-78	1978-79
ATTORNEY GENERAL, DEPARTMENT OF		
(Unallocated)	\$ 15,000	\$ 15,000
DISTRICT COURT FOR THE STATE OF MAINE		
(Unallocated)	130,000	52,000
Total	\$145,000	\$ 67,000

This appropriation shall be used to pay for legal representation for mentally retarded residents of Pineland, the Levinson Center and for the professionals appointed by the District Court to evaluate these residents, in accordance with the provision of Section 5 of this Act. Any balance of these appropriations for fiscal year 1977-78 shall not lapse but shall carry forward into fiscal year 1978-79 to be expended for the same purposes.

Effective October 24, 1977

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**CHAPTER 503**

AN ACT to Revise the Fish and Game Laws.

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

Sec. 1. 7 MRSA § 3455, first ¶, as enacted by PL 1973, c. 45, § 1, is repealed and the following enacted in its place:

It shall be unlawful for any dog, licensed or unlicensed, to run at large, except when used for hunting. The owner or keeper of any dog found running at large shall be subject to the penalties provided in Title 12, section 3060.

Sec. 2. 7 MRSA § 3551, as amended by PL 1975, c. 249, § 1, is repealed and the following enacted in its place:

§ 3551. Training of dogs

Except as provided for in section 3552, it shall be lawful to train dogs on foxes, rabbits and raccoons from August 1st to the following April 30th. It shall be unlawful for any person to possess any firearm while training any dog outside of the open season on the above-mentioned animals.

Sec. 3. 7 MRSA § 3551-A, as amended by PL 1975, c. 772, § 1, is repealed.

Sec. 4. 12 MRSA § 1901, sub-§ 12, as amended by PL 1967, c. 404, § 3, is repealed.

Sec. 5. 12 MRSA § 1960, 8th ¶, first sentence, is amended to read:

If unusual conditions should affect any one of the waters in this State, so that the supply of fish in those waters might be depleted by angling, the commissioner may declare an emergency and order a hearing held, at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 7 days prior to the hearing in a newspaper published in the county where the water is situated, and if no newspaper is published in that county, then the notice shall appear in a newspaper having state-wide circulation.

Sec. 6. 12 MRSA § 1960-A, 3rd ¶ from the end, first sentence, as enacted by PL 1971, c. 231, § 2, is amended to read:

If the commissioner deems that unusual conditions affect any of such upland game or fur-bearing animals, he may declare an emergency with respect to the same and order a hearing held, at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 7 days prior to the hearing in a newspaper having state-wide circulation.

Sec. 7. 12 MRSA § 1972, first ¶, next to last sentence, as amended by PL 1975, c. 772, § 3, is further amended to read:

The nonresident registration fee shall be credited as follows: ~~\$4.75~~ \$10.75 of each fee shall be credited to the Department of Inland Fisheries and Wildlife and 50¢ of each fee shall be credited to the Parks and Recreation Snowmobile Trail Fund.

Sec. 8. 12 MRSA § 2052, next to the last ¶, as amended by PL 1971, c. 598, § 11, is repealed and the following enacted in its place:

All candidates must be between the ages of 14 and 18 years and those who pass the required examinations shall be presented with appropriate certificates signed by the commissioner.

**Sec. 8-A.** 12 MRSA § 2061, sub-§ 2, as enacted by PL 1973, c. 734, § 1, is amended to read:

2. **Division.** "Division" means the Division of Watercraft Registration and Safety, a part of the Department of Inland Fisheries and Wildlife.

**Sec. 9.** 12 MRSA § 2101, 25th ¶, first sentence, which relates to Prout's Neck, Richmond's Island and Cape Elizabeth Sanctuary, as amended by PL 1971, c. 171, § 1, is further amended to read:

No person shall, except as herein provided, at any time, hunt, pursue, shoot at or kill any wild animal or any game or other wild bird within the following described territory: On the 112 acres of land, more or less, comprising Prout's Neck, so called, in the Town of Scarborough, in the County of Cumberland; or on Richmond's Island, so called, in the Town of Cape Elizabeth, in said County of Cumberland; or on the tract of land comprising 1,600 acres, more or less, situated in said Town of Cape Elizabeth, and bounded as follows: Southeasterly and southerly by the low low water mark of the Atlantic Ocean, westerly by the low low watermark of the Spurwink River, northerly by the Spurwink Road, so called, leading from Spurwink Bridge to Bowery Beach, easterly by a certain private road or way which runs in a southerly direction from the aforesaid Spurwink Road to said Bowery Beach, being the road which runs in front of the dwelling house of one Charles L. Jordan and along the easterly boundary of land of said Charles L. Jordan, and along the westerly boundary of land of the Great Pond Club, but not including any portion of said Bowery Beach.

**Sec. 10.** 12 MRSA § 2153, first sentence is amended to read:

The commissioner may authorize, alter and remove the screening of any inland waters and shall, upon application, make suitable provisions for the passage of logs, lumber and pulpwood in any floatable waters of the State so screened.

**Sec. 11.** 12 MRSA § 2154-A, as amended by PL 1973, c. 562, § 4, is further amended to read:

**§ 2154-A. State-owned wildlife management areas**

The following areas shall be classified as state-owned wildlife management areas:

Augusta — Augusta, Windsor — Kennebec County.

Brownfield — Brownfield, Denmark, Fryeburg — Oxford County.

Chesterville — Chesterville — Franklin County.

Coast of Maine — certain coastal islands in Washington, Hancock, Knox, Lincoln and Cumberland Counties.

Fahi Pond — Embden — Somerset County.

Frye Mountain — Montville, Knox, Morrill — Waldo County.

Great Works — Edmunds Twp. — Washington County.

Jonesboro — Jonesboro — Washington County.

Long Lake — St. Agatha — Aroostook County.

All of Long Lake within the Town of St. Agatha.

Lyle Frost — (formerly Scammon), Eastbrook, Franklin — Hancock County.

Madawaska — Palmyra — Somerset County.

Manuel — Hodgdon, Cary Plt., Linneus — Aroostook County.

Mercer Bog — Mercer — Somerset County.

Merrymeeting Bay — Dresden and Bowdoinham — Lincoln and Sagadahoc Counties.

Newfield — Newfield - Shapleigh — York County.

Old Pond Farm — Maxfield - Howland — Penobscot County.

Orange River — Whiting — Washington County.

Peaks Island — Portland — Cumberland County.

Pennamaquam — Pembroke - Charlotte — Washington County.

Ruffingham — Montville - Searsmont — Waldo County.

St. Albans — St. Albans — Somerset County.

Sandy Point — Stockton Springs — Waldo County.

Scarborough — Scarborough - Old Orchard Beach - Saco — Cumberland and York Counties.

Swan Island — Steve Powell — Perkins Twp. — Sagadahoc County.

The Being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island formerly known as Alexander Islands.

Weskeag Marsh — South Thomaston, Thomaston, Rockland and Owls Head — Knox County.

Such other areas as the commissioner designates, by regulations adopted in accordance with section 2155, as state-owned wildlife management areas.

Sec. 12. 12 MRSA §§ 2251 and 2252 are repealed.

Sec. 13. 12 MRSA § 2352, 3rd ¶, last 2 sentences, as repealed and replaced by PL 1971, c. 71, § 2, are repealed and the following enacted in their place:

If, as a result of the hearing, the commissioner promulgates any regulations, they shall be reduced to writing and published once a week for 2 successive weeks in newspapers having state-wide circulation, the last publication being prior to the effective date of said regulations.

Sec. 14. 12 MRSA § 2354, sub-§ 10 is enacted to read:

10. Coyotes. The commissioner may cause department personnel to take coyotes at any time and in any manner that he may prescribe.

Sec. 15. 12 MRSA § 2355, sub-§ 7, last sentence, as last amended by PL 1973, c. 562, § 11, is further amended to read:

This deer transportation tag shall cost ~~\$40.50~~ \$53.50, 50¢ to be retained by the issuing agent, except that no fee shall be required of any resident of this State who is serving in the Armed Forces of the United States.

Sec. 15-A. 12 MRSA § 2355-E is enacted to read:

§ 2355-E. Hunting bear near dumps prohibited

It shall be unlawful for any person to hunt bear within 200 feet of any dumping area in the unorganized territories and plantations of this State.

Sec. 15-B. 12 MRSA § 2401, sub-§ 7 is enacted to read:

7. Residency requirement. For the purpose of this section, a person shall be deemed a resident if that person has been domiciled in this State for 12 or more consecutive months with the intent of establishing his permanent residence in this State. Intent to establish permanent residence may be established by payment of state income tax, payment of state excise tax, owning and registering a motor vehicle in this State or holding a valid Maine driver's license. Absence of United States citizenship shall not be deemed a bar to residency status under this section.

Sec. 16. 12 MRSA § 2401-B, sub-§ 3, ¶ H is enacted to read:

H. No license may be exchanged for another license, except as allowed in paragraphs C and G.

Sec. 17. 12 MRSA § 2401-B, sub-§ 10, last sentence, as enacted by PL 1971, c. 409, § 2, is amended to read:

Such license will be valid ~~for any and all leaves or furloughs~~ during the year of issue.

Sec. 17-A. 12 MRSA § 2401-B, sub-§ 19, is enacted to read:

19. Residency requirement. For the purpose of this section, a person shall be deemed a resident if that person has been domiciled in this State for 12 or more consecutive months with the intent of establishing his permanent residence in this State. Intent to establish permanent residence may be established by payment of state income tax, payment of state excise tax, owning and registering a motor vehicle in this State or holding a valid Maine driver's license. Absence of United States citizenship shall not be deemed a bar to residency status under this section.

Sec. 18. 12 MRSA § 2451, last ¶, as enacted by PL 1971, c. 403, § 27, is amended to read:

It shall be unlawful for any person, other than a law enforcement officer in the line of duty, to disturb or take any trap or disturb or take any fur-bearing animal from any trap other than his own without the consent of the owner of such trap, except that a landowner or occupant on land to which he is legally entitled to possess may remove any trap found thereon where permission has not been granted in accordance with section 2351.

Sec. 19. 12 MRSA § 2452, as last repealed and replaced by PL 1973, c. 739, § 9, is repealed.

Sec. 20. 12 MRSA § 2455, 3rd ¶, 2nd sentence, as repealed and replaced by PL 1975, c. 262, is amended to read:

Any person convicted of a violation under this section or section 2467 shall be punished by a fine of not less than \$500 nor more than \$1,000 and by imprisonment of not less than 3 nor more than 5 days for the first offense, and



by a fine of not less than \$500 nor more than \$1,000 and by imprisonment of not less than 10 nor more than 15 days for each succeeding offense.

Sec. 21. 12 MRSA § 2456-A is enacted to read:

§ 2456-A. Use of helicopter for transporting fishermen

No person shall use a helicopter for the purpose of transporting a sports fisherman or a sport fish to or from any pond under 10 acres in size or any beaver flowage.

Any person found guilty of violating any provisions of this section shall be punished in accordance with the provisions of section 2456.

Sec. 22. 12 MRSA § 2466, 3rd ¶, as amended by PL 1977, c. 78, § 78, is further amended to read:

The English or European house sparrow and the European starling are not included among the birds therein protected; ~~nothing herein contained shall be deemed to make it unlawful for the owner or occupant of land to kill hawks or owls when in the act of destroying poultry;~~ and for the purpose of chapters 301 to 337 the partridge, grouse and pheasant, only, shall be considered game birds, and the following, only, shall be considered migratory game birds: Anatidae or waterfowl, including brant, wild ducks, geese and swans; gruidae or cranes, including little brown, sandhill and whooping cranes; rallidae or rails, including coots, gallinules, and sora and other rails; limicolae or shorebirds, including avocets, curlew, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs; columbidae or pigeons, including doves and wild pigeons.

Sec. 23. 12 MRSA § 2556, as amended by PL 1977, c. 78, § 81, is repealed.

Sec. 24. 12 MRSA § 2602, as last amended by PL 1977, c. 78, § 83, is repealed.

Sec. 25. 12 MRSA § 2701, first ¶, as last amended by PL 1975, c. 590, § 19-A, is repealed and the following enacted in its place:

It is unlawful for any person to take, kill, catch or possess suckers, eels, hornpouts, yellow perch or cusk from inland waters unless an exception under this section applies or he has a permit from the commissioner or other exception as provided in this section, except that any person may fish for or take these fish by use of a single hook and line for consumption by himself or members of his family without a permit. It is unlawful for any person to take, kill, catch or possess alewives from inland waters unless he has a permit from the commissioner or he has been granted fishing rights under section 3708, except that any person may fish for and take alewives by use of a dip net or single hook and line for consumption by himself or members of his family, provided that that person takes or possesses no more than one bushel in any day and also that the alewives may not be taken from any waters in which a municipality or other person has been granted exclusive rights under section 3708. The commissioner may grant permits to take any of these fish by means of eel pots, traps, spear or nets in inland waters frequented by these fish, under such terms, rules and regulations as he may establish, provided these

permits do not interfere with rights granted under section 3708. The minimum fee for these permits shall not be less than \$32.

**Sec. 26.** 12 MRSA § 2751-A, first ¶, last sentence, as amended by PL 1977, c. 191, § 2, is further amended to read:

This shall not apply to tropical fish which are for aquarium purposes, except piranhas (**Genus Serrasalmus**), walking catfish and white amur (grass carp) nor to the chemically preserved eggs of either the Atlantic sea run salmon or landlocked salmon.

**Sec. 27.** 12 MRSA § 2951, 2nd sentence is amended to read:

The warden shall investigate and, if he finds the damage has been done as alleged, he shall give a certificate to such person entitling such person to the ownership of the carcass ~~to be possessed and consumed only within the immediate family of the owner of said vehicle.~~

**Sec. 28.** 12 MRSA § 3060, sub-§ 4, as last amended by PL 1977, c. 78, § 97, is repealed and the following enacted in its place:

**4. Lack of license.** Whoever is convicted of not having a license issued under chapters 301 to 337 shall be guilty of a Class E crime.

**Sec. 29.** 30 MRSA § 1202, 2nd ¶, as enacted by PL 1975, c. 393, is repealed.

Effective October 24, 1977

## CHAPTER 504

### AN ACT to Clarify Actual Notice Under the Recording Laws in Regard to Exceptions and Reservations.

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

Whereas, under Maine Bar Association Title Standard # 30 and the case of Sanford v. Stillwell, 101 Me. 466, there are serious questions concerning the marketability of much real estate in the State of Maine; and

Whereas, these questions are preventing conveyances of this real estate, thus causing substantial expense and inconvenience to the sellers, purchasers and mortgagees of this real estate; 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,