

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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J.S. McCarthy Company
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public trust, as it pertains to the State's submerged lands, one person who represents commercial fishing and one person who represents marinas. Subsequent appointments for the positions held by these members must be for 3-year terms. The purpose of these initial appointments is to stagger the terms of council members.

See title page for effective date, unless otherwise indicated.

CHAPTER 667

S.P. 637 - L.D. 1645

An Act to Revise Certain Fish and Wildlife Laws

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

Whereas, confusion exists as to the application of certain laws administered by the Department of Inland Fisheries and Wildlife; and

Whereas, this confusion poses difficulties for the sporting public and those charged with enforcement of these laws; and

Whereas, it is vitally necessary that this confusion be resolved to prevent any injustice or hardship to the hunters, anglers, trappers and recreational vehicle owners of the State; 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:

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§20, as amended by PL 1989, c. 782, §1, is further amended to read:

20.	Inland Fisheries and Wildlife	Inland Fish-eries and Wildlife Advisory Council	\$25/Day	12 MRSA §7033-A
			<u>\$50/Day</u>	

Sec. A-2. 12 MRSA §7001, sub-§7, as amended by PL 1995, c. 415, §1, is further amended to read:

7. Endangered species. "Endangered species" means any species of fish or wildlife that has been determined by the ~~Secretary of the Interior of the United States pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended,~~ commissioner to be in danger of extinction throughout all or a significant portion of its range ~~or listed and that is listed as a state endangered species~~ under section 7753, subsection 3.

Sec. A-3. 12 MRSA §7001, sub-§36, as enacted by PL 1979, c. 420, §1, is amended to read:

36. Threatened species. "Threatened species" means any species of fish or wildlife ~~which is that has been determined by the commissioner as~~ likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 7753, subsection 3.

Sec. A-4. 12 MRSA §7034, sub-§1, as amended by PL 1993, c. 574, §5, is further amended to read:

1. Appointment of deputy. The commissioner shall appoint, to serve at the commissioner's pleasure, a Deputy Commissioner of Inland Fisheries and Wildlife, who must be qualified by training and experience in fisheries and wildlife management ~~and~~ or conservation law enforcement. Under the commissioner's direction, the deputy commissioner shall assist in the administration of the department. The deputy commissioner shall serve as the commissioner if the commissioner is disabled or absent or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent.

Sec. A-5. 12 MRSA §7035, sub-§8, as amended by PL 1991, c. 591, Pt. KK, §1, is further amended to read:

8. Sale of publications. If the commissioner determines it advisable for the more effective dissemination of factual information, information of public interest or information tending to promote better public relations, the commissioner may fix the price, if any, of certain publications and materials of the department, and sell and deliver them. Publications and materials included within this authority are all publications, articles, biological and statistical data, professional and technical service reports by departmental personnel and other materials in the department's possession and pertaining to the department, except publications of the laws in whatever form. These publications may not carry any advertising of a political nature, but may carry

commercial advertising. The commissioner shall accept commercial advertising in the department's general circulation magazine entitled "Maine Fish and Wildlife" and any successor or similar publication developed by the department.

The commissioner may sell or lease video tapes, photographs or negatives owned by the department and may fix the price, if any, giving consideration to their fair market value.

Sec. A-6. 12 MRSA §7035, sub-§13, ¶A, as enacted by PL 1995, c. 436, §1, is amended to read:

A. A program that supports landowners, called the Support Landowners Program. Twelve dollars of each \$15 collected under section 7101, subsection 5-A, section 7133, subsection 4-A and section 7151, subsection 5-A is dedicated to the Support Landowners Program. The Support Landowners Program may:

- (1) Offer a toll-free number for landowner concerns;
- (2) From among existing staff, appoint a landowner relations coordinator at the Augusta office of the department and regional landowner relations coordinators at the regional offices. Regional landowner relations coordinators may be appointed only from the department's recreational safety coordinators and volunteers;
- (3) Provide linkage with local conservation organizations, volunteer groups and advisory groups;
- (4) Enhance enforcement of trespass, dumping and property damage violations;
- (5) Provide educational materials and signs; ~~and~~
- (6) Coordinate with other related landowner relations activities, including Landowner Recognition Day; and
- (7) Encourage landowners who only allow access to their property with permission to conspicuously post signs on the property indicating the name and address of the owner or other person with authority to grant permission; and

Sec. A-7. 12 MRSA §7035, sub-§16 is enacted to read:

16. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products such as T-shirts, aprons, coffee mugs and greeting cards when

the express purpose is to accommodate public demand and generate supplemental funds. These funds may not be used for any costs associated with a quarterly magazine produced by the department.

Sec. A-8. 12 MRSA §7064 is enacted to read:

§7064. Illegal disposal of offal; littering

A person who drops, deposits, discards, dumps or otherwise disposes of the carcass, waste parts or remains of a wild animal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, is in violation of the Maine Litter Control Act, Title 17, chapter 80, and is subject to the penalties set forth in that Act.

Sec. A-9. 12 MRSA §7071, sub-§4, as amended by PL 1987, c. 351, is further amended to read:

4. Member of the United States Armed Forces permanently stationed in the State. The following persons are eligible for any trapping, fishing, hunting or combination fishing and hunting license or permit at the resident fee and ~~shall~~ have the same privileges as ~~Maine~~ residents of this State in regard to trapping, hunting and fishing:

A. ~~Any~~ A person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of that person, ~~provided that~~ if the spouse and children permanently reside with that person.

~~Such a~~ A member of the Armed Forces ~~desiring~~ stationed in the State who desires a trapping, hunting, fishing or combination license or permit shall present certification from the commander of ~~his~~ the member's post, station or base, or from the commander's designated agent, that the person mentioned in the certificate is permanently stationed at that post, station or base. ~~Licenses and permits shall be issued by the clerk or agent of the town in which that military or naval post, station or base is situated.~~

Sec. A-10. 12 MRSA §7072, sub-§3, as amended by PL 1989, c. 440, is repealed.

Sec. A-11. 12 MRSA §7072, sub-§4 is enacted to read:

4. Agents for the purpose of selling licenses. The commissioner shall adopt rules that establish the criteria for selecting agents to sell licenses and permits. Rules adopted under this subsection are

major substantive rules under Title 5, chapter 375, subchapter II-A.

Sec. A-12. 12 MRSA §7073, sub-§5, as amended by PL 1993, c. 419, §2, is repealed and the following enacted in its place:

5. Duplicates. A duplicate license or permit may be obtained by any person who has accidentally lost or destroyed any license or permit issued to that person under this chapter upon payment of a fee of \$2, all of which must be retained by the agent. A duplicate license or permit may be obtained only from the issuer of the original license.

Sec. A-13. 12 MRSA §7074, sub-§1, as repealed and replaced by PL 1985, c. 304, §6, is repealed.

Sec. A-14. 12 MRSA §7074, sub-§1-A is enacted to read:

1-A. Reporting and payment requirements. The commissioner shall adopt rules establishing the reporting requirements for agents and the procedure for payment of all funds collected for the reporting period. If these rules include a requirement that agents must report more frequently than once a month, the commissioner is responsible for all costs associated with the additional reporting requirement, including mailing costs. Rules adopted under this subsection are major substantive rules under Title 5, chapter 375, subchapter II-A.

Sec. A-15. 12 MRSA §7074, sub-§5, as amended by PL 1983, c. 819, Pt. A, §25, is further amended to read:

5. Delinquent agents. ~~If an~~ An agent is delinquent if that agent fails to forward to the commissioner funds collected by him during the previous calendar month before the 15th day of each calendar month, he is delinquent on the 16th day of that month that agent by the date established in rules adopted under subsection 1-A. Failure to remit the funds as provided in this section ~~shall result~~ results in the following sanctions, in addition to any others provided by law.

A. The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

B. If the agent has not paid the amount owed by the 60th day after ~~he~~ the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one calendar year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

Sec. A-16. 12 MRSA §7074, sub-§6, as enacted by PL 1995, c. 455, §3, is repealed.

Sec. A-17. 12 MRSA §7076, sub-§12, as enacted by PL 1985, c. 304, §9, is repealed.

Sec. A-18. 12 MRSA §7101, sub-§5, ¶H-1, as enacted by PL 1995, c. 444, §1, is amended to read:

H-1. Nonresident 3-day small game hunting license, valid for 3 consecutive hunting days (Permits hunting of all legal species except deer, bear, turkey, moose, 0 0 \$30 \$30 raccoon and bobcat)

Sec. A-19. 12 MRSA §7101, sub-§5, ¶H-2 is enacted to read:

H-2. Nonresident seasonal junior firearm big game hunting license 0 0 \$25 \$25

Sec. A-20. 12 MRSA §7101, sub-§7, as amended by PL 1987, c. 742, §5, is further amended to read:

7. Restrictions. Any resident or nonresident hunter 10 years of age or older and under 16 years of age may hunt with firearms only in the presence of ~~his~~ that hunter's parent or guardian or of a person, at least 18 years of age, approved by ~~his~~ that hunter's parent or guardian. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. A hunter who is 16 years of age and who is hunting with a junior hunting license, prior to hunting without the adult supervision required by this section, must complete a hunter safety course.

Sec. A-21. 12 MRSA §7107-A, sub-§4, ¶B, as enacted by PL 1993, c. 574, §13, is amended to read:

B. ~~In 1995 and 1996, the~~ The commissioner shall establish by rule the length of the special muzzle-loading season. The commissioner may establish seasons of different lengths in different regions of the State. The season may extend for

no more than 12 hunting days in any part of the State; and

Sec. A-22. 12 MRSA §7108, sub-§1, as amended by PL 1987, c. 684, §§1 and 4, is further amended to read:

1. Eligibility. Any person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to hunt coyotes at night, except that ~~no~~ a permit may not be issued to any person who has been convicted of a violation of section 7406, subsection 5, within 5 years of the date of application for the permit. ~~A coyote night hunting permit may not be renewed unless the applicant has returned a completed coyote hunting questionnaire from the previous year.~~

Sec. A-23. 12 MRSA §7171, sub-§4, ¶B, as amended by PL 1995, c. 455, §13, is further amended to read:

B. The following restrictions apply to the taking and selling of baitfish under the baitfish wholesaler's license.

(1) Any person engaged in taking, or assisting in taking, live baitfish for resale from inland waters must hold a current baitfish wholesaler's license, which ~~shall~~ must be exhibited upon request to any agent of the commissioner.

(2) The holder of a baitfish wholesaler's license may take baitfish by use of a seine as defined in section 7001, subsection 33-A; a baitfish trap as defined in section 7001, subsection 1-B; a dipnet, a dropnet, a lift net or a bag net; or by hook and line.

(3) The holder of a baitfish wholesaler's license may use particles of food for the purpose of luring baitfish to a baitfish trap, a dipnet, a dropnet, a lift net or a bag net.

(4) If a person sells live baitfish from more than one wholesale facility, ~~he~~ that person must obtain a separate license for each place of business.

(5) The holder of a baitfish wholesaler's license may designate others to assist ~~him~~ the holder in selling live baitfish at ~~his~~ the holder's business facility.

(6) The holder of a baitfish wholesaler's license, or ~~his~~ the holder's designee, may transport live baitfish.

(7) The holder of a baitfish wholesale license who attempts to take live bait for resale using drop nets from the inland

waters of the State by fishing through the ice ~~must~~ shall mark all holes made in the ice by that person for that purpose. The holes must be marked by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

(8) The holder of a baitfish wholesaler's license may not take eels.

(9) The holder of a baitfish wholesaler's license may not take or sell suckers (Genus Catostomus) greater than 10 inches in length between April 1st and September 30th of each year.

Sec. A-24. 12 MRSA §7313, sub-§5, as enacted by PL 1987, c. 742, §7, is amended to read:

5. Fee. The examination fee is ~~\$40~~ \$100. An applicant may retake the examination once without paying an additional fee. The fee is nonrefundable ~~and shall be credited toward the license fee of a successful applicant.~~

Sec. A-25. 12 MRSA §7313, sub-§6 is enacted to read:

6. Oral examination. If an oral examination is administered, it must be conducted by at least one trained public member of the Advisory Board for the Licensing of Whitewater Guides who has been designated by the commissioner and one trained member of the Bureau of Warden Service.

Sec. A-26. 12 MRSA §7320, sub-§3, as enacted by PL 1987, c. 742, §7, is amended to read:

3. Quorum. Five members of the board constitute a quorum, ~~except that oral exams shall be conducted by 3 members.~~

Sec. A-27. 12 MRSA §7376, as enacted by PL 1979, c. 420, §1, is amended to read:

§7376. Obtaining a suspended or revoked license or permit

A person is guilty of ~~purchase of~~ obtaining a suspended or revoked license or permit if ~~he purchases or attempts to purchase that person obtains or attempts to obtain any license or permit which that~~ he obtains or attempts to obtain any license or permit which that has been suspended or revoked by the commissioner under chapters 701 to 721.

Sec. A-28. 12 MRSA §7406, sub-§16, ¶C, as amended by PL 1987, c. 161, §1, is further amended to read:

C. Tramples or destroys any crop on another person's land; or

Sec. A-29. 12 MRSA §7406, sub-§16, ¶D, as enacted by PL 1987, c. 161, §2, is amended to read:

D. Damages or destroys a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand. ~~Any other type of tree ladder or tree observation stand shall also be prohibited unless; or~~

~~(1) The written consent of the landowner is obtained authorizing the erection of such ladder or stand; or~~

~~(2) The ladder or observation stand is removed by the beginning of the 10th day following the close of the hunting season for use during which the ladder or observation stand was erected.~~

Sec. A-30. 12 MRSA §7406, sub-§16, ¶E is enacted to read:

E. Except as provided in subsection 20, paragraph C, erects or uses either a portable or permanent tree ladder or stand attached to a tree on the land of another person, unless:

(1) That person has obtained verbal or written authorization to erect and use a tree ladder or stand from the landowner or the landowner's representative;

(2) The tree ladder or stand is plainly labeled with a 2-inch by 4-inch tag identifying the name and address of the person or persons authorized by the landowner to use the tree stand or ladder; and

(3) The tree ladder or stand is removed within 10 days after the close of the hunting season for which the ladder or stand was erected.

Sec. A-31. 12 MRSA §7406, sub-§20, ¶C is enacted to read:

C. The following is an exception to subsection 16, paragraph E:

(1) A portable tree ladder or stand that is located on land within the jurisdiction of the Maine Land Use Regulation Commission and attended by the person who owns the ladder or stand.

Sec. A-32. 12 MRSA §7451, sub-§3, ¶A, as amended by PL 1987, c. 696, §9, is further amended to read:

A. Bait may not be used to hunt black bear, unless:

(1) The bait is placed at least 50 yards from any travel way that is accessible by a conventional 2-wheel or 4-wheel drive vehicle;

(2) The stand, blind ~~and~~ or bait area ~~are~~ tagged by is plainly labeled with a 2-inch by 4-inch tag with the name and address of the baiter;

(3) The bait is placed more than 500 yards from any dump or campground;

(4) The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or leasee;

(5) The bait is placed not more than 30 days before the opening day of the season and not after October 31st;

(6) The bait areas will be cleaned up by November ~~10~~ 10th, as defined by the state litter laws; and

(7) The person hunting from any stand or blind of another person has permission of the owner of that stand or blind.

Sec. A-33. 12 MRSA §7753, sub-§3, as enacted by PL 1995, c. 415, §2, is amended to read:

3. Legislative authority. The Legislature, as sole authority, shall designate a species as state endangered or state threatened species. The list of state endangered or state threatened species is as follows:

Common Name	Scientific Name	Status
Least Tern	Sterna albifrons	Endangered
Golden Eagle	Aquila chrysaetos	Endangered
Piping Plover	Charadrius melodus	Endangered
Sedge Wren	Cistothorus platensis	Endangered
Grasshopper Sparrow	Ammodramus savannarum	Endangered

Box Turtle	Terrapene carolina	Endangered
Black Racer	Coluber constrictor	Endangered
Roseate Tern	Sterna dougallii	Threatened
Northern Bog Lemming	Synaptomys borealis	Threatened
Loggerhead Turtle	Caretta caretta	Threatened
Blanding's Turtle	Emydoidea blandingii	Threatened
Spotted Turtle	Clemmys guttata	Threatened
<u>Bald Eagle</u>	<u>Haliaeetus leucocephalus</u>	<u>Threatened</u>

Sec. A-34. 12 MRSA §7753, sub-§3-A is enacted to read:

3-A. Temporary authority. Notwithstanding any other provision of this subchapter, the commissioner may consider a species found in the State that is not listed in subsection 3 as a state endangered or state threatened species if that species is listed as an endangered or threatened species by the Secretary of the Interior of the United States, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended. This subsection is repealed 90 days after the adjournment of the First Regular Session of the 118th Legislature.

Sec. A-35. 12 MRSA §7950, as repealed and replaced by PL 1989, c. 913, Pt. B, §15, is amended to read:

§7950. Records of the Department of Inland Fisheries and Wildlife

A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating what the records of the Department of Inland Fisheries and Wildlife show on any given matter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon the testimony of a law enforcement officer that the certificate and records were obtained by that officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony.

1. Certificate prima facie evidence person not the holder of a license, permit, registration or certificate of number. A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating that the records of

the department do not show that a particular person on a stated date held a license, permit, registration or certificate of number issued under chapters 701 to 721; is admissible in evidence in all courts of this State and is prima facie evidence that the particular person named in the certificate did not hold a license, permit, registration or certificate of number as specified in the certificate on the date specified in the certificate.

2. Certificate prima facie evidence of license, permit, registration or certificate of number revocation. A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating that the records of the department show that a particular person's license, permit, registration or certificate of number issued under chapters 701 to 721; was revoked or suspended on a particular stated date is admissible in evidence in all courts of this State and is prima facie evidence that the particular person's license, permit, registration or certificate of number as specified in the certificate, was revoked or suspended on the date stated.

Sec. A-36. 12 MRSA §9902, sub-§6, as enacted by PL 1995, c. 406, §12, is repealed.

Sec. A-37. 17 MRSA §2263, sub-§2, as amended by PL 1993, c. 144, §4, is further amended to read:

2. Litter. "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, offal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, feathers, except feathers from live birds while being transported, abandoned ice-fishing shacks, old automobiles or parts of automobiles or similar refuse, or disposable packages or containers thrown or deposited as prohibited in this chapter, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

Sec. A-38. Policy for possession of animal parts. The Commissioner of Inland Fisheries and Wildlife shall ensure that the possession and disposition of wild animal parts by employees of the Department of Inland Fisheries and Wildlife are governed by department policies. That policy must require department employees to surrender to the department all animal parts having substantial market value, as determined by the commissioner.

Sec. A-39. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 5, section 12004-G, subsection 20 is effective July 1, 1996.

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§23-B is enacted to read:

<u>23-B.</u>	<u>Advisory</u>	<u>\$50/Day</u>	<u>12 MRSA</u>
<u>Environment:</u>	<u>Board for</u>		<u>§7366-A</u>
<u>Natural</u>	<u>the Licens-</u>		
<u>Resources</u>	<u>ing of</u>		
	<u>Whitewater</u>		
	<u>Guides</u>		

Sec. B-2. 12 MRSA §7366, sub-§3, as enacted by PL 1985, c. 29, §3, is amended to read:

3. Examination. All initial applicants for a whitewater guide's license ~~shall be~~ are required to pass an examination developed and administered by the commissioner. The fee is \$50 for the first examination and \$10 for subsequent examinations. All examination fees are nonrefundable and must be applied toward the license fees of successful applicants.

Sec. B-3. 12 MRSA §7366, sub-§4, as amended by PL 1993, c. 419, §26, is further amended to read:

4. Fee. The annual fee for a whitewater guide's license is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996 ~~and every year thereafter.~~ Beginning in 1997, a whitewater guide license is a 3-year license. The fee for a 3-year license is \$87.

Sec. B-4. 12 MRSA §7366-A is enacted to read:

§7366-A. Whitewater guide advisory board

1. Members. The Advisory Board for the Licensing of Whitewater Guides, referred to in this section as the "board" and established by Title 5, section 12004-I, subsection 23-B, consists of the following 10 members:

A. The commissioner or an employee of the department who is the commissioner's designee;

B. One warden or retired warden of the department, appointed by the commissioner; and

C. Eight persons representing the public who are licensed whitewater guides, appointed by the Governor for terms of 3 years. In making appointments under this paragraph, the Governor shall ensure that those appointments establish and maintain a wide diversity of whitewater guide experience on the State's rapidly flowing rivers. The Governor may not appoint a person who holds a whitewater outfitter license. At least 5 persons appointed under this paragraph must have expertise in whitewater rafting on both the

Kennebec River and the West Branch of the Penobscot River, including the cribworks.

2. Compensation. Members who are not employed by the department are entitled to compensation as provided in Title 5, chapter 379.

3. Duties. The board has the following duties:

A. To provide advice regarding rules proposed by the commissioner;

B. At the request of the commissioner, to conduct an examination of applicants for the whitewater guide license as provided in section 7366, except that oral examinations are conducted by 2 members; and

C. To advise the commissioner on granting and revoking whitewater guide licenses.

4. Quorum. Five members of the board constitute a quorum.

Sec. B-5. 12 MRSA §7368, sub-§2-A, ¶B, as amended by PL 1993, c. 438, §21, is further amended to read:

B. Sundays: ~~800~~ 1,000 commercial passengers; and

Sec. B-6. 12 MRSA §7369, sub-§10, ¶A, as amended by PL 1995, c. 455, §21, is further amended to read:

A. Allocations are required for Saturdays on the Kennebec River for the period of ~~June 8th~~ July 1st to August 31st. Allocations are required for Saturdays on the Penobscot River for the period of June 8th to August 31st. The commissioner may adopt rules establishing allocations for Sundays ~~between June 8th~~ for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached other days, the department shall provide by rule for allocations.

Sec. B-7. 12 MRSA §7369, sub-§12, ¶A is enacted to read:

A. A commercial whitewater outfitter using a whitewater craft on any stretch of river for which a specific allocation is required, including days for which an allocation is not required, and carrying a person other than a commercial passenger or commercial whitewater guide, shall file a noncommercial passenger registration form with the department before launching the craft. The form must list the persons who are not commercial guides or commercial passengers, state that the persons listed are not commercial

guides or commercial passengers and be signed by each person listed.

Sec. B-8. 12 MRSA §7801, sub-§16, as amended by PL 1991, c. 28, is further amended to read:

16. Operating a watercraft without proper safety equipment. A person is guilty, except as provided in subsection 27, paragraph B, of operating a watercraft without proper safety equipment if ~~he~~ that person operates a watercraft and he ~~that person:~~

A. Fails to comply with the same requirements pertaining to lights, life-saving devices, fire extinguishers and other safety equipment as required by federal laws and regulations on federal navigable waters, as promulgated under the United States Federal Boat Safety Act of 1971, Public Law 92-75, as amended; ~~or~~

B. Fails to comply with requirements pertaining to additional equipment not in conflict with federal navigation laws, which the commissioners may prescribe if there is a demonstrated need; ~~;~~

C. Fails to wear a Coast Guard approved Type I, Type II or Type III personal flotation device while canoeing or kayaking on the Saco River between Hiram Dam and the Atlantic Ocean between January 1st and June 1st; ~~or~~

D. Fails to wear a Coast Guard approved Type I, Type II, Type III or Type V personal flotation device while operating a watercraft on:

(1) The Penobscot River, between the gorge and the head of Big Eddy; or

(2) The Kennebec River, between Harris Station and Turtle Island, at the foot of Black Brook Rapids.

Sec. B-9. Initial appointments to Advisory Board for the Licensing of Whitewater Guides. Notwithstanding the Maine Revised Statutes, Title 12, section 7366-A, subsection 1, of the initial appointments of the 8 members representing the public on the Advisory Board for the Licensing of Whitewater Guides, 3 must be appointed for one-year terms, 3 must be appointed for 2-year terms and 2 must be appointed for 3-year terms. After these initial terms have expired, all appointments must be for terms as specified in Title 12, section 7366-A, subsection 1.

PART C

Sec. C-1. 7 MRSA §2-A is enacted to read:

§2-A. Hunters for the Hungry Program; acceptance of donations

The department and those recipient agencies participating in the department's food assistance distribution programs may accept wild game meat from persons participating in the Hunters for the Hungry Program established under Title 12, chapter 709, subchapter III-A. The department may facilitate the acceptance of that meat by its recipient agencies through coordination with the Department of Inland Fisheries and Wildlife and may undertake educational and promotional efforts on behalf of the program.

Sec. C-2. 12 MRSA c. 709, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

HUNTERS FOR THE HUNGRY PROGRAM

§7481. Hunters for the Hungry Program; established

The Hunters for the Hungry Program, referred to in this subchapter as the "program," is established to allow the department and persons who are lawfully in the possession of wild game meat to donate that wild game meat for distribution to needy persons through the food assistance programs of the Department of Agriculture, Food and Rural Resources. The department shall develop and implement this program in cooperation with the Department of Agriculture, Food and Rural Resources. In developing the program, the department shall investigate, in cooperation with the Department of Agriculture, Food and Rural Resources, the costs and benefits of establishing a toll-free telephone line for facilitating the donation of meat.

§7482. Rules

The department may adopt rules to implement the program. If rules are determined necessary, the department shall develop those rules in cooperation with the Department of Agriculture, Food and Rural Resources. Rules adopted under this section are technical rules under the Maine Administrative Procedure Act. Rules adopted under this section may include, but are not limited to:

1. Donation procedures. Procedures for donating wild game meat;

2. Quality control. Provisions for a quality control program;

3. Distribution process. Procedures for distributing donated wild game meat through the food assistance programs administered by the Department of Agriculture, Food and Rural Resources;

4. Education and promotion. Methods for supporting private sporting groups throughout the State with program education and promotion efforts; and

5. Limits. Limiting the distribution of wild game meat to certain types of facilities.

§7483. Food donations; exemption from civil liability

A person who donates lawfully obtained wild game meat that is apparently fit for human consumption to the program and a charitable, nonprofit or other organization authorized by the department to receive and distribute meat donated under the program are immune from civil liability arising from injury or death due to the condition of the donated food, unless the injury or death is a direct result of the intentional misconduct of the donor or the organization.

Sec. C-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Office of the Commissioner

Personal Services	\$4,141
Appropriates funds for the per diem costs of the Advisory Board for the Licensing of Whitewater Guides and the Inland Fisheries and Wildlife Advisory Council.	

Savings Fund Program

All Other	25,697
Appropriates funds to be used only to avoid future license fee increases.	

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

TOTAL	\$29,838
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 11, 1996, unless otherwise indicated.

CHAPTER 668

H.P. 1286 - L.D. 1766

An Act to Prohibit Stalking

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

Sec. 1. 4 MRSA §1057, as amended by PL 1991, c. 733, §3, is further amended to read:

§1057. Government Operations Surcharge Fund

1. Fund established. There is hereby established a fund to be known as the Government Operations Surcharge Fund. This fund must be maintained by the Treasurer of State for the ~~sole~~ purpose purposes of reimbursing counties for costs associated with operations of the jail system and, until January 1, 2001, for funding infrastructure improvements to the Maine Criminal Justice Information System described in Title 16, section 631 and for funding the operation of the Judicial Department's computer system.

2. Surcharge imposed. A surcharge of ~~40%~~ 12% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. Five-sixths of the surcharge collected must be earmarked for counties and disbursed pursuant to subsection 3 for the costs of jails. One-twelfth of the surcharge collected must be paid to the State Court Administrator for funding the operation of the Judicial Department's computer system and 1/12 of the surcharge must be paid to the Department of Public Safety for infrastructure improvements to the Maine Criminal Justice Information System pursuant to subsection 4 to provide instant access to all available and existing criminal records, including stalking or harassment convictions and protective orders. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection is repealed January 1, 2001.

2-A. Surcharge imposed. A surcharge of 10% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection takes effect January 1, 2001.

3. Reimbursement to counties. Monthly, the Treasurer of State shall make payments from ~~this fund~~ the Government Operations Surcharge Fund to each