

MAINE STATE LEGISLATURE

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hunting licenses: Residency
Fishing licenses: Residency
Residency: Hunting & Fishing Licenses
12 MRS)A) 2401
" " 2401-B

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

November 8, 1977

The Honorable Richard H. Pierce
42 Roosevelt Avenue
Waterville, Maine 04901

Dear Senator Pierce:

You have asked several questions regarding the interpretation of amendments to the sections of the Inland Fisheries and Wildlife statutes relating to hunting and fishing licenses, 12 MRS §§2401 and 2401-B, which were made at the last session of the Legislature, Laws of Maine of 1977, c. 503, §§15-B and 17-A (1977). These amendments generally had the effect of extending the residency requirement for persons seeking resident hunting and fishing licenses to 12 months, instead of the general residency requirement for any license issued by the Department of Inland Fisheries and Wildlife of 3 months, 12 M.R.S. §1901(2). The answers to your questions are as follows:

1. The amendments themselves would not be negated by the existence of the general 3 months' requirement, because of the rule that specific legislation prevails over general legislation, particularly when the specific legislation has been passed subsequent to general legislation.

2. A person becoming a resident in the State on July 1, 1977 would have been able to purchase a resident hunting or fishing license between October 1 and October 24, 1977, during which period he would have satisfied the preexisting 3 months' requirement. On October 24, however, the effective date of the new amendment, the 12 months' residency requirement went into effect, meaning that the person in your example cannot purchase a resident hunting and fishing license until July 1, 1978.

3. The Commissioner of the Department of Inland Fisheries and Wildlife does not enjoy general rulemaking authority, nor is he granted any specific rulemaking authority with regard to the eligibility of persons for hunting and fishing licenses.

Richard H. Pierce

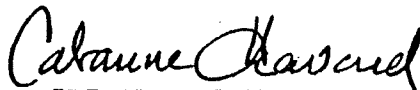
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Moreover, even if he had such authority he would not be able to pass a regulation in flat contradiction of a statute.

For whatever it may be worth, you may be interested in knowing that the Department has contacted the sponsor of these amendments, Senator Minette Cummings, and it does appear that they were not intended to have the effect which has been just described. Consequently, the Department has prepared further amendatory legislation which it intends to present to the Legislature at the next session to reinstate the 3 months' residency requirement. This, of course, will not change the situation for the current hunting and fishing season, but if passed as emergency legislation, could rectify the situation before the next fishing season and beyond.

Sincerely,



CABANNE HOWARD
Assistant Attorney General

CH/bls