

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
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JANUARY 4, 1984 TO APRIL 25, 1984

B. The degree of environmental damage that cannot be abated or corrected;

C. The extent to which the violation continued following an order of the department or board to correct it; and

D. The importance of setting a civil penalty substantial enough to deter others from similar violations.

6. Maximum civil penalty. The maximum civil penalty may exceed \$10,000 for each day of that violation, but shall not exceed \$25,000 for each day of the violation, when it can be shown that there has been a previous violation of the same law by the same party within the 5 preceding years.

Effective July 25, 1984.

CHAPTER 797

S.P. 908 - L.D. 2446

AN ACT to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws.

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

Sec. 1. 12 MRSA §7001, sub-§32, as enacted by PL 1979, c. 420, §1, is amended to read:

32. Resident. "Resident" means a citizen of the United States who has been domiciled in this State continuously during the 3 months next prior to the date on which he applies for any license or permit under chapter 707, or an alien who has been so domiciled for one year. No person ~~shall~~ may be considered a resident if he has not:

- A. If registered to vote, registered in Maine;
- B. If licensed to drive a motor vehicle, made application for a Maine motor vehicle operator's license;
- C. If owning a motor vehicle or vehicles located within the State, registered each such vehicle in Maine; and

D. Complied with the state income tax laws.

A person who is a full-time student at a Maine college or university, who has resided in Maine continuously for 3 months and has satisfied the requirements of paragraphs A to D shall be rebuttably presumed to have been domiciled in Maine during that period.

Sec. 2. 12 MRSA c. 702-A is enacted to read:

CHAPTER 702-A

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

§7021. Department established

There is established the Department of Inland Fisheries and Wildlife to preserve, protect and enhance the inland fisheries and wildlife resources of the State; to encourage the wise use of these resources; to ensure coordinated planning for the future use and preservation of these resources; and to provide for effective management of these resources.

The department shall consist of a Commissioner of Inland Fisheries and Wildlife, deputy commissioner, Bureau of Administrative Services, Bureau of Resource Management and Bureau of Warden Service. It shall also include the Board of Examiners for the Licensing of Guides, the Junior Maine Guides and Trip Leaders' Curriculum Board and whatever state agencies which shall be designated. The department shall be under the control and supervision of the commissioner.

§7022. Bureau of Administrative Services

There shall be the Bureau of Administrative Services within the Department of Inland Fisheries and Wildlife. The bureau shall be equal in organizational level and status with other major organizational units within the department or its successors. The bureau shall be administered by a director who is immediately responsible to the deputy commissioner. The director shall possess full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau shall include, but not be limited to:

1. Financial accounting. The financial accounting of all department revenues and expenditures, including long-range financial planning and the preparation of annual and biennial budgets;

2. Personnel activities. The administration of all personnel activities;

3. Licensing and registration. The administration and issuance of department licenses, stamps and permits and the registration of snowmobiles, watercraft and all-terrain vehicles;

4. Engineering. The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document;

5. Land acquisition. The acquisition and development of land for the protection, preservation and enhancement of the inland fisheries and wildlife resources; and

6. Equipment inventory. The maintenance of a current inventory of all department-owned or department-managed property.

§7023. Bureau of Resource Management

There shall be the Bureau of Resource Management within the Department of Inland Fisheries and Wildlife. The bureau shall be equal in organizational level and status with other major organizational units within the department or its successors. The bureau shall be administered by a director who is immediately responsible to the deputy commissioner. The director shall possess full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau shall include, but not be limited to:

1. Wildlife management. The management of the wildlife resources in the State for their preservation, protection, enhancement and use;

2. Fisheries management. The management of the inland fisheries resources in the public waters of the State for their preservation, protection, enhancement and use;

3. Propagation of fish. The propagation of fish for the effective management of inland fisheries resources in public waters of the State;

4. Habitat management. The management of habitat for the protection, preservation, enhancement and use of inland fisheries and wildlife resources;

5. Wildlife sanctuaries; wildlife management areas. The management of wildlife sanctuaries and wildlife management areas for the State as designated in chapter 713;.

6. Data collection. The collection of data for the effective management of the inland fisheries and wildlife resources;

7. Research. Research activities for the effective management of the inland fisheries and wildlife resources;

8. Alteration of rivers, streams and brooks. Administration of chapter 713, subchapter VII, Alteration of Rivers, Streams and Brooks; and

9. Rules. The development of rules governing the effective management of the inland fisheries and wildlife resources of the State.

§7024. Bureau of Warden Service

There shall be the Bureau of Warden Service within the Department of Inland Fisheries and Wildlife. It shall be equal in organizational level and status with other major organizational units within the department or its successors. The bureau shall be administered by a director who is immediately responsible to the deputy commissioner. The director shall be the Game Warden Colonel and shall be employed pursuant to section 7034, subsection 2-A, and Title 5, chapter 59, which are applicable to this position. The director shall possess full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau shall include, but not be limited to:

1. Wildlife - fisheries enforcement. Enforcement of laws and department rules pertaining to the management and protection of the inland fisheries and wildlife resources as further designated by section 7053;

2. Licensing - registration enforcement. Enforcement of laws and department rules pertaining to the registrations and operation of snowmobiles, watercraft and all-terrain vehicles;

3. General enforcement. Enforcement of other laws or rules as designated by chapters 701 to 721, or as specified;

4. Search and rescue. The coordination and implementation of all search and rescue operations as specified under section 7035, subsection 4;

5. Safety. The administration of programs for hunter safety and for the safe operation of snowmobiles and watercraft;

6. Data collection. The collection of data as needed for the management and protection of the inland fisheries and wildlife resources; and

7. Other. Other areas as specified in state law.

§7025. Division of Planning

There shall be, within the Department of Inland Fisheries and Wildlife, a Division of Planning which shall be responsible for developing both short-term and long-term plans for the preservation, protection, enhancement and use of inland fisheries and wildlife resources. The division shall undertake activities as directed.

§7026. Division of Public Information and Education

There shall be, within the Department of Inland Fisheries and Wildlife, a Division of Public Information and Education which shall be responsible for the administration of programs to increase the public's knowledge and understanding of the inland fisheries and wildlife resources and the management of these resources. The division's responsibilities shall include public education, promotion of the inland fisheries and wildlife resources and the dissemination of information.

§7027. Department funds

1. Line-item budget. All funds of the department shall be allocated by the Legislature, in the same manner as are appropriations from the General Fund, in a gross unified budget and shall be subject to the transfer provisions of Title 5, section 1585.

2. Unencumbered balances. Any unencumbered allocated balances, including existing balances, shall be carried forward into the next fiscal year and shall not be expended without allocation by the Legislature.

3. Revenues. Actual revenues received in excess of that estimated and allocated by the Legislature shall not be expended without allocation by the Legislature.

4. Cash reserve. The department shall maintain as practical a cash reserve for the purpose of ensuring an adequate cash flow.

5. Bond issue. The department shall submit to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife plans for a bond issue prior to submission of the bond issue to the full Legislature.

6. Equipment. The department shall notify the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife of any heavy equipment purchases prior to their purchase to include the name of the item and expected cost. This same information shall be supplied prior to the purchase of any vehicles. In addition, the department shall develop and implement a formal replacement schedule for the department's radio communication system. This plan shall be reviewed by the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife.

Sec. 3. 12 MRSA §7076, sub-§1, as amended by PL 1983, c. 440, §3, is further amended to read:

1. Residents over 70 years of age. A complimentary license to hunt, trap or fish, or a combination hunting and fishing license, shall be issued to any resident of Maine who is 70 years of age or older and applies for it to the commissioner. The application shall be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency. Each license issued under this subsection shall remain valid through December 31st of the 2nd complete calendar year following the year of issuance.

Sec. 4. 12 MRSA §7076, sub-§4, ¶B, as enacted by PL 1979, c. 420, §1, is amended to read:

B. Has a service connected disability of 75% evaluated at 70% or more as a result of honorable military service;

Sec. 5. 12 MRSA §7108, sub-§1, as enacted by PL 1983, c. 401, is 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 permit may 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.

Sec. 6. 12 MRSA §7133, sub-§3, as repealed and replaced by PL 1981, c. 123, §1, is amended to read:

3. Expiration.

A. ~~Effective June 30, 1982, all~~ All licenses issued under this section are valid for one year commencing July 1st of each year.

B. ~~Any license issued under this section for the 1981 calendar year shall continue to be valid through June 30, 1982.~~

C. A resident junior trapping license issued to a person who has passed his 15th birthday is valid through the year for which the license was issued.

Sec. 7. 12 MRSA §7133, sub-§6, as enacted by PL 1981, c. 644, §10, is repealed.

Sec. 8. 12 MRSA §7151, sub-§3, ¶D, as amended by PL 1979, c. 704, §8, is further amended to read:

D. A 15-day nonresident license may be exchanged for an annual nonresident license upon the additional payment of ~~\$10~~ \$12, the difference between the 15-day license and the annual license, for the license and \$1 to the clerk or issuing agent.

Sec. 9. 12 MRSA §7301, sub-§1-A, as amended by PL 1983, c. 100, §1, is further amended to read:

1-A. Rules. The commissioner, with the advice and consent of the board of examiners, shall make such rules pertaining to the licensing of guides as ~~he~~ he deems necessary, including safety standards to provide the clients of guides reasonable protection from hazards.

Sec. 10. 12 MRSA §7406, sub-§20, ¶A, as enacted by PL 1979, c. 420, §1, is amended to read:

A. Notwithstanding the provisions of subsection 8:

(1) A person may hunt migratory waterfowl from a motorboat in accordance with federal regulations;

(2) A person who has a valid Maine permit to carry a concealed weapon may have in or on a motor vehicle or trailer a loaded pistol or revolver covered by such permit; and

(3) Paraplegics and single or double amputees of the legs may hunt from motor vehicles which are not in motion.

Sec. 11. 12 MRSA §7463-A, sub-§10, ¶A, as enacted by PL 1981, c. 118, §2, is amended to read:

A. Inland fisheries and wildlife wardens personnel shall register each moose legally presented for registration and shall attach a metal seal to each moose in the manner directed by and with materials furnished by the commissioner. No fee may be assessed for registration.

Sec. 12. 12 MRSA §7465, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 13. 12 MRSA §7857, sub-§24, ¶¶D and E, as enacted by PL 1983, c. 297, §1, are amended to read:

D. Notwithstanding the provisions of subsection 5:

(1) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert;

(2) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, provided that that operation can be made in safety and that it does not interfere with traffic approaching from either direction on the public way;

(3) ATV's may operate on any portion of public ways when the public way has been closed in accordance with Title 23, section 2953;

(4) ATV's may operate on any ~~portion~~ which is not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way shall be prohibited during the hours from sunset to sunrise;

(5) ATV's may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable; and

(6) ATV's may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule, under a permit from the governmental unit having jurisdiction.

F. Notwithstanding subsection ~~19~~ 20, that subsection does not apply in the following situations:

(1) When operating on public ways in accordance with subsections 5, 6, 7 and 8 and subsection 24, paragraph C;

(2) When operating on the frozen surface of any body of water; and

(3) When operating on land which the operator owns or is permitted to use.

Effective July 25, 1984.

CHAPTER 798

H.P. 1708 - L.D. 2257

AN ACT to Exclude Social Security Benefits from Taxation.

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

36 MRSA §5122, sub-§2, as amended by PL 1983, c. 519, §25, is further amended to read:

2. Subtractions. For tax years beginning on or after January 1, 1977, federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions