

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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## CHAPTER 304

S.P. 50 - L.D. 68

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

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

Sec. 1. 12 MRSA §7001, sub-§5-A is enacted to read:

5-A. Domicile. "Domicile" means the place where a person has his true, fixed and permanent home.

Sec. 2. 12 MRSA §7055, as amended by PL 1981, c. 644, §4, is further amended to read:

§7055. Officials with full powers of game wardens

Sheriffs, deputy sheriffs, police officers, constables, marine patrol officers, wardens of the Penobscot Indian Nation within the Penobscot Indian Territory, as defined by Title 30, section 6205, subsection 2, and special agents of the United States Fish and Wildlife Service law enforcement personnel employed by the United States Department of the Interior shall have the powers of game wardens.

Sec. 3. 12 MRSA §7072, sub-§3, ¶A, as enacted by PL 1983, c. 819, Pt. A, §23, is amended to read:

A. The commissioner shall designate as an agent for the purpose of selling nonresident licenses any business located in the State which submits a complete application, is credit worthy and has not violated any provision of this Part. A business, the agency of which is revoked, may reapply for an agency for the 2nd year following the last year it held an agency. The commissioner may, subject to this subsection, establish agents outside this State for the purpose of selling nonresident licenses.

Sec. 4. 12 MRSA §7073, sub-§3, as enacted by PL 1979, c. 420, §1, is amended to read:

3. Proof of residency. The applicant is responsible for submitting proof of residency to the agent or the department, or both. Resident licenses issued to persons who were unable to meet the residency re-

quirements at the time the license was issued are invalid and shall be returned to the commissioner upon request.

Sec. 5. 12 MRSA §7073, sub-§5, as enacted by PL 1979, c. 420, §1, is amended to read:

5. Duplicates. The commissioner's appointed agents shall issue a duplicate license or permit to any resident who has accidentally lost or destroyed any license or permit issued to him under this chapter upon payment of a fee of \$1, all of which shall be retained by the clerk or agent. The agent or clerk who issued the original license or permit shall issue duplicates to residents. The department shall issue duplicates to nonresidents who have lost or destroyed any license or permit upon payment of a fee of \$1.

Sec. 6. 12 MRSA §7074, sub-§1, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

1. Agent's duties. Each agent shall report to the commissioner, on or before the 15th day of each month. The report shall include an accounting of license and stamp sales for the previous calendar month and shall be accompanied by:

A. The department's copy of each license and permit sold; and

B. All funds collected by the agent during the reporting period.

Sec. 7. 12 MRSA §7076, sub-§3, ¶C, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 8. 12 MRSA §7076, sub-§9, ¶A, as enacted by PL 1979, c. 420, §1, is amended to read:

A. The commissioner shall issue a hunting, trapping and fishing license to any Indian, 10 years of age or older, of the Passamaquoddy, Penobscot, Maliseet or Micmac Tribes without any charge or fee, providing the Indian presents a certificate from the respective reservation governor ~~or the President of the Association of Aroostook Indians~~, the Aroostook Micmac Council or the Central Maine Indian Association stating that the person described is an Indian and a member of that tribe. Holders of these licenses shall be subject to chapters 701 to 721.

Sec. 9. 12 MRSA §7076, sub-§12 is enacted to read:

12. Supersport license in lieu of complimentary license. Any person who is eligible to obtain a complimentary hunting and fishing license pursuant to this section may, in lieu of the complimentary license, obtain a supersport license from the commissioner upon payment of an annual fee of \$10.

Sec. 10. 12 MRSA §7101, sub-§1, ¶B, as enacted by PL 1979, c. 420, §1, is amended to read:

B. No hunting license of any kind may be issued to any person who is a mentally ill individual, as defined in Title 34 34-B, section 2251 3801, or has a mental deficiency or mental illness, as those terms are defined in Title 34 34-B, section 2562 9002.

Sec. 11. 12 MRSA §7101, sub-§2, as amended by PL 1979, c. 704, §1, is further amended to read:

2. Agent's fee. Clerks or other agents appointed by the commissioner to issue licenses and permits shall charge a fee of \$1 for each hunting license issued. The commissioner shall charge a fee of \$1 for each hunting license issued by department employees. This fee shall be credited to the account of the department.

Sec. 12. 12 MRSA §7109, sub-§4, ¶C is enacted to read:

C. Migratory waterfowl hunting permits shall expire on June 30th following the season for which the permits were issued.

Sec. 13. 12 MRSA §7133, sub-§8, as enacted by PL 1985, c. 146, §2, is amended to read:

8. Trapper education program established. The commissioner shall establish a program for training individuals in safe and responsible trapping skills and behavior. This program shall include instruction in the applicable laws and rights and in the appropriate principals of wildlife management. The commissioner may charge an enrollment fee of up to \$10 a person to help defray the costs of this program. For the purpose of establishing the program the commissioner may cooperate with any public or private association having similar goals.

In establishing the program the commissioner shall:

- A. Prescribe the qualifications of instructors;
- B. Provide for insurance. Each instructor authorized by the commissioner to conduct these programs shall be covered by liability insurance protecting him from liability for damages during the time when instruction is being given. The cost of this insurance shall be borne by the State and shall be a charge against the funds credited to the department;
- C. Prescribe the type and length of instruction and the time and place of examinations; and
- D. Issue a certificate of competency to individuals who successfully complete the examination.

Sec. 14. 12 MRSA §7151, sub-§2, as amended by PL 1979, c. 704, §7, is further amended to read:

2. Agent's fee. Clerks or other agents appointed by the commissioner to issue licenses shall charge a fee of \$1 for each license issued. The commissioner shall charge a fee of \$1 for each fishing license issued by department employees. This fee shall be credited to the account of the department

Sec. 15. 12 MRSA §7302, sub-§2, as repealed and replaced by PL 1979, c. 543, §27, is amended to read:

2. Requirements. The board shall hold such meetings as may be necessary and shall ~~adopt~~ advise the commissioner on adoption of rules for the administration of this section and section 7303. The board shall establish standards of requirements and methods of ascertaining fitness of candidates for a junior Maine guide certificate. The board shall also adopt, approve and review trip leaders' safety course curriculum which shall include, but not be limited to, training in first aid and water safety, including lifesaving techniques, as appropriate, and trip leaders' qualifications under the special application procedure in section 7303.

Sec. 16. 12 MRSA §7406, sub-§12, as enacted by PL 1979, c. 420, §1, is amended to read:

12. Hunting without hunter orange clothing. A person is guilty of hunting without hunter orange clothing if he hunts with firearms during the open firearm season on deer and fails to wear an article

of solid-colored hunter orange clothing which is in good and serviceable condition and which is visible from all sides, except that persons hunting waterfowl from a boat or blind or in conjunction with waterfowl decoys need not wear hunter orange clothing.

Sec. 17. 12 MRSA §7407, as amended by PL 1983, c. 862, §40, is further amended to read:

§7407. Migratory waterfowl hunting

Migratory waterfowl hunting is governed by the license and permit provisions of sections 7105, 7108 and 7109.

Sec. 18. 12 MRSA §7627, as enacted by PL 1979, c. 420, §1, is amended to read:

§7627. Leaving an ice fishing shack

A person is guilty of leaving an ice fishing shack if he owns any shack or temporary structure used for ice fishing and he leaves or allows the shack or structure to remain on the ice of any inland waters more than 3 days after the waters on which the shack or structure is located is are closed to ice fishing.

Sec. 19. 12 MRSA §7652, sub-§3, ¶B, as amended by PL 1981, c. 644, §29, is further amended to read:

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

Augusta Alonzo H. Garcelon -- Augusta, Windsor -- Kennebec County.

Brownfield -- Brownfield, Denmark, Fryeburg -- Oxford County.

Bud Leavitt -- Atkinson, Charleston, Dover Foxcroft and Garland -- Penobscot and Piscataquis Counties.

Chesterville -- Chesterville -- Franklin County.

Coast of Maine -- certain coastal islands in Washington, Hancock, Knox, Lincoln, Cumberland, Waldo, Sagadahoc and York Counties.

Fahi Pond -- Embden -- Somerset County.

Francis D. Dunn -- T6 R7 WELS -- Penobscot County.



Frye Mountain Gene Letourneau -- 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 Vernon S. Walker -- 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 Coun-  
ty.

St. Albans -- St. Albans -- Somerset County.

Steep Falls -- Standish, Baldwin -- Cumberland  
County.

Sandy Point -- Stockton Springs -- Waldo County.

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

Steve Powell -- Perkins Twp. -- Sagadahoc County.

Being the islands in the Kennebec River near  
Richmond known as Swan Island and Little Swan Is-

land formerly known as Alexander Islands.

Weskeag Marsh -- South Thomaston, Thomaston,  
Rockland and Owl's Head -- Knox County.

Sec. 20. 12 MRSA §7757, sub-§2, as amended by PL 1983, c. 807, Pt. J, and Pt. Q, §3, and c. 819, Pt. A, §27, is repealed and the following enacted in its place:

2. Report and allocation. The Commissioner of Inland Fisheries and Wildlife shall include a report on the Maine Endangered and Nongame Wildlife Fund as part of the report submitted to the Governor pursuant to section 7034. This report shall also be submitted to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife. The commissioner shall submit a budget for each biennium in accordance with Title 5, sections 1663 to 1666. The State Controller shall authorize expenditures from the fund as allocated by the Legislature.

Sec. 21. 12 MRSA §7798-A is enacted to read:

§7798-A. Certificate of number for motorboats rented or leased

Before any motorboat may be rented or leased, the owner of the motorboat shall obtain a certificate of number from the commissioner under section 7794.

Sec. 22. 12 MRSA §7801, sub-§6-A is enacted to read:

6-A. Leasing or renting a motorboat without a certificate of number. A person is guilty of renting or leasing a motorboat without a certificate of number if he rents or leases any motorboat not covered by a current certificate of number as required by section 7798-A.

Sec. 23. 12 MRSA §7854, sub-§6-A is enacted to read:

6-A. Lost or stolen number plates. Any time an all-terrain vehicle number plate becomes lost or stolen, the owner shall immediately notify the commissioner. Replacement for number plates which have become lost, stolen or destroyed may be obtained from the commissioner upon application and payment of a fee of \$2.50.

Sec. 24. 12 MRSA §7854, sub-§7, as enacted by PL 1983, c. 297, §§1 and 3, is repealed and the following enacted in its place:

7. Transfer of ownership or discontinuance of use. A transfer of ownership or discontinuance of use of an all-terrain vehicle shall be subject to the following.

A. Whoever transfers the ownership or discontinues the use of a registered all-terrain vehicle shall, within 10 days, properly sign the registration certificate, indicating the disposition of the all-terrain vehicle, and return the certificate to the commissioner. Except as provided in paragraph B, the registration number plate shall be returned with the certificate.

B. An all-terrain vehicle owner who transfers ownership or discontinues its use may, within 10 days from the date of transfer or discontinuance, apply to the commissioner for registration of another all-terrain vehicle, in which case he may retain the registration number plate and, upon receipt of the new certificate, attach the plate to the new all-terrain vehicle. The fee for such a transfer shall be \$2 and the registration certificate shall be valid for the remainder of the registration year for which the previous all-terrain vehicle had been registered.

C. Whenever there is a change of ownership of an all-terrain vehicle for which a registration has previously been issued, the new owner shall apply for a new registration certificate and plate and shall pay the regular \$5 fee.

Sec. 25. 12 MRSA §7855, sub-§2, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

2. Fees. The dealer's registration and license fee shall be \$10 annually from each July 1st.

Sec. 26. 12 MRSA §7855, sub-§2, ¶A is enacted to read:

A. Any dealer licensed under Title 29, section 357, will not be required to pay the \$10 license fee.

Sec. 27. 12 MRSA §7855, sub-§3, ¶A, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

A. Each registered dealer ~~shall~~ may receive dealer's number plates for a \$5 fee for each plate.

Sec. 28. 12 MRSA §7855, sub-§3, ¶D, as enacted by PL 1983, c. 297, §1 and 3, is repealed.

Sec. 29. 12 MRSA §7855, sub-§4, as enacted by PL 1983, c. 297, §1 and 3, is amended to read:

4. Temporary registrations and numbers. The commissioner may issue temporary numbers and registrations to bona fide registration plates and certificates to registered dealers who may, upon the sale or exchange of an ATV, issue them to new owners, in order to allow them to operate ATV's for a period of 20 consecutive days, only after the date of sale in lieu of a permanent number as required by this subchapter. The fee for each temporary registration is \$1.

Sec. 30. 12 MRSA §7901, sub-§5, as enacted by PL 1983, c. 329, §4; c. 440, §16; and c. 572, §5, is repealed and the following enacted in its place:

5. Whenever a violation of any prohibited act in chapters 701 to 721 is committed by an habitual violator, as defined in section 7001, subsection 13-A, the penalty for that violation shall be a fine of not less than \$500 and a term of imprisonment of not less than 3 days, this fine and imprisonment not to be suspended.

Sec. 31. 12 MRSA §7901, sub-§5-A is enacted to read:

5-A. Violation not a crime. A violation of section 7801, subsection 28, is not a crime.

Sec. 32. 29 MRSA §2709, sub-§1, as amended by PL 1983, c. 696, §1, is further amended to read:

1. Exemptions. There is exempt from this chapter the operation over the highways of motor vehicles transporting freight or merchandise for hire:

A. While being used within the limits of a single city or town in which the vehicle is registered by the Secretary of State or in which the owner maintains a regular and established place of business, or within 15 miles, by highway in this State, of the point in that single city or town where the property is received or delivered, but no person, firm or corporation may operate,

or cause to be operated, any motor vehicle for the transportation of property for hire beyond those limits without a permit as required by this chapter; nor may any such person, firm or corporation participate in the transportation of property originating or terminating beyond the limits without holding such a permit unless the property is delivered to or received from a carrier over the highways operating under a permit issued by the bureau or railway, railway express or water common carrier, but nothing in this section may prevent a carrier from delivering and picking up with his exempt motor vehicle, in a city or town where he has a terminal, freight and merchandise transported or to be transported over territory for which a permit is required; nothing in this paragraph permits the transportation of freight or merchandise for hire, by motor vehicle, under any circumstances by any person, firm or corporation beyond the 15-mile limit as prescribed unless the person, firm or corporation holds a permit from the bureau;

B. While engaged, directly or through a contractor, exclusively in construction or maintenance work for any branch of the Government of the United States, or for any department of the State, or for any county, city, town or village;

C. While engaged exclusively in the transportation of the United States mail;

D. While engaged exclusively in the transportation of fresh fruits and fresh vegetables from farms to processing plants or quick freezing plants, places of storage or places of shipment, or the products of vining and cutting plants to processing plants or quick freezing plants during the harvesting season to points within 50 miles thereof, by highway;

E. While engaged exclusively in the hauling of wood, pulpwood, logs, sawed lumber, wood chips, bark, hogged fuel or sawdust from the woodlot or forest area where cut, sawed or chipped to points within 100 miles thereof, by highway, or while hauling, within the distance, horses, crew, equipment and supplies to or from that woodlot or forest area;

F. While engaged exclusively in the transportation of livestock for exhibition purposes, including race horses, to and from agricultural fairs, race tracks and other exhibits;

G. While engaged exclusively in the hauling of milk and cream to receiving stations from points within a distance of 50 miles by highway from them;

H. Of any bona fide agricultural cooperative association transporting property exclusively for the members of that association on a nonprofit basis, or of any independent contractor transporting property exclusively for the association;

I. Of any independent contractor while engaged exclusively in the transportation of seed, feed, fertilizer and livestock for one or more owners or operators of farms directly from the place of purchase of the seed, feed, fertilizer and livestock by the owners or operators of the farms to the farms, or in the transportation of agricultural products for one or more owners or operators of farms directly from the farm on which the agricultural products were grown to place of storage, processing or shipment within 50 miles by highway of the farm;

J. While engaged exclusively in the transportation of Christmas trees, wreaths and greens;

K. While engaged exclusively in the transportation of disabled, collision-damaged, wrecked or repossessed highway motor vehicles within 50 miles by highway from the carrier's regular place of business;

L. While engaged exclusively in the transportation of refuse, garbage and trash to disposal areas from points within a distance of 50 miles by highway thereof;

M. While engaged exclusively in the transportation of sand, gravel, loam, rocks, crushed rock, hot top, cold top and bituminous mixes in dump-truck type vehicles and tractor-trailer vehicles; and

N. While engaged exclusively in the transportation of buildings, houses and similar permanent type structures being relocated, but not including trailers and mobile homes.

Nothing under this chapter applies to persons, firms or corporations operating motor vehicles carrying property of which they are the actual and bona fide owners, if the ownership is in pursuance of a primary

business, other than the transportation business, of those persons, firms or corporations.

The exemptions provided in this subsection apply to any nonresident owner or operator of any motor vehicle to the extent that the state, district or country of residence grants the same or similar privileges to residents of this State.

If a state, district or country requires a permit or charges residents of this State any fee for transportation exempted under this subsection, the bureau shall require a permit and charge fees as required by this chapter.

If any state, district, province or country prohibits, in any way, the transportation of wood, pulpwood or logs from that state, district, province or country to this State, or by law or regulation requires a citizen of this State to establish citizenship, a residence or place of business or to register a business in that state, district, province or country in order to transport wood, pulpwood or logs from that state, district, province or country to this State, similar provisions shall apply to residents of that state, district, province or country who transport wood, pulpwood or logs from Maine to that state, district, province or country. The limitations provided in this section shall not apply to the sale of sawlogs and pulpwood, but shall apply to the transportation and methods of transportation of sawlogs and pulpwood.

Any sawlogs and pulpwood harvested on lands owned by the State may be transported without the limitations provided by this section where the limitations are based solely on the source of the sawlogs and pulpwood being state-owned lands, if, for lands administered by the Department of Conservation, the Commissioner of Conservation consents to the transport; for lands administered by the Department of Inland Fisheries and Wildlife, the Commissioner of Inland Fisheries and Wildlife consents to the transport; or, for lands administered by the Baxter State Park Authority, the authority consents to the transport. Such consent shall be given where it is necessary to avoid severe economic hardship or to avoid the disruption of land management plans.

Sec. 33. Allocation. The following funds are allocated from the Department of Inland Fisheries and Wildlife to carry out the purposes of this Act.

1985-86

1986-87

INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF

Licensing Division  
All Other

\$2,000

\$2,000

Effective September 19, 1985.

**CHAPTER 305**

S.P. 136 - L.D. 375

AN ACT to Clarify Municipal Authority over  
Automobile Graveyards and Junkyards.

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

30 MRSA §2454, sub-§5, as enacted by PL 1965, c. 481, §3, is amended to read:

5. Rules. No permit shall may be granted for an automobile graveyard or junkyard that is not in conformity with the rules and regulations promulgated under section 2459; however, municipal officers or county commissioners as provided for in section 2452 may in their discretion apply more stringent restrictions, limitations and conditions in considering whether to grant or to deny any permit for an automobile graveyard or junkyard adjacent to any highway. Municipal officers may stipulate reasonable conditions which shall be attached to the permit covering the operation, use and other related matters. Nothing in this chapter may be construed to prevent a municipality from enacting ordinances with respect to automobile graveyards and junkyards which concern such other standards as the municipality determines reasonable, including, but not limited to: Conformance with state and federal hazardous waste regulations; fire safety; traffic safety; levels of noise which can be heard outside the premises; distance from existing residential or institutional uses; and the effect on ground water and surface water, provided that municipal ordinances on ground water are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection concerning automobile graveyards and junkyards. Municipal officers or county commissioners may consider compliance