

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
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B. "Community living facility" means a housing facility for 8 or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

C. "Single-family residential zone" means a residential zone designated by a municipality for single-family housing, except as provided in this section. If there are no residential zones designated or considered by a municipality as single-family residential zones, all residential zones in the municipality in which community living facilities are not a permitted use shall be deemed single-family residential zones.

Sec. 3. 30 MRSA §4962-A, sub-§2, as enacted by PL 1981, c. 640, is repealed and the following enacted in its place:

2. Permitted or conditional community living use; definition. In order to implement the policy of this State that mentally handicapped or developmentally disabled persons shall not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a community living facility shall be considered a permitted or conditional single-family residential use of property for the purposes of zoning.

Sec. 4. 30 MRSA §4962-A, sub-§3, as enacted by PL 1981, c. 640, is amended to read:

3. Hearing. A municipality shall, within 30 60 days of action by the office charged with the enforcement of the zoning ordinance on an application to establish a community living use within a single-family residential zone, hold a public hearing, unless a community living use is a permitted use within the single-family residential zone. The failure to hold the public hearing required by this subsection within the 30 60 days, unless that time period is extended by mutual agreement of the parties, shall constitute approval of the application.

A. The public hearing shall be conducted by the body authorized by the municipality to act as a zoning board of appeals, and interested parties shall be notified. The notice period and procedure for zoning appeals, as established by the municipality, shall meet the notice requirements of this section.

B. The board of appeals shall receive public comment on the proposed community living use facility. The board may modify or disapprove the application only upon a finding of one or more of the following:

- (1) That the proposed use would create or aggravate a traffic hazard;
- (2) That the proposed use would hamper pedestrian circulation;
- (3) That the proposed use would not permit con-

venient access to commercial shopping facilities, medical facilities, public transportation, fire protection or police protection;

(4) That the proposed use would not be in conformance with applicable building, housing, plumbing and other safety codes, including municipal minimum lot size and building set-back requirements for new construction; or

(5) That the proposed use would not be in conformance with the density requirements of subsection 4.

Sec. 5. 30 MRSA §4962-A, sub-§7 is enacted to read:

7. Repeal of designation. If a municipality repeals the designation of single-family residential zones, community living facilities located in the other residential zones prior to the effective date of this subsection shall not be required to meet the criteria of subsections 3 and 4.

Effective September 29, 1987.

## CHAPTER 317

S.P. 581 — L.D. 1724

### AN ACT to Revise and Update Certain Fish and Wildlife Laws.

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

Sec. 1. 12 MRSA §7001, sub-§7-A is enacted to read:

7-A. Exotic. "Exotic" means of foreign nature or character, not native, introduced from abroad, but not fully naturalized or acclimatized.

Sec. 2. 12 MRSA §7060, as enacted by PL 1979, c. 420, §1, is amended to read:

§7060. Failure to stop for a law enforcement officer

A person is guilty of failure to stop for a law enforcement officer if he:

1. Motor vehicle or conveyance. Fails or refuses to stop a motor vehicle or other conveyance immediately upon request or signal of any officer in uniform whose duty it is to enforce chapters 701 to 721;

2. Watercraft. Fails to stop or move his watercraft upon being ordered or directed to do so by any law enforcement officer in uniform whose duty it is to enforce chapter 715, subchapter I; or

3. Snowmobile. Fails or refuses to stop any snowmobile on request or signal of any law enforcement officer in uniform whose duty it is to enforce chapter 715, subchapter II; or

4. All-terrain vehicle. Fails or refuses to stop any all-terrain vehicle on request or signal of any law enforcement officer in uniform whose duty it is to enforce chapter 715, subchapter IV.

Sec. 3. 12 MRSA §7077, sub-§1, as amended by PL 1983, c. 440, §6, is further amended to read:

1. Conviction of violation. If any person holding a license or permit issued under chapters 701 to 721 is convicted of the violation of any provision of chapters 701 to 721, the commissioner may revoke, or refuse to grant, any license or permit held by the person for a period of not less than 3 months nor more than ~~one year~~ 5 years.

Sec. 4. 12 MRSA §7077, sub-§2, as enacted by PL 1979, c. 420, §1, is amended to read:

2. Conviction of violation of Title 17-A while hunting or fishing. If any person holding a license or permit under this chapter is convicted of the violation of any provision of Title 17-A while on a hunting or fishing trip or in the pursuit of wild animals ~~or~~ wild birds or fish, the commissioner may revoke the license or permit held by that person for a period not to exceed ~~one year~~ 5 years, except ~~where~~ when the killing or wounding of a human being has occurred, in which case the commissioner may revoke the license or permit for ~~up to~~ not less than 5 years.

Sec. 5. 12 MRSA §7078, as repealed and replaced by PL 1981, c. 414, §10, is amended to read:

§7078. Refusal to issue license or permit

If any person is convicted of a violation of any provision of chapters 701 to 721 and is not the holder of a valid license or permit issued under chapters 701 to 721, the commissioner may refuse to issue a related license or permit to that person for ~~the next calendar year~~ up to 5 years following the date of conviction, except when the killing or wounding of a human being has occurred, in which case the commissioner may revoke the license or permit for a period of not less than 5 years.

Sec. 6. 12 MRSA §7079, sub-§1, as enacted by PL 1983, c. 329, §3, is amended to read:

1. Conviction of violation. If any habitual violator, as defined in section 7001, subsection 13-A, is convicted of a violation of any provision of chapters 701 to 721, the commissioner shall revoke all licenses and permits held by that person. No license may be granted to that person for a period of ~~3 years from the date of revocation~~ to be determined by the commissioner, but not less than 3 years from the date of revocation.

Sec. 7. 12 MRSA §7107-A, sub-§3, as enacted by PL 1985, c. 320, §2, is amended to read:

3. Schedule of fees. The schedule of fees is as follows:

A. Resident ~~5-day~~ 6-day muzzle-loading hunting

license ..... \$7

B. Nonresident ~~5-day~~ 6-day muzzle-loading hunting license ..... \$25

C. Alien ~~5-day~~ 6-day muzzle-loading hunting license ..... \$50

Sec. 8. 12 MRSA §7133, sub-§5, ¶B is enacted to read:

B. No person may have more than 2 traps set for bear at any one time.

Sec. 9. 12 MRSA §7133, sub-§7, as enacted by PL 1985, c. 146, §2, is amended to read:

7. Successful completion of trapper evaluation program required for license. Any person who applies for a state license to trap other than a junior license shall submit proof of having successfully completed an education course of the type described in subsection 8 or satisfactory evidence of having previously held an adult license to trap in this State or any other state, province or country in any year beginning with 1978.

When proof or evidence cannot otherwise be provided, the person may substitute a signed affidavit that he has previously held the required adult trapping license or that he has successfully completed the required trapper education course.

The provisions of this subsection shall take effect ~~January~~ July 1, 1988.

Sec. 10. 12 MRSA §7171, sub-§4, ¶B, as repealed and replaced by PL 1985, c. 607, §§3 and 9, is 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 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 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 in selling live baitfish at his business facility.

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

**Sec. 11.** 12 MRSA §7171, sub-§4, ¶C, as repealed and replaced by PL 1985, c. 607, §§3 and 9, is amended to read:

C. The following restrictions apply to the taking and selling of live smelts under the smelt wholesaler's license.

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

(2) The holder of a smelt wholesaler's license may take live smelts for resale from any inland water in accordance with general rules promulgated by the commissioner in regard to the taking of smelts.

(3) The holder of a smelt wholesaler's license may use a baitfish trap, a dipnet, a dropnet, a lift net, a bag net or hook and line to take up to 8 quarts of smelts in a 24-hour period, beginning at noon on any given day, from specific inland waters designated by the commissioner.

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

(5) The holder of a smelt wholesaler's license may transport or possess at his business facility more than the daily bag limit of smelts at any time, providing that the smelts were acquired in a lawful manner. If the smelts were purchased from another person, a receipted invoice, bill of lading or bill of sale shall be presented upon request to any agent of the commissioner. For purposes of this paragraph, live smelts shall be considered in possession of the licensee once the smelts have been removed from the inland waters and placed in a container.

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

(7) The holder of a smelt wholesaler's license may designate others to assist him in selling live smelts at his business facility.

(8) The holder of a smelt wholesaler's license, or his designee, may transport live smelts, except that live smelts being transported directly from an inland water source must be accompanied by the licensee.

**Sec. 12.** 12 MRSA §7172, as amended by PL 1983, c. 807, Pt. P, §14, is repealed.

**Sec. 13.** 12 MRSA §7235, sub-§4, ¶E, as amended by PL 1983, c. 22, §1, is further amended to read:

E. Notwithstanding this subsection, Ringneck pheasants and wild turkeys shall be the only ~~pheasants~~ birds required to be marked with a metallic leg band.

**Sec. 14.** 12 MRSA 7235, sub-§5, ¶E is enacted to read:

E. Notwithstanding subsection 4, identifying marks or seals are not required for exotic animals.

**Sec. 15.** 12 MRSA §7237-A is enacted to read:

§7237-A. Release of wild birds and wild animals into the wild

The commissioner may issue a written permit to any person permitting him to release into the wild captive raised or imported wild birds and wild animals.

**Sec. 16.** 12 MRSA §7351, sub-§1-A, as enacted by PL 1981, c. 123, §2, is repealed and the following enacted in its place:

1-A. Expiration. All licenses issued under this section are valid for one year commencing July 1st of each year.

**Sec. 17.** 12 MRSA §7368, sub-§2, as enacted by PL 1983, c. 502, §4, is repealed.

**Sec. 18.** 12 MRSA §7432, sub-§2, as amended by PL 1985, c. 718, §8, is further amended to read:

2. Failure to visit traps. A person is guilty of failure to visit traps if he:

A. While trapping in any organized or incorporated place, fails to visit each trap except beaver sets, so-called, or fails to cause the same to be visited at least once in every calendar day including Sunday;

B. While trapping in any unorganized or deorganized place, fails to visit each trap, except water sets and killer-type traps, so-called, or fails to cause the same to be visited at least once in every 72-hour period; or

C. While trapping in any unorganized or deorganized place, fails to visit each killer-type trap, except water sets, so called, or fails to cause the same to be visited at least once in every 7 calendar days; or

D. While trapping for bear in any area of the State, fails to visit his bear traps at least once in every calendar day.

**Sec. 19.** 12 MRSA §7452, sub-§7, as enacted by PL

1979, c. 420, §1, is repealed and the following enacted in its place:

7. False registration of bear. A person is guilty of false registration of bear if he presents a bear for registration or allows to be registered in his name any bear:

A. Which he himself did not kill; or

B. Which he himself did not catch in a trap and kill.

Sec. 20. 12 MRSA §7452, sub-§11, as enacted by PL 1979, c. 543, §40, is amended to read:

11. Failure to attach bear tag to bear. A person is guilty of failure to attach a bear tag to a bear if, prior to presenting a bear for registration, he possesses or leaves in the fields or forests a bear which he has killed and which does not have securely attached to it and plainly visible the bear tag portion of his hunting license bearing his full name and address, or if the bear was taken by trapping, a tag bearing his full name, address and trapping license number.

Sec. 21. 12 MRSA §7452, sub-§15, ¶A-1 is enacted to read:

A-1. Notwithstanding subsection 6, paragraph C, a person on a hunting trip in an unorganized township and staying at a temporary place of lodging during the open firearm season on deer, may keep an unregistered bear at that temporary place of lodging for a period not to exceed 7 days or until he leaves the woods, whichever comes first.

Sec. 22. 12 MRSA §7464, sub-§8-A, as enacted by PL 1981, c. 118, §9, is amended to read:

8-A. Illegal firearms. A person is guilty of using illegal firearms if he uses a handgun, which is less than .35 caliber, a .22 caliber rimfire firearm or a shotgun using shot loads to hunt moose.

Sec. 23. 12 MRSA §7827, sub-§4-A, as enacted by PL 1979, c. 543, §79, is amended to read:

4-A. Unlawfully operating a vehicle on a snowmobile trail. A person is guilty of unlawfully operating a vehicle on a snowmobile trail if he operates any 4-wheel drive vehicle, dune buggy, ATV, motorcycle or other motorized any other motor vehicle, other than a snowmobile and appurtenant equipment, over the snow on roads and trails maintained for snowmobile use and on snowmobile trails which are financed in whole or in part with funds from the Snowmobile Trail Fund, unless such that use has been authorized by the landowner or his agent, or unless the use is necessitated by an emergency involving safety of persons or property.

Sec. 24. 12 MRSA §7827, sub-§23, ¶F-1 is enacted to read:

F-1. Notwithstanding subsection 18, a person is not guilty of operating a snowmobile on railroad tracks if he is operating within the right-of-way of a portion of railroad line which has been officially abandoned under the authority of the Interstate Commerce Commission.

Sec. 25. 12 MRSA §7857, sub-§24, ¶E-2 is enacted to read:

E-2. Notwithstanding subsection 18, a person is not guilty of operating an all-terrain vehicle on railroad tracks if he is operating within the right-of-way of a portion of railroad line which has been officially abandoned under the authority of the Interstate Commerce Commission.

Effective September 29, 1987.

## CHAPTER 318

H.P. 114 — L.D. 139

### AN ACT to Increase Local Control of Certain Waste Water Discharges.

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

Sec. 1. 30 MRSA §4966, first ¶, as amended by PL 1985, c. 612, §17, is further amended to read:

The following provisions shall apply to enforcement of land use laws and ordinances or regulations which are administered and enforced primarily at the local level, including shoreland zoning ordinances adopted pursuant to Title 12, sections 4811 to 4817, including those which were state-imposed; the plumbing and subsurface waste water disposal rules adopted by the Department of Human Services pursuant to Title 22, section 42, including the land area of the State which is subject to the jurisdiction of the Maine Land Use Regulation Commission, laws pertaining to public water supplies, Title 22, sections 2624, 2647 and 2648; local ordinances adopted pursuant to Title 22, section 2642; local land use ordinances enacted pursuant to section 1917; local building codes adopted pursuant to sections 1917 and 2151; chapter 215, subchapter I, Automobile Junkyards and subchapter X, Regulation and Inspection of Plumbing; section 4359, malfunctioning subsurface waste water disposal systems; the subdivision law and local subdivision ordinances adopted pursuant to section 1917 and subdivision regulations adopted pursuant to section 4956; and local zoning ordinances adopted pursuant to section 1917 and in accordance with section 4962; and waste water discharge licenses issued pursuant to Title 38, section 413, subsection 8.

Sec. 2. 30 MRSA §4966, sub-§3, ¶G is enacted to read: