

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
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TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
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1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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primarily for the benefit of state employees, except the initial facility to be located in the Augusta area, the Office of Child Care Coordination, in cooperation with the Bureau of Public Improvements, shall conduct a feasibility study of the proposed child care facility which shall be located in a state-owned facility or in a facility located conveniently near the workplaces of state employees. This feasibility study, at a minimum, shall include:

A. The location of the site and the reasons justifying the location, including reasons justifying or not justifying using state-owned facilities;

B. An analysis of the benefits and liabilities of contracting with the private sector to provide child care programs under this section;

C. An analysis of the benefits and liabilities of State Government operation of child care programs and facilities for children of state employees;

D. The number and ages of children proposed for the site;

E. The type of assistance to be made available to children of state employees classified as low-income households;

F. The types of activities and programs to be provided, including preschool and after school programs;

G. A time schedule for the commencement of programs at each facility;

H. Sources of income, including fees, if any, for funding each facility; and

I. Any other information deemed important by the Office of Child Care Coordination and the Bureau of Public Improvements.

The report required by this subsection shall be provided to the joint standing committee of the Legislature having jurisdiction over human resources in a timely manner preceeding the selection of the site.

3. Priorities; rulemaking. Any child care facility and programs operated primarily as a service to state employees shall give priority to children of low-income state employee households. Any facilities and programs offered under this section shall also be conveniently located for the use of state employees. The Office of Child Care Coordination shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, with respect to:

A. Priorities of eligibility for the program;

B. The number of children that each state employee may enroll;

C. A sliding scale of fees for state employee households of different incomes; and

D. A definition of low income.

4. Collective bargaining. It is not the intent of the Legislature in this section to limit or restrict the rights of state employees to bargain collectively as provided in Title 26. Nothing in this section may invalidate or supersede the provisions of a collective bargaining agreement between an employee organization and the State.

Effective August 4, 1988.

## CHAPTER 742

H.P. 1767 — L.D. 2420

### AN ACT to Make Changes in the Laws Concerning Licensed Maine Guides and Related Laws.

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

Whereas, registered Maine guides provide a significant contribution to both tourism and the economy of the State; and

Whereas, the laws relating to registered Maine guides have never been comprehensively reviewed and are in need of updating; and

Whereas, the Commission to Review the Laws Relating to Registered Maine Guides met throughout 1987 to review state policies and laws relating to guides and this legislation embodies their recommendations; and

Whereas, a major portion of the guiding season takes place in the spring and summer months and these requirements should be consistent throughout the season; 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:

**Sec. 1.** 5 MRSA §12004, sub-§10, ¶A, sub-§§23-A and 23-B, are amended to read:

(23-A)	Environment: Natural Resources	Advisory Board for the Licensing of Guides	Expenses Only \$50 per day	12 MRSA §7901 §7320
(23-B)	Environment: Natural Resources	Junior Maine Guides and Trip Leaders' Curriculum Advisory Board	Expenses Only	12 MRSA §7902 §7322

**Sec. 2.** 12 MRSA §7001, sub-§13, as amended by PL 1981, c. 414, §2, is further amended to read:

13. Guide. "Guide" means any person who receives any form of remuneration for his services in accompanying or assisting any person in the fields, forests or on the waters or ice within the jurisdiction of the State while hunting, fishing, trapping, boating, snowmobiling or camping at a primitive camping area.

Sec. 3. 12 MRSA §7001, sub-§29-A is enacted to read:

29-A. Primitive camping area. "Primitive camping area" means a camping location that does not have access to a water supply that is approved by the Department of Human Services.

Sec. 4. 12 MRSA §7076, sub-§1, as amended by PL 1987, c. 350, §1, is further amended to read:

1. Residents over 70 years of age. A complimentary license to hunt, trap or fish, including an archery license under section 7102, and a muzzle-loading hunting license under section 7107-A, shall be issued to any resident of Maine who is 70 years of age or older and applies for it upon application to the commissioner. A guide license may be renewed without charge for any resident of Maine who is 70 years of age or older upon application 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. 5. 12 MRSA §7101, sub-§7, as amended by PL 1981, c. 644, §6, is further amended to read:

7. Restrictions. Any resident or nonresident hunter 10 years of age or older and under 16 may hunt with firearms only if accompanied at all times while hunting by in the presence of his parent or guardian or by an adult of a person, at least 18 years of age, approved by his parent or guardian. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios.

Sec. 6. 12 MRSA c. 707, sub-c. VIII, as amended, is repealed.

Sec. 7. 12 MRSA c. 707, sub-c. VIII-A is enacted to read:

SUBCHAPTER VIII-A

GUIDES AND CAMP TRIP LEADERS

§7311. License required

1. Requirement. No person may act as a guide without a valid license under this subchapter. A license entitles a person to act as a guide for 3 years from the date of issue.

2. Qualifications. In order to qualify for a guide license, a person must:

- A. Be at least 18;
- B. Pass the guide exam;
- C. If a first-time applicant and beginning January 1, 1990, for applicants for license renewal, be certified by the Red Cross in standard first aid; and
- D. Meet all requirements established by rules of the commissioner.

3. Fee. The fee for a 3-year guide license is as follows:

- A. Resident . . . . . \$ 75
- B. Nonresident . . . . . \$300
- C. Alien . . . . . \$600

3-A. Transitional fees. In 1988, fees shall be \$40 for residents, \$142 for nonresidents and \$167 for aliens. The licenses shall carry hunting and fishing privileges. After December 31, 1988, and before January 1, 1990, guide licenses shall not carry hunting and fishing privileges and may be purchased to cover a one-year, 2-year or 3-year period at the following rates:

- A. Resident . . . . . \$25 per year
- B. Nonresident . . . . . \$100 per year
- C. Alien . . . . . \$200 per year

4. Exception. A person holding a camp trip leader permit under section 7322 may conduct trips containing adults under the auspices of the boys and girls camp where they are employed without being required to obtain a guide license. Those trips shall be subject to all the requirements of section 7322.

§7312. Application.

1. New applications. A person wishing to be licensed as a guide shall submit an application to the commissioner.

- A. The commissioner shall provide application forms which request all relevant information the commissioner considers necessary.
- B. Failure or refusal to satisfactorily answer any question in the application is a basis for the commissioner to not accept the application.
- C. The commissioner shall decide whether the application is acceptable within 5 working days of receipt.
- D. The commissioner shall notify each applicant at least 2 weeks prior to the examination.

§7313. Examination

1. Requirement. A person who has not previously held a guide license must pass an examination. A guide carrying passengers for hire must also be certified in the area of watercraft safety.

2. Form. The commissioner shall determine the form and content of the examination.

3. Location. The commissioner shall designate locations where the examination will be held.

4. Reexamination. The commissioner may require a guide to be examined or reexamined if the commissioner receives a written complaint and, upon investigation, believes that the guide no longer meets the guide qualifications.

5. Fee. The examination fee is \$10. 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.

§7314. Rules

The commissioner shall, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, with the advice and consent of the advisory board, adopt rules necessary to administer this chapter. The commissioner shall establish safety standards to provide the clients of guides reasonable protection from hazards. The commissioner may adopt rules in the following areas.

1. Alcohol; drugs. The commissioner may require applicants to state whether they use alcohol or other drugs in a way which would interfere with their competence as a guide.

2. Failure to meet party. The commissioner may require applicants who have previously held a guide license to state that they have not received and retained a guiding fee from a party and then failed to meet that party as agreed or failed to provide the services as agreed.

3. Competency. The commissioner may establish standards of competency which shall be provided to each applicant.

4. Watercraft. The commissioner may establish standards for the use of watercraft by a guide, to ensure that the watercraft is safe for the use intended, that sufficient safety equipment is provided to each passenger and that the operator is competent to use watercraft.

5. Classification. The commissioner may establish classifications of guide licenses, including general guides and specialized categories.

6. Other. The commissioner may establish rules in any other area which the commissioner considers necessary to administer this subchapter, except that the commissioner may not require an applicant to demonstrate certification in cardiopulmonary resuscitation.

§7315. Mandatory revocation

1. Conditions for revocation. The commissioner shall revoke a guide license in the following circumstances:

A. If a guide is an habitual violator, as defined in section 7001, subsection 13-A;

B. If the guide is convicted of knowingly assisting a client in violating chapters 701 to 721; or

C. If the guide is convicted of a violation of section 7318.

2. Hearing provisions. Hearings shall be according to this subsection.

A. Any person whose license has been revoked under this section may, within 30 days of the effective date of the revocation, petition for a hearing before the commissioner to show cause why that person's license should not have been revoked.

B. If, after the hearing, the commissioner finds that the person's record does not bring that person within the provisions outlined in subsection 1, the revocation shall be rescinded. If the commissioner finds that the person's record does bring that person within the provisions outlined in subsection 1, the revocation shall remain in effect. If the petitioner denies any facts contained in the record, the petitioner shall have the burden of proof.

3. Term of revocation or suspension. A guide whose license has been suspended or revoked under this section may not apply for a new license for a minimum of 3 years. The commissioner may revoke a license for life.

§7316. Other revocation or suspension

The commissioner may initiate proceedings in the Administrative Court to revoke or suspend a license when it is found upon investigation that the guide has made false statements in the application, failed to meet the standards for competency and safety, operated a watercraft for passengers that does not meet the safety standards established by rule or failed a guide examination or reexamination.

§7317. Hiring a guide without a license

No person may knowingly hire a person as a guide if the employer has knowledge that that person does not hold a valid guide license.

§7318. Violations by clients

A guide who has knowledge of a violation by a client of any of the provisions of chapters 701 to 721 shall, within 24 hours, or as soon as safely possible, inform a person authorized to enforce those chapters.

§7319. Guided parties.

A registered guide shall not take a party of more than 12 people out on any lake, stream or waterway in the State.

§7320. Advisory board

1. Members. The Advisory Board for the Licensing of Guides, established by Title 5, section 12004, subsection 10, shall consist of the following 7 members:

A. One subordinate officer of the department designated by the commissioner;

B. Two wardens of the department; and

C. Four representatives of the public, with no more than 3 holding a license under this subchapter, to be appointed by the Governor for a term of 3 years to reflect a wide diversity of guiding experience. At least 2 members shall be chosen for their expertise in outdoor recreation. The public members shall be compensated as provided in Title 5, chapter 379.

2. Duties. The board has the following duties:

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

B. At the request of the commissioner, to conduct oral examinations of applicants for guide licenses; and

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

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

§7321. Junior Maine guides

1. Eligibility. To qualify as a junior guide, a person must be at least 14 years of age and under 18 years of age, meet the requirements established by the commissioner and pass the required examinations.

2. Restrictions. No junior guide may provide guiding services.

§7322. Trip leader permit

1. When permit required. Boys and girls camps licensed by the Department of Human Services, or located in another state and licensed in a similar manner, if the laws of the other state so require, conducting trip camping shall:

A. Provide at least one staff member over 18 years of age for each 6 campers; and

B. Ensure that the staff member in charge of the trip holds a valid trip leader permit.

2. Application. Any person wishing a permit shall submit an application on forms provided by the commissioner and shall pay the application fee.

3. Qualifications. To qualify initially for a permit, an applicant must:

A. Show successful completion of an approved trip leader safety course or complete an application provided by the commissioner outlining in detail the applicant's experience and training as a trip leader; and

B. Meet any other requirements adopted by rule of the commissioner.

4. Special waiver. Waiver of the course requirement by the commissioner on the basis of the applicant's experience and payment of the application fee shall qualify the applicant for a trip leader permit.

5. Curriculum. With the advice of the board, the commissioner shall review and adopt a trip leader safety course curriculum which shall include, but not be limited to:

A. Training in first aid;

B. Training in water safety, including lifesaving techniques as appropriate; and

C. Trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum adopted or approved by the board and a current list of courses, with the approved curriculum, by name and address.

6. Enforcement. Wardens of the department and the rangers of the Bureau of Forestry may enforce this section. They may terminate any trip which is considered unsafe or in violation of this section. By January 1, 1989, the commissioner shall adopt standards for what is considered an unsafe trip. The commissioner shall consider previous violations of this section when issuing or reissuing trip leader permits.

7. Fee. The initial qualifying fee for a trip leader permit is \$14. The permit may be renewed upon payment of \$9 if requirements of the department are met.

§7323. Junior Maine Guides and Trip Leaders Curriculum Advisory Board

1. Board established. The commissioner shall appoint a board of 5 members, to be known as the "Junior Maine Guides and Trip Leaders Curriculum Advisory Board" as authorized by Title 5, section 12004, subsection 10.

2. Membership. The board shall consist of one member from the Department of Inland Fisheries and Wildlife, one member from the Department of Human Services

and 3 members of the public, one of whom shall be a Maine camp director. Appointments to the board shall be for 3 years or until successors are appointed.

3. Duties. The board has the duty to advise the commissioner on the adoption of a trip leader safety course curriculum and on the adoption of rules for the administration of this section and sections 7321 and 7322;

4. Compensation. The public members shall be compensated as provided in Title 5, chapter 379.

Sec. 8. 12 MRSA §7452, sub-§1-A, ¶B, as enacted by PL 1985, c. 369, §17, is amended to read:

B. Does not employ and hunt in conjunction with the presence of a resident Maine guide. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios.

Sec. 9. 12 MRSA §7463-A, sub-§4, as enacted by PL 1981, c. 118, §2, is amended to read:

4. Hunting permits. The commissioner may issue up to 1,000 moose hunting permits annually and may establish the number of moose hunting permits to be issued for each moose hunting zone. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters. A person whose application is selected may purchase a moose hunting permit upon presentation of proof that he possesses:

A. A valid Maine hunting license, if he is a resident of the State; or

B. A valid Maine big game hunting license, if he is a nonresident or alien.

The fee for a moose hunting permit is \$25 for residents and \$200 for nonresidents and aliens. At the time the permit is obtained, the permittee may designate a subpermittee to hunt with him. The permittee may choose not to designate a subpermittee and hunt alone, but a subpermittee must always be accompanied by in the presence of the permittee while hunting moose. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. While hunting moose each nonresident or alien hunter shall be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.

Sec. 10. 12 MRSA §7799, sub-§1, as enacted by PL 1979, c. 420, §1, is amended to read:

1. Application. Every operator of a motorboat, other than a licensed Maine guide certified in watercraft safety, carrying passengers for hire, except those operators who have been issued and have or are required to have in their possession a current valid federal operator's license, shall obtain an operator's license from the

commissioner as provided in this section before operating a motorboat carrying passengers for hire.

A. The operator shall make written application for the license on forms provided by the commissioner.

B. The commissioner shall cause operators applying for a license for the first time to be examined as to their qualifications.

Sec. 11. 12 MRSA §7901, sub-§12 is enacted to read:

12. Guiding without a license. A violation of section 7311, subsection 1, is a Class D crime for which a fine of \$1,000 and imprisonment of 3 days shall be imposed. Neither the fine nor the imprisonment may be suspended.

Sec. 12. Training evaluation. The Department of Inland Fisheries and Wildlife in cooperation with the Board of Trustees of the Maine Vocational-Technical Institutes System, shall study the feasibility of developing and offering a program for training persons to be guides.

The department shall also review the curriculum of the standard first aid course provided by the American Red Cross and the first aid training needs of guides. The department shall report to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife, including its recommendations regarding appropriate first aid curriculum for guides and the methods of assuring adequate availability of training courses.

Sec. 13. Rules. The Commissioner of Inland Fisheries and Wildlife shall adopt rules necessary to implement the provisions of this Act by January 1, 1989. Proposed rules shall be submitted to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife.

Sec. 14. Allocation. The following funds are allocated from Dedicated Revenues of the Department of Inland Fisheries and Wildlife to carry out the purposes of this Act.

1988-89

INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF

Office of the Commissioner of Inland  
Fisheries and Wildlife

Personal Services

\$4,000

Provides funds for public members of  
the Advisory Board for the Licensing  
of Guides.

Sec. 15. Transition. All licenses and permits issued pursuant to the Maine Revised Statutes, Title 12, chapter 707, subchapter VIII, shall remain in effect until they expire pursuant to the terms under which they were issued.



**Sec. 16. Effective date.** The Maine Revised Statutes, Title 12, section 7311, subsection 3, shall take effect January 1, 1990.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 20, 1988, unless otherwise indicated.

## CHAPTER 743

S.P. 994 — L.D. 2628

### AN ACT Relating to Stockholder Initiatives on State Investments in Northern Ireland.

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

5 MRSA §1955 is enacted to read:

#### §1955. Northern Ireland

1. Investigation. The Treasurer of State and the Board of Trustees of the Maine State Retirement System shall review the extent to which United States corporations or their subsidiaries doing business in Northern Ireland, in which the assets of any state pension or annuity fund are invested, adhere to principles of nondiscrimination in employment and freedom of workplace opportunity. In making this determination, the director shall consider, without limitation, the following standards for corporate activity:

A. Increasing the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;

B. Adequate security for the protection of minority employees both at the workplace and while traveling to and from work;

C. The banning of provocative religious or political emblems from the workplace;

D. Publicly advertising and implementing special recruitment, efforts for all job openings to attract applicants from underrepresented religious groups;

E. Lay-off, recall and termination procedures that do not in practice favor particular religious groupings;

F. The abolition of job reservations, apprenticeship restrictions and differential employment criteria, which discriminate on the basis of religion or ethnic origin;

G. The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees;

H. The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement; and

I. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

The Treasurer of State and the board may use information disseminated by, or surveys or reports of, international, national, independent, state or city agencies if the information, surety or report satisfies the requirements of this section.

2. Corporate adherence. The Treasurer of State and board shall, when necessary, appropriate and consistent with prudent standards for fiduciary practice, initiate and support shareholder petitions or initiatives requiring adherence by the corporation to the standards set forth in subsection 1.

Effective August 4, 1988.

## CHAPTER 744

H.P. 1804 — L.D. 2468

### AN ACT to Promote More Effective Investigations of Child Abuse Allegations in Out-of-Home Settings.

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

**Sec. 1. 22 MRSA §4004, sub-§1, as enacted by PL 1979, c. 733, §18, is amended to read:**

**1. General.** The department may take appropriate action, consistent with available funding, which will help achieve the goals of section 4003 and subchapter XI, including:

A. Developing and providing services which:

- (1) Support and reinforce parental care of children;
- (2) Supplement that care; and
- (3) When necessary, substitute for parental care of children;

B. Encouraging the voluntary use of these and other services by families and children who may need them;

C. Cooperating and coordinating with other agencies, facilities or persons providing related services to families and children; and

D. Establishing and maintaining a Child Protective Services Contingency Fund to provide temporary assistance to families to help them provide proper care for their children.