

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

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 Company  
Augusta, Maine  
1989

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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C. Notwithstanding this section, the employer retirement cost related to the retirement system applicable to those teachers who are permitted to continue to accrue service credit while on a one-year leave of absence and participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State shall be paid from funds provided by the college employing the teacher during that year.

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

Effective June 28, 1989.

## CHAPTER 492

H.P. 1246 - L.D. 1739

### An Act Regarding Special Seasonal Agency Liquor Stores

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

**28 MRSA §456, sub-§§1 and 3,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Licensing of seasonal agency liquor stores.** The commission may issue 6-month seasonal licenses to no more than ~~6~~ 4 special agency stores.

**3. Sunset.** This section is repealed on September 30, ~~1989, before which time the 1990.~~ The commission shall evaluate the effectiveness of this section and make a written report to ~~the 114th Legislature~~ the joint standing committee of the Legislature having jurisdiction over legal affairs no later than January 31, 1990.

See title page for effective date.

## CHAPTER 493

H.P. 895 - L.D. 1239

### An Act to Amend and Update Laws Pertaining to Inland Fisheries and Wildlife

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

**Whereas,** confusion exists as to the application of certain provisions of the inland fisheries and wildlife laws; and

**Whereas,** this confusion poses difficulties for the sporting public and those charged with enforcing the laws; and

**Whereas,** it is vitally necessary that this confusion be resolved to prevent any injustice or hardship to the hunters, anglers, trappers and recreational vehicle owners of Maine; 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. 12 MRSA §7001, sub-§39,** as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

**39. Water set.** “Water set” means a trap set completely under water in such manner as to reasonably ensure the drowning of any furbearing animal caught in the trap.

**Sec. 2. 12 MRSA §7013, sub-§8,** as enacted by PL 1983, c. 819, Pt. A, §17, is repealed.

**Sec. 3. 12 MRSA §7031,** as enacted by PL 1979, c. 420, §1, is amended to read:

#### **§7031. Appointment**

The commissioner shall be appointed by the Governor, subject to review by the ~~Joint Standing Committee on Fisheries and Wildlife~~ joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Legislature. The commissioner shall serve during the pleasure of the Governor. Any candidate for the office of commissioner shall have a record of demonstrated support for, and an understanding of, the basics of modern wildlife and fisheries management and shall have experience in hunting, fishing or trapping.

**Sec. 4. 12 MRSA §7033, sub-§2,** as amended by PL 1981, c. 631, §1, is further amended to read:

**2. Length of terms.** Appointments shall be for a term of 3 years, ~~except that the initial term for the representatives of management units 3 and 4 shall be for one year and management units 5 and 6 shall be for 2 years, and until successors are appointed and qualified. Successors shall serve a term, or an unexpired term, which begins at the expiration of the predecessor's one year, 2-year or 3-year term.~~ No person shall may serve more than 2 consecutive 3-year terms. Upon the death, resignation or removal from office of any person so appointed, the Governor shall appoint a member to serve for the unexpired term.

**Sec. 5. 12 MRSA §7053, sub-§2, ¶D-1** is enacted to read:

D-1. If in uniform and if they have a reasonable and articulable suspicion that a motor vehicle or other conveyance, or its operator or occupant, is or has been involved in, or may contain evidence of, a vio-

lation of chapters 701 to 721, stop the motor vehicle or other conveyance to check its registration and vehicle identification number, request personal identification of the operator or occupant and question the operator or occupant about the violation;

**Sec. 6. 12 MRSA §7053, sub-§2, ¶E-1** is enacted to read:

E-1. Stop and examine any all-terrain vehicle to ascertain whether it is being operated in compliance with chapter 715, subchapter IV, demand and inspect the operator's certificate of registration and, when appropriate, demand and inspect evidence that the operator has satisfactorily completed a training course as required by section 7853;

**Sec. 7. 12 MRSA §7055, first ¶**, as amended by PL 1985, c. 304, §2, is further amended to read:

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

**Sec. 8. 12 MRSA §7076, sub-§1**, as amended by PL 1987, c. 742, §4, 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 upon application to the commissioner. Residents who apply for these complimentary licenses at any time during the calendar year of their 70th birthday shall be issued a license upon application, regardless of the actual date during that calendar year when they attain age 70. 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. 9. Effective date.** Maine Revised Statutes, Title 12, section 7076, subsection 1, as amended by this Act shall take effect January 1, 1990.

**Sec. 10. 12 MRSA §7076, sub-§3, ¶A**, as amended by PL 1983, c. 154, §1, is further amended to read:

A. The commissioner may issue, upon application, complimentary resident hunting and fishing licenses to a resident of Maine who is ~~suffering from paraplegia~~ or suffering from the loss of, or the loss of the use of, both lower extremities. Any license issued under this paragraph shall remain valid through December

31st of the 2nd complete calendar year following the year of issuance.

**Sec. 11. 12 MRSA §7076, sub-§4, ¶A**, as enacted by PL 1979, c. 420, §1, is amended to read:

A. Is a veteran, as defined in ~~Title 37-A, section 28~~ Title 37-B, section 505, subsection 1, paragraph A, subparagraph (5);

**Sec. 12. 12 MRSA §7076, sub-§4-A, ¶A**, as enacted by PL 1987, c. 352, §1, is amended to read:

A. Is a veteran, as defined in ~~Title 37-A, section 28~~ Title 37-B, section 505, subsection 1, paragraph A, subparagraph (5);

**Sec. 13. 12 MRSA §7107-A, sub-§4**, as enacted by PL 1985, c. 320, §2, is amended to read:

**4. Open season.** There shall be a special muzzle-loading open season on deer on the first 6 hunting days after the regular deer hunting season for the purpose of hunting deer only with muzzle-loading firearms as defined in section 7001, subsection 23-A. The commissioner may terminate this open season at any time, in any area, if, in ~~his~~ the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting pressure.

**Sec. 14. 12 MRSA §7110** is enacted to read:

**§7110. Unconventional weapon deer hunting license**

**1. Issuance; eligibility.** The commissioner shall issue to eligible persons a license to hunt deer with an unconventional weapon during any open season on deer. Licenses issued pursuant to this section shall be valid for only one type of unconventional weapon and shall specify that type of weapon on the license.

**2. Eligibility.** Any person is eligible for a license to hunt deer with an unconventional weapon if that person:

A. Is suffering from the loss of both arms above the elbow; and

B. Can demonstrate, to the satisfaction of the commissioner, proficiency with that weapon, including knowledge of safety skills and responsible hunting practices relevant to that weapon.

**3. Schedule of fees.** The schedule of fees for this license shall be the same schedule of fees for other licenses provided in section 7101 which allow the licensee to take deer, subject to any special privileges in section 7076.

**4. Applicability of laws.** Except as provided in this section, the provisions of chapters 701 to 721 relating to deer shall be applicable to the taking of deer with a license issued pursuant to this section.

**Sec. 15. 12 MRSA §7133, sub-§1, ¶E**, as enacted by PL 1987, c. 28, §1, is repealed and the following enacted in its place:

E. Nonresident aliens are not eligible to purchase a trapping license.

**Sec. 16. 12 MRSA §7133, sub-§4, ¶D**, as enacted by PL 1987, c. 28, §2, is repealed.

**Sec. 17. 12 MRSA §7133, sub-§5, ¶D** is enacted to read:

D. Any person over 10 years of age and under 16 years of age who holds a junior trapping license shall be accompanied by an adult at all times while trapping, unless the holder of the junior trapping license submits proof of having successfully completed an education course of the type described in subsection 8.

**Sec. 18. 12 MRSA §7151, sub-§3, ¶C**, as amended by PL 1985, c. 575, §§1 and 4, is further amended to read:

C. Any resident who procures a one-day or 3-day fishing license may exchange it for an annual resident fishing license or a resident combination hunting and fishing license in the town in which he that person resides upon the payment of \$1 to the clerk or issuing agent and, in the case of the one-day license, the difference between the fee for that the one-day or 3-day license and the fee for the annual license.

**Sec. 19. 12 MRSA §7154, sub-§3**, as repealed and replaced by PL 1983, c. 807, Part P, §13, is repealed and the following enacted in its place:

3. Fee. The fee for a permit to conduct a one-day bass tournament shall be \$35.

**Sec. 20. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1987, c. 317, §11, is further 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. In taking smelts under the general rules, the holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers.

(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~~ the holder's 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~~ that person 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~~ the holder's business facility.

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

**Sec. 21. 12 MRSA §7231, sub-§1-A**, as enacted by PL 1985, c. 369, §7, is amended to read:

1-A. Expiration. Effective June 30, 1986, all All permits issued under this section are valid for one year; commencing July 1st of each year. Any license issued under this section for the 1985 calendar year shall continue to be valid through June 30, 1986.

**Sec. 22. 12 MRSA §7235, sub-§4, ¶F** is enacted to read:

F. No person may engage in the business of breeding or rearing white-tailed deer, bear or moose at any time.

**Sec. 23. 12 MRSA §7311, sub-§1**, as enacted by PL 1987, c. 742, §7, is amended to read:

**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~~ through December 31st of the 2nd complete year following the year of issuance.

**Sec. 24. 12 MRSA §7322, sub-§6,** as enacted by PL 1987, c. 742, §7, is amended to read:

**6. Enforcement.** Wardens of the department ~~and~~, the rangers of the Bureau of Forestry ~~and~~ rangers of the Bureau of Parks and Recreation 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.

**Sec. 25. 12 MRSA §7363, sub-§6,** as enacted by PL 1983, c. 502, §4, is amended to read:

**6. Commercial whitewater outfitter; outfitter.** "Commercial whitewater outfitter" or "outfitter" means a person who conducts commercial whitewater trips or who collects dues or fees or receives any form of compensation for providing whitewater rafting services or for operating a whitewater rafting organization.

**Sec. 26. 12 MRSA §7369, sub-§5,** as amended by PL 1983, c. 786, §5, is repealed and the following enacted in its place:

**5. Term of allocation; abandonment of allocation; loss of allocation.** This subsection governs allocation terms, abandonment and loss.

A. All allocations shall be awarded for a period of 5 years.

B. Any outfitter may abandon all or part of an allocation at any time by giving the department written notice. In the event that the department reissues an abandoned allocation, any duplicate portion of the allocation fee shall be refunded.

C. Allocations may be suspended, revoked or reduced in whole or in part as provided in this subchapter.

**Sec. 27. 12 MRSA §7369, sub-§7, ¶E** is enacted to read:

E. The department shall review all allocations issued for a period in excess of 3 years at the end of the 3rd year of the allocation period. This review shall be in addition to any other review provided by law or regulation. The department shall review the allocation to determine if the outfitter has maintained a passenger level consistent with that allocation. Substantial failure to maintain a passenger level consistent with the allocation may result in whole or partial loss of the allocation by that outfitter for the remainder of the allocation period.

**Sec. 28. 12 MRSA §7432, sub-§2,** as amended by PL 1987, c. 317, §18, is repealed and the following enacted in its place:

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

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

C. While trapping in any unorganized or deorganized place, fails to visit each killer-type trap or water set, so-called, except under ice water sets for beaver and muskrat, or fails to cause the same to be visited at least once in every 3 calendar days, including Sunday.

**Sec. 29. 12 MRSA §7451, sub-§1, ¶C,** as amended by PL 1981, c. 644, §20, is further amended to read:

C. There shall be an open season on using a dog or dogs in conjunction with bear hunting from the first Monday preceding September 1st, to the day preceding the open firearm season on deer provided in section 7457, subsection 1.

**Sec. 30. 12 MRSA §7452, sub-§1-A,** as amended by PL 1987, c. 742, §8, is further amended to read:

**1-A. Nonresident hunting bear with dogs.** A nonresident is guilty of unlawfully hunting bear with dogs if ~~he~~ the nonresident:

A. Hunts bear with the use of a dog or dogs; and

B. Does not employ and hunt in the presence of with a resident Maine guide. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. The total number of clients with a resident Maine guide may not be more than 3 in order to satisfy the requirements of this paragraph.

This subsection does not apply to nonresidents who hold a valid Maine guide license.

**Sec. 31. 12 MRSA §7452, sub-§1-C** is enacted to read:

**1-C. Illegal baiting of bear.** A person is guilty of illegally baiting bear if that person places bear bait in any manner which does not conform to section 7451, subsection 3.

**Sec. 32. 12 MRSA §7452, sub-§7, ¶A**, as enacted by PL 1987, c. 317, §19, is amended to read:

A. Which ~~he himself~~ that person did not kill by hunting; or

**Sec. 33. 12 MRSA §7452, sub-§15, ¶A-1**, as enacted by PL 1987, c. 317, §21, is amended 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~~ that person leaves the woods, whichever comes first.

**Sec. 34. 12 MRSA §7452, sub-§15, ¶D-1** is enacted to read:

D-1. Notwithstanding subsection 13, paragraph A, that provision does not apply to bear legally registered in accordance with this subchapter;

**Sec. 35. 12 MRSA §7457, sub-§2, ¶D**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 36. 12 MRSA §7458, sub-§15, ¶C-1** is enacted to read:

C-1. Notwithstanding subsection 11, paragraph A, that provision does not apply to deer legally registered in accordance with this subchapter.

**Sec. 37. 12 MRSA §7463-A, sub-§4**, as amended by PL 1989, c. 134, is further 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 the person possesses:

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

B. A valid Maine big game hunting license, if the person 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 the permittee. The permittee may choose not to designate a subpermittee and hunt alone, but a subpermittee must always be 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. The permittee who has designated a subpermittee may rescind the original designation and designate a different person. The permittee may change the subpermittee~~

~~only once. An application to change the subpermittee designation must be received by the department at least 5 business days prior to the first day of the moose season. While hunting moose, each nonresident or alien hunter, both permittee and subpermittee, shall be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.~~

**Sec. 38. 12 MRSA §7463-A, sub-§4-A** is enacted to read:

**4-A. Subpermittees.** A permittee may authorize one subpermittee to participate in the moose hunt with the permittee. The permittee may choose not to authorize a subpermittee and hunt alone, but a subpermittee must always be 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. The permittee may designate a subpermittee and an alternate subpermittee or a substitute subpermittee under either of the following options, but not under both.

A. At the time the permit is obtained, a permittee may designate a primary subpermittee and one alternate subpermittee. The alternate subpermittee may substitute for the primary subpermittee if the permittee notifies the department of the substitution at least 5 business days prior to the first day of the moose season.

B. Any permittee who originally designated only one subpermittee at the time the permit was obtained may rescind the original designation and designate a different person. The permittee may change the subpermittee designation only once. An application to change the subpermittee designation must be received by the department at least 5 business days prior to the first day of the moose season.

**Sec. 39. 12 MRSA §7464, sub-§9, ¶B** is enacted to read:

B. Notwithstanding subsection 3, paragraph A, that provision does not apply to moose legally registered in accordance with this subchapter.

**Sec. 40. 12 MRSA §7504, sub-§5, ¶C**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 41. 12 MRSA §7553, sub-§1, ¶A**, as amended by PL 1979, c. 543, §52, is repealed.

**Sec. 42. 12 MRSA §7553, ¶B**, as amended by PL 1987, c. 696, §15, is further amended to read:

B. At the following places, the fishway and the area within 75 feet of any part of the fishway shall be closed to fishing at all times:

(1) Woodland Dam and Grand Falls Powerhouse Dam on the St. Croix River in the Town of Baileyville;



(2) East Grand Lake Dam, T9 R4; and

(3) Spednic Lake Dam, Vanceboro; and

**Sec. 43. 12 MRSA §7553, ¶C**, as enacted by PL 1979, c. 420, §1, is amended to read:

C. At the so-called ice control dam on the Narragagus River in the Town of Cherryfield, the area within 100 feet of the dam shall be closed to fishing at all times ~~;~~ and

**Sec. 44. 12 MRSA §7553, sub-§1, ¶D** is enacted to read:

D. At East Outlet Dam in Sapling Township (T1R7) in Somerset County and in Big Squaw Township (T2R6) in Piscataquis County at the outlet of Moosehead Lake, the fishway and the area within 50 feet of any part of the fishway shall be closed to fishing at all times.

**Sec. 45. 12 MRSA §7572, sub-§1**, as amended by PL 1987, c. 696, §16, is further amended to read:

**1. Five-line limit.** A Unless otherwise provided by rule, a person licensed to fish may fish through ice in the daytime with not more than 5 lines set or otherwise, which shall be under his that person's immediate supervision, in any waters which have been opened to ice fishing by the commissioner.

**Sec. 46. 12 MRSA §7572, sub-§2**, as enacted by PL 1979, c. 420, §1, is amended to read:

**2. Cusk.** A Unless otherwise provided by rule, a person licensed to fish may fish in the nighttime for cusk in waters which have been opened to ice fishing by the commissioner by using not more than 5 lines set or otherwise. All lines set for cusk in the nighttime shall be visited at least once every hour by the person setting them.

**Sec. 47. 12 MRSA §7627-A** is enacted to read:

**§7627-A. Illegally placing ice fishing shack**

A person is guilty of illegally placing an ice fishing shack if that person owns any shack or temporary structure used for ice fishing and places or allows the shack or structure to be placed on the ice of any inland waters more than 3 days before the waters on which the shack or structure is located are opened to ice fishing.

**Sec. 48. 12 MRSA §7630, sub-§2, ¶A**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 49. 12 MRSA §7652, sub-§1, ¶¶A and B**, as enacted by PL 1979, c. 420, §1, are amended to read:

A. The commissioner may acquire in the name of the State, by gift, bequest or otherwise, real and personal property for the location, construction and convenient operation of a wildlife management area or

public access sites to ~~Merrymeeting Bay~~ inland or coastal waters.

B. The commissioner may purchase, lease or take and hold, for and in behalf of the State as for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating wildlife management areas or public access sites to inland or coastal waters.

**Sec. 50. 12 MRSA §7771, sub-§4, ¶C**, as enacted by PL 1987, c. 241, §2, is repealed and the following enacted in its place:

C. The department shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife no later than March 1st of each year on the use of gill nets by department personnel. The report shall include a summary of each use of gill nets, indicating the following:

(1) The specific purpose for which the gill nets were used;

(2) The date of each use;

(3) The location of each use by water body, town and county; and

(4) The number and mortality of each species of fish taken by gill nets.

**Sec. 51. 12 MRSA §7792, sub-§1-A**, as amended by PL 1985, c. 579, §§1 and 7, is repealed and the following enacted in its place:

**1-A. Appointment of watercraft registration agents; report; fees.** Rules authorizing the commissioner to delegate the authority to issue watercraft registrations subject to the following.

A. The commissioner may appoint municipal clerks or other persons who a municipality may designate as municipal agents to issue watercraft registrations. The commissioner shall determine the period when the agents shall act.

B. For the purpose of issuing watercraft registrations, agents other than municipal agents shall be appointed or reappointed as follows.

(1) The commissioner shall designate as an agent, for the purpose of issuing watercraft registrations, any person who holds a boat dealer's certificate of number in accordance with section 7795, submits a complete application, is credit worthy and has not violated any provision of this subchapter.

(2) A business, the agency of which is revoked for a violation of this subchapter, may

reapply for an agency for the 2nd year following the last year it held an agency.

C. Each agent, for the purpose of issuing watercraft registrations, shall submit a report to the commissioner on or before the 15th day of each calendar month. The report shall include an accounting of all watercraft registrations issued during the previous calendar month and shall be accompanied by:

(1) The department's copy of each registration issued; and

(2) All watercraft registration funds collected by the agent during the reporting period.

D. Agents may charge a service fee of not more than \$1 for each watercraft registration issued and this service fee shall be retained by the agent;

**Sec. 52. 12 MRSA §7794, sub-§4, ¶C,** as enacted by PL 1979, c. 420, §1, is amended to read:

C. Duplicate validation sticker (~~each one~~ per set) . . . . . ~~25¢~~ \$1

**Sec. 53. 12 MRSA §7794, sub-§9,** as amended by PL 1985, c. 579, §§5 and 7, is further amended to read:

**9. Expiration.** Every certificate of number awarded under this subchapter continues in force until the last day of the 12th month after the month of issuance, except that a dealer's certificate of number shall expire at midnight on December 31st of the calendar year for which the certificate was issued.

**Sec. 54. 12 MRSA §7795, sub-§3,** as amended by PL 1979, c. 720, §3, is further amended to read:

**3. Fee.** The fee for a dealer's certificate of number is \$15 annually from each January 1st.

**Sec. 55. 12 MRSA §7796,** as enacted by PL 1979, c. 420, §1, is amended to read:

**§7796. Twenty-day boat number and registration**

**1. Issuance.** The commissioner may issue temporary ~~40-day~~ 20-day boat numbers and registrations to bona fide dealers who request them under such conditions as ~~he~~ the commissioner deems necessary.

**2. Fee.** The commissioner shall receive ~~50¢~~ \$1 for each ~~40-day~~ 20-day temporary plate.

**3. Use of 20-day plates.**

A. Upon the sale or exchange by a dealer of any motorboat which requires numbering, the new owner may secure from ~~him~~ the dealer a temporary ~~40-day~~ 20-day boat number and registration to operate the craft for one period of ~~40~~ 20 consecutive days only

after the date of sale in lieu of a permanent boat number as required in section 7794, provided the owner shall make application to the commissioner on the date of sale for a certificate of boat number.

B. The application and fee for certificate of boat number, together with a copy of the temporary registration issued by the dealer, shall be forwarded by the dealer to the commissioner within 48 hours after the date of sale of the motorboat.

C. The dealer shall affix the temporary ~~40-day~~ 20-day boat number to the bow of the motorboat and shall clearly mark thereon the date issued, date of expiration and ~~his~~ the dealer's Maine dealer's number.

**4. Restrictions.**

A. The temporary ~~40-day~~ 20-day boat number is nontransferable and shall be conspicuously displayed on the bow of the motorboat, notwithstanding any other requirements of display of boat number.

B. The operator of a motorboat shall have the temporary registration aboard at all times while the motorboat is in operation.

C. After expiration of the ~~40-day~~ 20-day period, the owner shall remove and discard the temporary ~~40-day~~ 20-day boat number and display the permanent boat number and validation stickers assigned by the commissioner in accordance with section 7794, subsection 5, paragraph B.

**Sec. 56. 12 MRSA §7824, sub-§1-B,** as enacted by PL 1985, c. 631, §§1 and 2, is repealed and the following enacted in its place:

**1-B. Appointment of snowmobile registration agents; report; fees.** Appointment of snowmobile registration agents is governed by the following.

A. The commissioner may appoint municipal clerks or other persons who a municipality may designate as municipal agents to issue snowmobile registrations. The commissioner shall determine the period when the agents shall act.

B. For the purpose of issuing snowmobile registrations, agents other than municipal agents shall be appointed or reappointed as follows.

(1) The commissioner shall designate as an agent, for the purpose of issuing snowmobile registrations, any person who is licensed as a snowmobile dealer in accordance with section 7825, submits a complete application, is credit worthy and has not violated any provision of this subchapter.

(2) A business, the agency of which is revoked for a violation of this subchapter, may

reapply for an agency for the 2nd year following the last year it held an agency.

C. Each agent, for the purpose of issuing snowmobile registrations, shall submit a report to the commissioner on or before the 15th day of each calendar month. The report shall include an accounting of all snowmobile registrations issued during the previous calendar month and shall be accompanied by:

(1) The department's copy of each registration issued; and

(2) All snowmobile registration funds collected by the agent during the reporting period.

D. Agents may charge a service fee of not more than \$1 for each snowmobile registration issued and this service fee shall be retained by the agent.

**Sec. 57. 12 MRSA §7825, sub-§2**, as enacted by PL 1979, c. 420, §1, is amended to read:

**2. Fees.** The dealer's registration and license fee shall be ~~\$25~~ \$15 annually from each July 1st.

**Sec. 58. 12 MRSA §7825, sub-§3**, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

**3. Dealer's number plates.** Dealer's plates shall be provided and obtained as follows.

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

B. Replacement for lost or stolen plates may be obtained for a fee of \$5 for each plate.

C. If a number plate is lost or stolen, the owner shall notify the commissioner immediately.

**Sec. 59. 12 MRSA §7853, sub-§2**, as enacted by PL 1985, c. 762, §4, is amended to read:

**2. Training.** A person under ~~48~~ 16 years of age is required to successfully complete a training program approved by the department prior to operating an ATV on any land other than the land on which that person is domiciled or land owned or leased by that person's parent or guardian. The training program shall include instruction on the safe operation of ATVs, the laws pertaining to ATVs, the effect of ATVs on the environment and ways to minimize that effect, courtesy to landowners and other ~~recreationalists~~ recreationists and other materials as determined by the department.

**Sec. 60. 12 MRSA §7853, sub-§3** is enacted to read:

**3. Minimum age.** No person less than 10 years of age may operate an ATV, except on the land on which that

person is domiciled or land owned by that person's parent or guardian.

**Sec. 61. 12 MRSA §7854, sub-§1**, as amended by PL 1985, c. 762, §5, is further amended to read:

**1. Application and issuance.** The commissioner, or an agent designated by ~~him~~ the commissioner, may register and assign ~~registration number plates~~ a registration number to any ATV upon application and payment of an annual fee by the owner. ~~The plates shall be attached securely to registration number shall be clearly displayed on the front and rear of the vehicle and shall be clearly visible. After the first year of registration of the vehicle, the commissioner may issue validation devices which shall be placed on the number plates.~~ A registration shall be valid for one year commencing July 1st of each year.

**Sec. 62. 12 MRSA §7854, sub-§1-A**, as enacted by PL 1985, c. 762, §6, is repealed and the following enacted in its place:

**1-A. Appointment of ATV registration agents; report; fees.**

A. The commissioner may appoint municipal clerks or other persons who a municipality may designate as municipal agents to issue ATV registrations. The commissioner shall determine the period when the agents shall act.

B. For the purpose of issuing ATV registrations, agents other than municipal agents shall be appointed or reappointed as follows.

(1) The commissioner shall designate as an agent, for the purpose of issuing ATV registrations, any person who is licensed as an ATV dealer in accordance with section 7855, submits a complete application, is credit worthy and has not violated any provision of this subchapter.

(2) A business, the agency of which is revoked for a violation of this subchapter, may reapply for an agency for the 2nd year following the last year it held an agency.

C. Each agent, for the purpose of issuing ATV registrations, shall report to the commissioner on or before the 15th day of each calendar month. The report shall include an accounting of all ATV registrations issued during the previous calendar month and shall be accompanied by:

(1) The department's copy of each registration issued; and

(2) All ATV registration funds collected by the agent during the reporting period.

Agents may charge a service fee of not more than \$1 for each ATV registration issued and this service fee shall be retained by the agent.

**Sec. 63. 12 MRSA §7854, sub-§6-A**, as enacted by PL 1985, c. 304, §23, is repealed.

**Sec. 64. 12 MRSA §7854, sub-§7**, as amended by PL 1985, c. 762, §10, is further amended to read:

**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 plates and, upon receipt of the new certificate, attach the plates to the new all-terrain vehicle.~~ The fee for such a the 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 plates~~ and shall pay the regular \$12 fee.

**Sec. 65. 12 MRSA §7855, sub-§2**, as amended by PL 1985, c. 304, §§25 and 26, is further amended to read:

**2. Fees.** The dealer's license fee shall be ~~\$10~~ \$15 annually from each July 1st.

A. Any dealer licensed under Title 29, section 357, will not be required to pay the ~~\$10~~ \$15 license fee.

**Sec. 66. 12 MRSA §7857, sub-§1-A** is enacted to read:

**1-A. Display of registration numbers.** Every new ATV sold in Maine after January 1, 1991, shall have a 3 1/2" x 6" space provided on the front and rear of the machine, as high above the tires as possible, for the vertical display of the registration numbers.

**Sec. 67. 12 MRSA §7857, sub-§13**, as amended by PL 1985, c. 762, §12, is repealed and the following enacted in its place:

**13. Unlawfully operating ATV while under age.** A person is guilty of unlawfully operating an ATV while under age, if:

A. That person is under the age of 10 years;

B. That person is under the age of 15 years and operates an ATV across any public way maintained for travel; or

C. That person is under 15 years of age and operates an ATV while unaccompanied by an adult.

Notwithstanding this subsection, persons over the age of 12 years, who have successfully completed a training course approved by the department pursuant to section 7853, may cross public ways as permitted under subsection 24, paragraph D, subparagraph (1), provided that they are accompanied by an adult.

A person is not guilty of unlawfully operating an ATV while under age if that person is operating on land which is owned by the parent or guardian of the operator.

**Sec. 68. 12 MRSA §7857, sub-§13-A**, as enacted by PL 1985, c. 762, §13, is amended to read:

**13-A. Operating ATV without certificate of training.** A person is guilty, except as provided in subsection 24, paragraph E, of operating an ATV without a certificate of training, ~~if he that person~~ is under ~~18~~ 16 years of age and operates an ATV without having successfully completed a training course approved by the department pursuant to section 7853.

**Sec. 69. 12 MRSA §7857, sub-§14-A** is enacted to read:

**14-A. Permitting child under 10 years to operate ATV.** A person is guilty, except as provided in subsection 24, of permitting a child under the age of 10 to operate an ATV, if that person permits a child under the age of 10 to operate an ATV.

**Sec. 70. 12 MRSA §7857, sub-§16, ¶C** is enacted to read:

C. Every new ATV sold in Maine after January 1, 1991, shall be equipped with working headlights, taillights and brake lights.

**Sec. 71. 12 MRSA §7857, sub-§22-A**, as repealed and replaced by PL 1985, c. 762, §19, is amended to read:

**22-A. Operating ATV in prohibited area.** A person is guilty of operating an ATV in a prohibited area if ~~he that~~ person operates an ATV on a salt marsh, intertidal zone, marine sand beach, sand dune or any cemetery, burial place or burying ground or if ~~he that person~~ operates an ATV on alpine tundra or on a freshwater marsh or bog, other than on a trail designated for ATV use by the Department of Conservation, when the ground is not frozen and sufficiently

covered with snow to prevent direct damage to the vegetation.

**Sec. 72. 12 MRSA §7857, sub-§24, ¶E-1**, as enacted by PL 1985, c. 762, §22 is amended to read:

E-1. Notwithstanding subsection 16, ATV's manufactured prior to January 1, 1991, without a headlight or taillight are exempt from the provisions of that subsection while being operated between the hours of sunrise and sunset.

**Sec. 73. 12 MRSA §7863, sub-§4**, as amended by PL 1981, c. 414, §39, is further amended to read:

**4. Illegal use of firearm during training or field trials.** A Except as otherwise provided in subsection 5, a person is guilty of illegal use of a firearm during training or field trials if, during the training or field trials permitted in section 7862, subsection 1, and section 7861, subsection 1 sections 7861 and 7862, he that person uses or possesses any firearm other than a pistol or shotgun loaded with blank ammunition, except during open season for hunting.

**Sec. 74. 12 MRSA §7910, sub-§5**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 75. PL 1989, c. 52** is repealed.

**Sec. 76. Effective date.** The Maine Revised Statutes, Title 12, section 7463-A, subsection 4, as amended in this Act and Title 12, section 7463-A, subsection 4-A, as enacted in this Act, shall take effect January 1, 1990.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except for section 19 and sections 51 to 54 which shall take effect on January 1, 1990.

Effective June 29, 1989, unless otherwise indicated.

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## CHAPTER 494

H.P. 196 - L.D. 276

### An Act to Provide a Special Adjustment for Border Hospitals Experiencing Economic Hardship

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

**Whereas**, certain border hospitals are experiencing economic hardship that may result in the loss of valuable health services in border communities unless special relief is provided rapidly through the hospital regulatory system; and

**Whereas**, the necessary relief cannot be provided without changes in the current law; 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:**

**22 MRSA §396-D, sub-§9-B** is enacted to read:

**9-B. Special relief for border hospitals.** In determining financial requirements for a border hospital's 5th payment year, the commission shall make a special adjustment in accordance with the following provisions:

A. As used in this subsection, the following terms have the following meanings:

(1) "Border hospital" means a Maine hospital located within 10 miles of the New Hampshire border.

(2) "Economic hardship" means an excess of reasonably budgeted, noncapital, acute care operating expenses over noncapital financial requirements.

(3) "5th payment year" means a hospital's payment year beginning or deemed to begin on or after October 1, 1988, and before October 1, 1989.

B. In considering an adjustment under this subsection, the commission shall determine the extent to which the hospital has demonstrated that its economic hardship is attributable to unique circumstances affecting border hospitals. In no event may an adjustment under this subsection exceed the portion of a hospital's economic hardship attributed to the unique circumstances of border hospitals.

C. This adjustment may be made during the course of the 5th payment year. An adjustment under this subsection shall become part of payment year financial requirements for purposes of computing subsequent payment year financial requirements pursuant to section 396-C.

D. This subsection is repealed October 1, 1991.

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

Effective June 29, 1989.

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## CHAPTER 495

H.P. 124 - L.D. 161

### An Act to Amend the Maine Income Tax Laws