

# MAINE STATE LEGISLATURE

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

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

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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  
1990

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**January 3, 1990 to April 14, 1990**

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authority shall provide a photocopy of the permit holder's application, documents made a part of the application and any information of record collected by that previous issuing authority.

**Sec. 15. 25 MRSA §2005, sub-§3,** as enacted by PL 1985, c. 478, §2, is amended to read:

**3. Reapplication.** No If a permit has been revoked solely under subsection 1, paragraph D, the former permit holder may reapply upon successful completion of a substance abuse treatment program approved by the Department of Human Services as appropriate for the permit holder's problem or condition. Except as specified in this subsection, no person, otherwise eligible, who has had a permit revoked, is eligible for reapplication until the expiration of 5 years from the date of revocation.

**Sec. 16. 25 MRSA §2005-A** is enacted to read:

**§2005-A. Suspension of permit upon refusal**

**1. Immediate suspension.** If the permit holder is required by law to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for conduct that occurs while the permit holder is in possession of a loaded firearm, and the permit holder refuses to submit to the required testing, the permit to carry a concealed firearm issued to that person is immediately suspended and must be surrendered at that time by the permit holder to the law enforcement officer.

**2. Notice to issuing authority.** The law enforcement officer who has probable cause to require chemical testing shall promptly notify the issuing authority, in writing, of the permit holder's refusal and shall return the surrendered permit to the issuing authority.

**3. Suspension in effect during pendency.** The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV, or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title 29, section 1312, that the law enforcement officer did not have probable cause to require the permit holder to submit to chemical testing.

**4. Suspension terminated.** If the permit holder is acquitted of the criminal charges to which the refusal pertains, if the charges are dismissed by the State or by the court or if a determination of no probable cause is made, the suspension is terminated and the court or the State shall promptly notify the issuing authority in writing. Upon receipt of the written notice the issuing authority shall return the permit.

**Sec. 17. 32 MRSA §8113-A** is enacted to read:

**§8113-A. Suspension for refusal**

**1. Immediate suspension.** If the commissioner has probable cause to believe that a person licensed pursuant to this chapter is required to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for conduct that occurs while the licensee is in possession of a loaded firearm and the licensee refuses to submit to the required testing, the commissioner shall immediately suspend the licensee's right to carry a concealed firearm.

**2. Report to commissioner.** The law enforcement officer who has probable cause to require chemical testing shall promptly notify the commissioner of the licensee's refusal and provide the commissioner with a report of the facts and circumstances of the requirement to submit to chemical testing and of the licensee's refusal.

**3. Suspension in effect during pendency.** The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title 29, section 1312, that the law enforcement officer did not have probable cause to require the licensee to submit to chemical testing.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved, unless otherwise indicated.

Effective April 24, 1990, unless otherwise indicated.

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## CHAPTER 918

H.P. 1763 - L.D. 2428

**An Act to Make Supplemental Appropriations and Allocations and to Change Certain Provisions of the Law for the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1990 and June 30, 1991**

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the Department of Inland Fisheries and Wildlife will become due and payable immediately; 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:**

### PART A

**Sec. A-1. Appropriation.** The following funds are appropriated from the General Fund, for the fiscal year ending June 30, 1991, to carry out the purposes of this Act.

**1990-91**

#### INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

##### Administrative Services - Inland Fisheries and Wildlife

Positions - Legislative Count	(21.0)
Personal Services	\$628,927
All Other	545,933
Capital Expenditures	36,537
<b>TOTAL</b>	<b>\$1,211,397</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### Licensing Services - Inland Fisheries and Wildlife

Positions - Legislative Count	(20.0)
Positions - Other Count	(3.0)
Personal Services	\$477,633
All Other	703,931
Capital Expenditures	5,657
<b>TOTAL</b>	<b>\$1,187,221</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### Office of the Commissioner - Inland Fisheries and Wildlife

Positions - Legislative Count	(19.0)
Personal Services	\$652,675
All Other	423,431
Capital Expenditures	23,440
<b>TOTAL</b>	<b>\$1,099,546</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### Resource Management Services - Inland Fisheries and Wildlife

Positions - Legislative Count	(50.0)
Positions - Other Count	(2.5)
Personal Services	\$1,053,878
All Other	508,229
Capital Expenditures	130,487
<b>TOTAL</b>	<b>\$1,692,594</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### Fisheries and Hatcheries Operations

Positions - Legislative Count	(55.0)
Positions - Other Count	(5.0)
Personal Services	\$1,353,329
All Other	553,463
Capital Expenditures	224,363
<b>TOTAL</b>	<b>\$2,131,155</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### Enforcement Operations - Inland Fisheries and Wildlife

Positions - Legislative Count	(112.0)
Positions - Other Count	(0.5)
Personal Services	\$5,273,206
All Other	1,019,449
Capital Expenditures	564,481
<b>TOTAL</b>	<b>\$6,857,136</b>

Provides for the appropriation of funds in accordance with Public Law 1989, chapter 439.

##### ATV Safety and Educational Program

Positions - Legislative Count	(1.0)
Personal Services	\$26,215
All Other	27,441
<b>TOTAL</b>	<b>\$53,656</b>

Provides for the appropriation of funds consistent with the undedication of funds to the Department of Inland Fisheries and Wildlife as provided in this Act.

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

**TOTAL APPROPRIATION, SECTION A-1**

\$14,232,705  
\$14,232,705

**Sec. A-2. Allocation of Department of Inland Fisheries and Wildlife funds.** Income to the Department of Inland Fisheries and Wildlife, for the fiscal year ending June 30, 1991, is segregated, apportioned and disbursed as designated in the following schedule.

1990-91

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Administrative Services - Inland Fisheries and Wildlife**

Positions - Legislative Count (-21.0)  
Personal Services (\$628,927)  
All Other (545,933)  
Capital Expenditures (36,537)  
  
TOTAL (\$1,211,397)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**Licensing Services - Inland Fisheries and Wildlife**

Positions - Legislative Count (-20.0)  
Positions - Other Count (-3.0)  
Personal Services (\$477,633)  
All Other (703,931)  
Capital Expenditures (5,657)  
  
TOTAL (\$1,187,221)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**Office of the Commissioner - Inland Fisheries and Wildlife**

Positions - Legislative Count (-19.0)  
Personal Services (\$652,675)  
All Other (423,431)  
Capital Expenditures (23,440)  
  
TOTAL (\$1,099,546)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**Resource Management Services - Inland Fisheries and Wildlife**

Positions - Legislative Count (-50.0)  
Positions - Other Count (-2.5)  
Personal Services (\$1,053,878)  
All Other (508,229)  
Capital Expenditures (130,487)  
  
TOTAL (\$1,692,594)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**Fisheries and Hatcheries Operations**

Positions - Legislative Count (-55.0)  
Positions - Other Count (-5.0)  
Personal Services (\$1,353,329)  
All Other (553,463)  
Capital Expenditures (224,363)  
  
TOTAL (\$2,131,155)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**Enforcement Operations - Inland Fisheries and Wildlife**

Positions - Legislative Count (-112.0)  
Positions - Other Count (-0.5)  
Personal Services (\$5,273,206)  
All Other (1,019,449)  
Capital Expenditures (564,481)  
  
TOTAL (\$6,857,136)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

**ATV Safety and Educational Program**

Positions - Legislative Count (-1.0)  
Personal Services (\$26,215)  
All Other (27,441)  
  
TOTAL (\$53,656)

Provides for the deallocation of funds, which will be requested through General Fund appropriations.

reduced general operating expenditures and the delay of the purchase of desks.

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

**TOTAL** (\$14,232,705)

**TOTAL ALLOCATION, SECTION A-2** (\$14,232,705)

**PART B**

**Appropriation.** The following funds are appropriated from the General Fund, for the fiscal year ending June 30, 1991, to carry out the purposes of this Act.

**1990-91**

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Administrative Services - Inland Fisheries and Wildlife**

All Other (\$8,958)  
 Capital Expenditures (10,146)  
**TOTAL** (\$19,104)

Provides for the deappropriation of funds from reduced general operating expenditures and the delay of the replacement of one vehicle.

**Licensing Services - Inland Fisheries and Wildlife**

All Other (\$5,328)

Provides for the deappropriation of funds from reduced general operating expenditures.

**Office of the Commissioner - Inland Fisheries and Wildlife**

Personal Services (\$25,000)  
 All Other (18,314)  
 Capital Expenditures (1,000)  
**TOTAL** (\$44,314)

Provides for the deappropriation of funds from the delay in filling a vacant position,

**Resource Management Services - Inland Fisheries and Wildlife**

All Other (\$26,229)  
 Capital Expenditures (20,803)

**TOTAL** (\$47,032)

Provides for the deappropriation of funds from reduced general operating expenditures and the delay of the purchase of 2 snowsleds, one 4x4 truck and beaver live traps.

**Fisheries and Hatcheries Operations**

All Other (\$23,419)  
 Capital Expenditures (13,000)

**TOTAL** (\$36,419)

Provides for the deappropriation of funds from reduced general operating expenditures and the delay of the purchase of one vehicle.

**Enforcement Operations - Inland Fisheries and Wildlife**

Personal Services (\$111,280)  
 All Other (155,028)

**TOTAL** (\$266,308)

Provides for the deappropriation of funds from reduced general operating expenditures and the delay in filling vacant positions.

**Fisheries and Hatcheries Operations**

Personal Services (\$44,000)  
 Capital Expenditures (50,000)

**TOTAL** (\$94,000)

Provides for the deappropriation of funds from the delay in filling vacant positions and the deferment of the purchase of land access sites.

**ATV Safety and Educational Program**

All Other (\$7,076)

Provides for the deappropriation of funds by reducing the purchase of office supplies and other miscellaneous costs.

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**  
**TOTAL** (\$519,581)

**TOTAL APPROPRIATION, PART B** (\$519,581)

**PART C**

**Sec. C-1. Appropriation; General Fund.** There are appropriated from the General Fund, for the fiscal year ending June 30, 1991, to the Department of Inland Fisheries and Wildlife, the sums identified in the following schedule, to provide funding for approved reclassifications and range changes.

1990-91

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Administrative Services - Inland Fisheries and Wildlife**

Personal Services \$10,483

**Office of the Commissioner - Inland Fisheries and Wildlife**

Personal Services \$1,742

**Resource Management Services - Inland Fisheries and Wildlife**

Personal Services \$13,623

**Fisheries and Hatcheries Operations**

Personal Services \$4,171

**Enforcement Operations - Inland Fisheries and Wildlife**

Personal Services \$19,758

**DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**  
**TOTAL** \$49,777

**TOTAL APPROPRIATION, SECTION C-1** \$49,777

**Sec. C-2. Allocation.** The following funds are allocated from Other Special Revenue, for the fiscal year ending June 30, 1990, to carry out the purposes of this Act.

1989-90

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Administrative Services - Inland Fisheries and Wildlife**

Capital Expenditures \$385,000

Provides for the allocation of funds for the purchase of land and the construction of a building for the Region B Headquarters from the June 30, 1990 estimated balance of revenues to the Department of Inland Fisheries and Wildlife.

**Fisheries and Hatcheries Operations**

Capital Expenditures \$1,150,000

Provides for the allocation of funds for the renovation of the New Gloucester Fish Hatchery from the June 30, 1990 estimated balance of revenues to the Department of Inland Fisheries and Wildlife.

**Enforcement Operations - Inland Fisheries and Wildlife**

Capital Expenditures \$65,000

Provides funds for a year-round residence in Round Pond.

**Enforcement Operations - Inland Fisheries and Wildlife**

Capital Expenditures \$124,193

Provides funds for the purchase of 99 new mobile radios, 105 new portable radios and for the installation of new repeaters.



DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

PART D

TOTAL	\$1,724,193
TOTAL ALLOCATION, SECTION C-2	\$1,724,193

**Sec. C-3. Legislative intent.** It is the intent of the Legislature that the allocation amounts identified in section C-2 of this Act may not lapse, but must carry forward until expended.

**Sec. C-4. Allocation; Other Special Revenue.** There are allocated from Other Special Revenue, for the fiscal years ending June 30, 1990, and June 30, 1991, to the Department of Inland Fisheries and Wildlife, the sums identified in the following schedule, to provide funding for approved reclassifications and range changes.

	1989-90	1990-91
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Administrative Services - Inland Fisheries and Wildlife		
Personal Services	\$10,452	
Office of the Commissioner - Inland Fisheries and Wildlife		
Personal Services	\$14,719	
Resource Management Services - Inland Fisheries and Wildlife		
Personal Services	\$26,233	
Fisheries and Hatcheries Operations		
Personal Services	\$2,490	
Enforcement Operations - Inland Fisheries and Wildlife		
Personal Services	\$16,441	
Atlantic Sea Run Salmon Commission		
Personal Services	\$5,422	\$6,792
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	<u>\$75,757</u>	<u>\$6,792</u>
TOTAL ALLOCATION, SECTION C-4	<u>\$75,757</u>	<u>\$6,792</u>

**Sec. C-5. Legislative intent.** It is the intent of the Legislature that the reclassifications and range changes represented by the appropriation and allocation amounts identified in this Part take effect upon approval of this Act.

**Sec. D-1. 12 MRSA §7017, §1,** as enacted by PL 1983, c. 819, Pt. A, §17, is repealed.

**Sec. D-2. 12 MRSA §7101, sub-§2,** as amended by PL 1985, c. 304, §11, is further amended to read:

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

**Sec. D-3. 12 MRSA §7151, sub-§2,** as amended by PL 1985, c. 304, §14, is further amended to read:

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

**Sec. D-4. 12 MRSA §7365, sub-§3,** as enacted by PL 1983, c. 502, §4, is amended to read:

**3. Fee.** The annual basic fee for a commercial whitewater license ~~shall be~~ is set by the department and adjusted biennially by rule to reflect the actual cost of administering the license program. ~~The fee for 1983-84 shall be \$250.~~ The fee for reissuance of a license ~~shall be~~ is equal to the annual basic fee for a license. These fees ~~shall be~~ are credited directly to the Whitewater Rafting Fund within the department and used in accordance with section 7074, subsection 3.

**Sec. D-5. 12 MRSA §7366, sub-§4,** as enacted by PL 1985, c. 29, §3, is amended to read:

**4. Fee.** The annual fee for a whitewater guide's license ~~shall be~~ is \$25. All license fees ~~shall be~~ are credited to the Whitewater Rafting Fund within the department and used in accordance with section 7074, subsection 3.

**Sec. D-6. 12 MRSA §7800, sub-§1,** as enacted by PL 1979, c. 420, §1, is amended to read:

**1. Fees collected.** All fees collected for certificates, licenses and permits by the commissioner are paid daily to the Treasurer of State and accrue ~~to the Watercraft Fund, Department of Inland Fisheries and Wildlife as undedicated revenue to the General Fund and as dedicated revenue to the Department of Marine Resources in accordance with subsection 3.~~

**Sec. D-7. 12 MRSA §7800, sub-§2,** as amended by PL 1989, c. 469, §2, is further amended to read:

**2. Fines and costs collected.** Each county shall pay all fines, forfeitures and penalties collected for violations of this subchapter and all officers' costs collected for either coastal wardens or game wardens to the Treasurer of State, monthly, and ~~all of them shall accrue to the department~~ that money accrues as undedicated revenue to the General Fund, except that all fines, forfeitures and penalties collected as a result of the efforts of municipal law enforcement officers or harbor masters enforcing the provisions of this subchapter in their respective jurisdictions ~~shall be~~ are paid to that municipality for the local enforcement efforts of this subchapter. The department shall record as dedicated revenue to the Department of Marine Resources that portion of fines, forfeitures and penalties allocable to the Department of Marine Resources in accordance with subsection 3.

**Sec. D-8. 12 MRSA §7800, sub-§3**, as amended by PL 1983, c. 819, Pt. A, §31, is repealed and the following enacted in its place:

**3. Disbursement of revenues.** All revenues collected under this subchapter, including fines, fees and other available money must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing and Registration and the historical revenue distribution pattern including any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Finance, Bureau of the Budget.

**Sec. D-9. 12 MRSA §7824, sub-§3**, as amended by PL 1987, c. 737, Pt. C, §§23 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**3. Allocation of fees.**

A. The registration fee for residents ~~shall be~~ is credited as follows:

- (1) \$4.75 of each fee ~~shall be~~ is credited to the ~~department~~ General Fund as undedicated revenue;
- (2) \$5.25 of each fee ~~shall be~~ is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation; and
- (3) \$6 of each fee ~~shall be~~ is annually distributed to the municipality of the owner's residence as shown on ~~his~~ the owner's registration certificate, except that in unorganized territory, \$6 of each fee ~~shall be~~ is annually distributed to the county of the owner's residence as shown on ~~his~~ the owner's registration certificate and credited to the unorga-

nized territory fund of that county established in Title 30-A, section 7502.

B. The registration fee for nonresidents ~~shall be~~ is credited as follows:

- (1) \$10.75 of each fee ~~shall be~~ is credited to the ~~department~~ General Fund as undedicated revenue; and
- (2) \$5.25 of each fee ~~shall be~~ is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation.

C. All other ~~moneys~~ money received under this subchapter, including dealer license fees, ~~shall be~~ is credited to the ~~department~~ General Fund as undedicated revenue.

**Sec. D-10. 12 MRSA §7824, sub-§4, ¶A**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. D-11. 12 MRSA §7854, sub-§4**, as repealed and replaced by PL 1985, c. 762, §9, is repealed and the following enacted in its place:

**4. Disbursement of revenues.** Revenues received under this subchapter must be disbursed and used as follows.

A. Revenues received under this subchapter are credited as undedicated revenue to the General Fund except that at least \$3.85 of each annual registration fee is credited to the ATV Recreational Management Fund of the Department of Conservation.

B. The ATV Recreational Management Fund is established and administered by the Department of Conservation.

(1) The fund may be used to conduct research on issues related to the management of ATV's; assist in the formation of nonprofit ATV groups; make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, ATV groups and others to construct and maintain ATV trails or to otherwise carry out the purposes of the fund; assist in the design and development of ATV trails; provide protection to landowners against ATV-related suit or liability; or otherwise provide for the wise and orderly management of ATV's.

(2) If any money in the fund is not expended during the year in which it is collected, the unexpended balance may not lapse, but must be carried as a continuing account available for the purposes specified until expended.

**Sec. D-12.** 12 MRSA §7854, sub-§11 is enacted to read:

**11. Training and education.** The department shall provide training and education relative to ATV's.

**Sec. D-13.** 12 MRSA §7910, sub-§1, ¶A, as amended by PL 1989, c. 439, §§4 and 8, is further amended to read:

A. All fees, fines, penalties, officers' costs and all other ~~moneys~~ money received, collected or recovered by the court or the department under any provisions of chapters 701 to ~~714 and 716 to~~ 721, except section 7109; sections 7361 to 7370-A; sections 7751 to 7756; section 7800, subsection 3; section 7824, subsection 3; and section 7854, subsection 4;

**Sec. D-14.** 12 MRSA §7910, sub-§8, as enacted by PL 1989, c. 439, §§5 and 8, is repealed.

**Sec. D-15.** 12 MRSA §7910, sub-§9, as enacted by PL 1989, c. 439, §§5 and 8, is amended to read:

**9. Appropriation.** The amount of funds appropriated to the department in each fiscal year ~~shall~~ may not be less than the dollar amount collected, received or recovered by the department from license and permit fees, fines, penalties and all other money received by the department, except for ~~money relating to watercraft, snowmobile and all-terrain vehicle laws and rules as provided in subsections 6, 7 and 8, and any funds received from the Federal Government; and money relating to the following:~~

A. The department's account for the acquisition of waterfowl habitat set forth in section 7109;

B. Whitewater rafting;

C. The Maine Endangered and Nongame Wildlife Fund established in section 7757;

D. The watercraft fund of the Department of Marine Resources;

E. The Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation;

F. The ATV Recreational Management Fund of the Department of Conservation; and

G. Boating access sites.

**Sec. D-16.** 12 MRSA §7910, sub-§12 is enacted to read:

**12. Excess of revenues over expenditures.** Any excess of revenues, as set forth in subsection 9, over

expenditures at the close of a fiscal year must be appropriated by the Legislature from the General Fund to the department in the ensuing fiscal year.

**Sec. D-17.** PL 1989, c. 68, Pt. A, §3, first sentence is amended to read:

**Sec. 3. Personal Services funding.** The amounts provided for Personal Services in the General Fund; and Highway Fund and Department of Inland Fisheries and Wildlife funds are subject to the provision that the total number of permanent positions and the costs thereof in any account ~~shall~~ may not, during either year of the biennium, either exceed the authorized position numbers shown in parenthesis which are used by the Legislature in computing the total dollars to be made available for Personal Services or deviate from the specific cost components upon which appropriations and allocations are based except as provided for in section 6 of this Part.

**Sec. D-18.** PL 1989, c. 68, Pt. A, §§16 and 17 are amended to read:

**Sec. 16. Unified state budget.** The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund; Highway Fund; and Alcoholism Prevention, Education, Treatment and Research Fund; and funds of the Department of Inland Fisheries and Wildlife bills in a manner that ~~will identify~~ identifies the gross amount of resources for each program. The gross unified budget bills and budget documents ~~shall~~ must encompass resources from all funds, including, but not limited to: General Fund, Highway Fund, Federal Fund, Federal Block Grant Fund and Other Special Revenue funds. Separate gross unified budget bills ~~shall~~ must be submitted for the General Fund; the Highway Fund; and the Alcoholism Prevention, Education, Treatment and Research Fund; and the Department of Inland Fisheries and Wildlife funds.

**Sec. 17. Line category amounts of General Fund, Highway Fund, and Alcoholism Prevention, Education, Treatment and Research Fund.** The amounts included in the unified state budget by line category are the amounts included immediately under the appropriations and allocations ~~section~~ sections of the individual pages in the budget document for the General Fund; the Highway Fund; and the Alcoholism Prevention, Education, Treatment and Research Fund; and the Department of Inland Fisheries and Wildlife funds. These amounts, as adjusted by the Legislature, ~~will be~~ are used when preparing work programs by fund for each fiscal year of the biennium.

**Sec. D-19. ATV safety and educational program.** Any unencumbered balances as of June 30, 1990, in the ATV safety and educational Other Special Revenue account of the Department of Inland Fisheries and Wildlife lapse to the General Fund.

**Sec. D-20. Effective date.** Sections D-13 to D-15 of this Act take effect July 1, 1990.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved except as otherwise indicated.

Effective April 24, 1990, unless otherwise indicated.

## CHAPTER 919

### H.P. 1767 - L.D. 2435

#### An Act to Modify the Applicability of the Certificate of Need Program to Hospitals and to Exempt Certain Hospital Restructuring Activities from the Requirement of Approval by the Maine Health Care Finance Commission

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

**Sec. 1. 4 MRSA §152, sub-§5, ¶¶P and Q,** as enacted by PL 1989, c. 392, §1, are amended to read:

P. Actions to compel the compliance with court orders including the right to appoint persons to sign instruments as provided for in the Maine Rules of Civil Procedure; ~~and~~

Q. Actions in which the equitable relief is sought through an equitable defense, a counterclaim, a cross-claim or other responsive pleading or reply permitted by the Maine Rules of Civil Procedure; and

**Sec. 2. 4 MRSA §152, sub-§5, ¶R** is enacted to read:

R. Actions to enforce access to health care under Title 22, section 1715.

**Sec. 3. 22 MRSA §304-A, first ¶,** as enacted by PL 1981, c. 705, Pt. V, §16, is amended to read:

No person may enter into any commitment for financing a project ~~which that~~ requires a certificate of need or incur an obligation for the project without having sought and received a certificate of need, except that this prohibition ~~shall does~~ not apply to commitments for financing conditioned upon the receipt of a certificate of need or to obligations for predevelopment activities of less than \$150,000 for health care facilities other than hospitals or \$250,000 for hospitals.

**Sec. 4. 22 MRSA §304-A, sub-§2,** as amended by PL 1987, c. 363, §§1 and 2, is further amended to read:

**2. Acquisitions of major medical equipment.** The following acquisitions:

A. The acquisition by any person other than a hospital of major medical equipment that will be owned by or located in a health care facility; ~~or~~

B. The acquisition by any person of major medical equipment not owned by or located in a health care facility if:

(1) The equipment will not be used to provide services for inpatients of a hospital, but the person fails to file a written notice of intent to acquire the equipment at least 60 days prior to entering into a contract to acquire the equipment; or

(2) The department finds, within 30 business days after the date it receives a written notice of intent to acquire the equipment, that the equipment will be used to provide services for inpatients of a hospital: ; or

C. The acquisition by a hospital of major medical equipment with a cost of \$1,000,000 or more that will be owned by or located in a health care facility and:

(1) Will be used to provide services for inpatients in at least 20% of the cases for which the equipment is utilized; or

(2) Will be used to provide services for inpatients in less than 20% of the cases for which the equipment is utilized and the hospital seeks recognition of additional financial requirements associated with such equipment.

This paragraph is repealed on October 1, 1995; or

D. Effective October 1, 1995, the acquisition by a hospital of major medical equipment with a cost of \$1,000,000 or more.

There ~~shall be~~ is a waiver for the use of major medical equipment on a temporary basis as provided in section 308, subsection 4;

**Sec. 5. 22 MRSA §304-A, sub-§3,** as amended by PL 1987, c. 436, §1, is further amended to read:

**3. Capital expenditures.** The obligation by or on behalf of a health care facility, except a skilled or intermediate care facility or hospital, of any capital expenditure of \$350,000 or more. Intermediate care and skilled nursing care facilities ~~shall~~ have a threshold of \$500,000, except that any transfer of ownership ~~shall be~~ is reviewable;

**Sec. 6. 22 MRSA §304-A, sub-§3-A** is enacted to read: