

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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PUBLIC LAWS
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and prudent hunter never bases identification upon sound alone or even upon sound in combination with what appears to be an appendage of the wild animal or wild bird sought. A reasonable and prudent hunter, independent of these target-determining factors, bases identification upon obtaining an essentially unobstructed view of the head and torso of the potential target. This visual sighting is the most critical target-determining factor. Visual sighting of the head and torso may present itself intermittently or continuously. If presented intermittently, a reasonable and prudent hunter does not make a target-identification decision until this visual sighting exists at the point in time the hunter takes aim and is making final preparation to shoot. A reasonable and prudent hunter additionally recognizes that these sound and sight target-determining factors are affected by a number of other considerations, including, but not limited to, the distance to the target, surrounding or intervening terrain and cover, lighting and weather conditions, the hunter's own ability to hear and see, the hunter's own experience and the proximity of other persons in the hunter's immediate vicinity.

See title page for effective date.

CHAPTER 351

H.P. 927 - L.D. 1324

An Act to Amend the Laws Regulating Aestheticians

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

Sec. 1. 32 MRSA §1551, sub-§8 is enacted to read:

8. Apprentice aesthetician. "Apprentice aesthetician" means any person who is engaged in learning and acquiring a knowledge of the practice of aesthetics under the direction and supervision of a person licensed under this chapter to practice aesthetics.

Sec. 2. 32 MRSA §1652-A, sub-§3, as amended by PL 1989, c. 700, Pt. A, §143, is repealed and the following enacted in its place:

3. Training. Within the immediately preceding 3 years, has satisfactorily completed a course of instruction in aesthetics of 750 hours in not less than 5 months in a school licensed by the Commissioner of Education or has experience in the practice of aesthetics as an apprentice of 1,250 hours distributed over a period of at least 7 months; and

Sec. 3. 32 MRSA §1655, 2nd and 4th paragraphs, as repealed and replaced by PL 1977, c. 398, §10, are amended to read:

~~Every apprentice in In order to avail himself of this chapter to practice cosmetology under this chapter, the apprentice shall, before entering upon his an apprenticeship, file with the board the name and place of business of his the apprentice's employer, the date of commencement of the apprenticeship and the full name and age of the apprentice, which age shall may not be less than 17 years. Any such apprentice who shall change his changes a place of employment shall promptly notify the board of the name and place of business of the new employer and the date of the change.~~

Every apprentice, after serving an apprenticeship of 18 months program as specified under this chapter, shall file application for examination at the next examination held by the board in accordance with the requirements of section 1652.

See title page for effective date.

CHAPTER 352

H.P. 1157 - L.D. 1698

An Act to Promote Participation in Affordable Telephone Service

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

Sec. 1. 35-A MRSA §7103 is enacted to read:

§7103. Affordable telephone service

The Public Utilities Commission shall require each local telephone company to participate in statewide outreach programs designed to increase the number of low-income telephone customers on the network through increased participation in any universal service programs approved by the commission. The Public Utilities Commission may adopt rules to implement this section.

Sec. 2. Public Utilities Commission report on the Maine Revised Statutes, Title 35-A, section 7103. The Public Utilities Commission must report to the Joint Standing Committee on Utilities by January 15, 1992 on any suggested or adopted programs for implementation of the Maine Revised Statutes, Title 35-A, section 7103.

See title page for effective date.

CHAPTER 353

H.P. 1021 - L.D. 1494

An Act to Extend the Sunset on Rating Practices in Group Health Insurance

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

24-A MRSA §2808-A, sub-§5, as enacted by PL 1989, c. 422, §2, is amended to read:

5. **Sunset.** Unless continued or modified by law, this section is repealed on October 1, ~~1994~~ 1992.

See title page for effective date.

CHAPTER 354

H.P. 1029 - L.D. 1502

An Act to Provide for the Acquisition of Property for the Establishment, Preservation or Enhancement of Open Space and Recreation Corridors in the State

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

Sec. 1. 12 MRSA §602, sub-§20, as enacted by PL 1987, c. 769, Pt. A, §48, is amended to read:

20. **Management of ATV's.** To administer the ATV Recreational Management Fund, established under section 7854, subsection 4, for the purposes given in that subsection. The bureau may promulgate rules, in accordance with Title 5, chapter 375, subchapter II, for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 7851, subsection 5; and

Sec. 2. 12 MRSA §602, sub-§21 is enacted to read:

21. **Acquisition of railroad rights-of-way for open space or recreation corridors.** For the purpose of establishing, preserving or enhancing corridors for use for open space or recreation, the bureau may acquire, with the consent of the Governor, by license, lease, purchase, gift or eminent domain, railroad rights-of-way upon which rail service is no longer operated. When railroad rights-of-way or other interests in railroad rights-of-way are taken by eminent domain, the proceedings must be in accordance with this subsection and are not subject to Title 35-A, chapter 65. For purposes of these acquisitions, the term "owner" as used in this subsection means the person holding the dominant rights in the property immediately prior to the termination of the operation of rail service, and that person's successors and assigns. Acquisitions pursuant to this subsection are not subject to any limitation in acreage.

If the bureau decides to acquire property by eminent domain, it must have the property appraised and offer to the owner just compensation for the interests acquired. The

bureau must file in the registry of deeds for each county in which the property lies a notice of the taking that contains a description of the property and of the interest taken and the name or names of the owner or owners. The bureau may join in the same notice one or more properties, whether those properties are in the same or different ownership. A check in the amount of the offer and a copy of the notice of taking must be served upon the owner or owners. If there is more than one owner, the check may be served upon any one of the owners of each separate property. The notice of the taking must be published once in a newspaper of general circulation in each county where the property lies and that publication constitutes service on any unknown owner or owners or other persons who may have a claim or interest in the property.

No railroad rights-of-way or other interest within the jurisdiction of the United States Interstate Commerce Commission may be acquired by eminent domain.

If any owner is aggrieved by the bureau's award, the owner may appeal from it to the Kennebec County Superior Court or the Superior Court in the county in which the land lies within 30 days after the date of service or publication of the notice of the taking. The appeal must be taken by filing a complaint setting forth the facts upon which the case will be tried according to the Maine Rules of Civil Procedure. The Superior Court shall determine damages by a jury verdict or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for any damages, with interest when it is due.

Except in the case of an acquisition by license or lease, unless otherwise specifically excepted by the bureau, all reversionary and servient rights in and any other conflicting claims to property acquired pursuant to this subsection terminate and are extinguished forever as of the date of the acquisition by the bureau. Any person who makes a claim to the property must mail a written notice to the owner and the bureau. Any person damaged by the extinguishing of those rights may make claim for damages in accordance with the eminent domain appeal procedures of this subsection within 2 years of the date of the acquisition. The burden of proving the validity, compensability and value of any claim is upon the claimant. Notice of the acquisition must be given to the apparent holders of such interests as provided in this subsection. If the bureau determines that the property acquired may be subject to reversionary or servient interests or other conflicting claims, in order to avoid double or multiple liability, the bureau may make a blanket award of compensation for the acquisition and, instead of serving the award check on the owner, request that the Treasurer of State establish an interest-bearing account into which the full amount of that compensation is deposited and held. The funds and any interest accrued must be disposed of as follows.

A. If the 2-year period for filing a claim for damages for the extinguishment of a reversionary or servient right or other conflicting claim expires and no claim