

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

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J.S. McCarthy Company  
Augusta, Maine  
1993

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

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

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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financial statement of the party giving the surety, bond or bonds from a surety company or companies duly authorized to do business in the State.

The bid security may be required at the discretion of the contracting authority to assure that the contractor is bondable.

The bid securities other than bid bonds ~~shall~~ must be returned to the respective unsuccessful bidders. The bid security of the successful bidder ~~shall~~ must be returned to the contractor upon the execution and delivery to the contracting agency of the contract and performance and payment bonds, in terms satisfactory to the contracting agency for the due execution of the work.

In the case of contracts on behalf of the State, the bonds ~~shall~~ must be payable to the State and deposited with the contracting authority. In the case of all other contracts subject to this section, the bonds ~~shall~~ must be payable to and deposited with the contracting body awarding the contract.

See title page for effective date.

**CHAPTER 437**

**H.P. 590 - L.D. 794**

**An Act Establishing the Maine Community Reinvestment Program**

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

**Sec. 1. 5 MRSA §135, first ¶**, as amended by PL 1991, c. 780, Pt. Y, §9, is further amended to read:

The Treasurer of State may deposit the money, including trust funds of the State, in any of the banking institutions or trust companies or state or federal savings and loan associations or mutual savings banks organized under the laws of this State or in any national bank or banks or state or federal savings and loan associations located in the State, except as provided in chapter 161. Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901. When there is excess money in the State Treasury that is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Administrative and Financial Services and with the consent of the Governor, those amounts in bonds, notes, certificates of indebtedness or other obligations of the United States that mature not more than 24 months from the date of investment or in repurchase

agreements secured by obligations of the United States that mature within the succeeding 24 months, prime commercial paper, tax-exempt obligations or banker's acceptances. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, provided that the loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on those investments of money must be credited to the respective funds, except that interest earned on investments of special revenue funds must be credited to the General Fund of the State. Effective November 1, 1991, interest earned on investments of the Highway Fund must be credited to the General Fund. Interest earned on funds of the Department of Inland Fisheries and Wildlife must be credited to the General Fund. Interest earned on funds of the Baxter State Park Authority must be credited to the Baxter State Park Fund. This section does not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of state funds required by the terms of custodial contracts or agreements negotiated in accordance with the laws of this State. All custodial contracts and agreements are subject to the approval of the Governor.

See title page for effective date.

**CHAPTER 438**

**S.P. 243 - L.D. 736**

**An Act to Update and Clarify Certain Provisions of Fish and Wildlife Laws**

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

**Sec. 1. 5 MRSA §12004-I, sub-§69**, as amended by PL 1989, c. 503, Pt. A, §34, is repealed.

**Sec. 2. 12 MRSA §7001, sub-§23-A**, as amended by PL 1985, c. 718, §1, is repealed and the following enacted in its place:

**23-A. Muzzle-loading firearm.** "Muzzle-loading firearm" means a rifled or smooth-bored firearm that is:

- A. Forty caliber or greater;
- B. Capable of firing only a single charge;
- C. Loaded through the muzzle with powder and a ball or bullet; and

D. Ignited by a percussion cap or priming charge of a flint, match or wheel lock mechanism.

**Sec. 3. 12 MRSA §7001, sub-§33-E** is enacted to read:

**33-E. Snagging.** “Snagging” means to fish by manipulating a hook or hooks in such a manner as to pierce or snag the fish in a part of the body other than the mouth.

**Sec. 4. 12 MRSA §7103-A, sub-§2, ¶A** is enacted to read:

A. The permit may be for a one-year, 2-year or 3-year period at a fee of \$20 for each year.

**Sec. 5. 12 MRSA §7106-A**, as enacted by PL 1991, c. 736, §2, is repealed and the following enacted in its place:

**§7106-A. Pheasant hunting permit**

**1. Issuance.** The commissioner or the commissioner’s authorized agent may issue a pheasant hunting permit in the form of a stamp to applicants 16 years of age or older permitting them to hunt or possess pheasants in Cumberland County and York County. A person under 16 years of age may hunt or possess pheasants in accordance with chapters 701 to 721, except that a person under 16 years of age is not required to purchase or carry a pheasant hunting permit in order to hunt or possess pheasants.

**2. Fee.** The fee for a pheasant hunting permit is \$16, \$1 of which is retained by the commissioner’s authorized agent.

**3. Validation.** A pheasant hunting permit is validated by the permittee writing the permittee’s signature across the face of the stamp in ink.

**4. Restrictions.** The following restrictions apply to the hunting or possession of any pheasant in Cumberland County and York County.

A. A person must carry an unexpired validated pheasant hunting permit at all times when hunting or possessing a pheasant.

B. A pheasant hunting permit must be exhibited to a warden or employee of the department upon request.

**5. Pheasant Fund; agreements.** Revenues generated from the sale of pheasant hunting permits must be deposited into a separate account within the department, to be known as the Pheasant Fund and referred to in this section as the “fund.” The fund is nonlapsing. The fund may be used only for costs directly related to the admin-

istration of the pheasant program, including grants to a qualified rod and gun club or qualified hunting-oriented organization to help defray the costs of purchasing and raising pheasants in accordance with an agreement with the commissioner. The commissioner may enter into an agreement with any qualified rod and gun club or qualified hunting-oriented organization to allow the club or organization to purchase and raise pheasants. An agreement entered into pursuant to this subsection may provide for the use of department facilities for raising pheasants by a qualified rod and gun club or qualified hunting-oriented organization. For purposes of this subsection, “qualified rod and gun club or qualified hunting-oriented organization” means a rod and gun club or a hunting-oriented organization that has demonstrated involvement in raising and releasing pheasants in the year prior to entering into an agreement with the commissioner to purchase and raise pheasants.

**6. Department participation.** The department may not purchase or raise pheasants.

**7. Release of birds.** All pheasants purchased and raised under an agreement with the commissioner pursuant to subsection 5 must be released under the direction of department officials in areas open to hunting for the general public.

**8. Rules.** The commissioner may adopt rules necessary for the proper administration, enforcement and interpretation of this section.

**Sec. 6. 12 MRSA §7107-A, sub-§5, ¶B**, as enacted by PL 1985, c. 320, §2, is repealed.

**Sec. 7. 12 MRSA §7107-A, sub-§5, ¶E**, as enacted by PL 1985, c. 320, §2, is amended to read:

E. Except as provided in this section, chapters 701 to 721 relating to deer apply to the taking of deer with muzzle-loading rifles firearms.

**Sec. 8. 12 MRSA §7153, sub-§1**, as enacted by PL 1979, c. 420, §1, is amended to read:

**1. Issuance.** The commissioner may issue permits to fish for or possess alewives, ~~cusk~~, eel, ~~hornpout~~, suckers and yellow perch by means of eel pots, traps, spears or nets in inland waters, under such rules as ~~he~~ the commissioner may establish, provided these permits do not interfere with rights granted under section 6131.

**Sec. 9. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1989, c. 493, §20, is further amended by amending subparagraph (3) to read:

(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 a given day, from specific inland waters designated by the commissioner. A seine may not be used to take smelts.

**Sec. 10. 12 MRSA §7235**, as amended by PL 1989, c. 493, §22, is repealed.

**Sec. 11. 12 MRSA §7235-A** is enacted to read:

**§7235-A. Permit to possess, propagate and sell wild birds and wild animals**

**1. Issuance.** The commissioner may issue a permit to a person complying with this section, permitting that person to possess, propagate or sell wild birds and wild animals.

**2. Fee.** The fee for a one-year permit to possess, propagate or sell wild birds and wild animals is \$25.

**3. Restrictions.** The following restrictions apply to a person issued a permit under this section.

A. A ringneck pheasant, wild turkey or bobwhite quail whether live or dressed, which is possessed by virtue of this permit, must be identified with a metallic leg band before being removed from the premises of the permittee. This metallic leg band, supplied by the permittee, must remain attached to the bird until that bird is finally prepared for consumption.

B. A wild animal or part of a wild animal, which is possessed by virtue of this permit, must be identified with a securely attached tag or seal before being removed from the premises of the permittee. This tag or seal, supplied by the permittee, must remain attached to the wild animal or the part of the wild animal until the animal or part is finally prepared for consumption or manufactured into a finished product.

C. A permit issued pursuant to this section does not authorize the permittee to possess, propagate or sell deer, bear or moose.

D. A permit issued pursuant to this section does not authorize a person to possess, propagate or sell any wild animal taken in accordance with sections 7501, 7502 or 7504.

**4. Exemptions.** The following are exemptions to the requirements of this section.

A. The department is exempt from the provisions of this section.

B. Notwithstanding subsection 3, paragraph B, an exotic animal is not required to be identified with a tag or seal.

**5. Report of sale or transfer.** Each person who is issued a permit under this section shall report on forms provided by the commissioner the sale or transfer of each wild bird or wild animal. The forms must be printed in triplicate, one copy to be retained by the permittee, one copy to accompany the bird or animal being sold or transferred and one copy to be submitted to the commissioner on the last day of the month in which the sale or transfer took place.

**6. Annual inventory report.** Within 30 days following the end of each calendar year, each person who is issued a permit under this section shall submit an annual inventory report to the commissioner. The annual inventory report, submitted on forms provided by the commissioner, must provide an accurate inventory of the total number of wild birds and wild animals possessed by the permittee on that date.

**7. Permit revocation for failure to report.** The commissioner may revoke any permit issued under this section if the permit holder fails to meet the reporting requirements of subsections 5 and 6. The commissioner shall notify the permit holder of the revocation in accordance with section 7077, subsection 7. A person whose permit has been revoked under this section may request a hearing before the commissioner. If, after hearing, the commissioner finds that the person met the reporting requirements of subsections 5 and 6, the revocation is rescinded. If the commissioner finds that the person did not meet the reporting requirements, the revocation remains in effect.

**8. Rules.** The commissioner may adopt rules necessary for the proper administration of this section, including provisions to ensure that all wild birds and wild animals receive humane treatment and proper confinement.

**Sec. 12. 12 MRSA §7241**, as amended by PL 1981, c. 644, § 13, is further amended to read:

**§7241. Permit to transport live fish and wildlife for propagating and advertising**

**1. Issuance.** The commissioner may issue a permit to anyone, permitting him that person to take and transport within the limits of the State, fish and wildlife taken in the State for breeding, propagating or advertising purposes.

**Sec. 13. 12 MRSA §7354, sub-§1, ¶B**, as enacted by PL 1989, c. 913, Pt. C, §4, is repealed.

**Sec. 14. 12 MRSA §7354, sub-§2, ¶¶C and D**, as enacted by PL 1989, c. 913, Pt. C, §4, is amended to read:

C. Sell lawfully acquired specimens of fish and wildlife that have been preserved through the art

of taxidermy if that sale does not violate regulations of the United States Federal Migratory Bird Treaty Act or other federal regulations; and

D. Designate others to aid or assist in conducting business at the licensee's place of business; and.

**Sec. 15. 12 MRSA §7354, sub-§2, ¶E**, as enacted by PL 1989, c. 913, Pt. C, §4, is repealed.

**Sec. 16. 12 MRSA §7354, sub-§4**, as enacted by PL 1989, c. 913, Pt. C, §4, is amended to read:

**4. Competency standards.** The commissioner shall establish standards of competency for the practice of taxidermy and shall provide a copy of these standards to each applicant for a taxidermy license or a training permit.

**Sec. 17. 12 MRSA §7356**, as enacted by PL 1989, c. 913, Pt. C, §4, is amended to read:

**§7356. Licensure.**

**1. License required.** In order to safeguard the life, health and welfare of the people of this State, any person practicing the art of taxidermy for commercial purposes must hold a taxidermist license or a training permit as provided in this section.

**2. License qualifications.** To be eligible for a taxidermist license or training permit issued pursuant to this section, an applicant must:

A. Satisfactorily pass a taxidermy examination, as the commissioner shall prescribe by rule; and

B. Demonstrate trustworthiness and competence to practice the art of taxidermy in such a manner, as prescribed by the commissioner by rule, as to safeguard the interests of the public.

**3. Training permit.** ~~Any person who is undergoing taxidermy training as defined in section 7354 must obtain a training permit before that person may participate in taxidermy training. No person holding a training permit may practice the art of taxidermy for commercial purposes, except under the direct supervision of a licensed taxidermist. The licensed taxidermist is responsible for the performance and final product of the trainee.~~

**4. License application.** Each applicant for a license or training permit must submit a written application to the commissioner on a form prescribed by the commissioner. The commissioner may require any applicant who has previously held a taxidermist license to provide a notarized statement indicating that the person has not failed to provide services to a customer as promised through a contractual agreement with that customer.

A. The application must contain satisfactory evidence of the qualifications required of the applicant under this section and must be sworn to by the applicant.

B. Failure or refusal to provide information requested on the application form is sufficient grounds for the commissioner to reject the application.

C. The application must be accompanied by a non-refundable fee of \$10.

D. Within 10 working days of receipt of any application for a taxidermist license or training permit, the commissioner shall notify the applicant as to the acceptability of the application and shall provide the applicant with at least 2 weeks' notice prior to any examination.

**5. Examination.** Each applicant for a license or permit shall appear at a time and place designated by the commissioner, to be examined by means of written, practical and oral tests, as the commissioner determines. ~~An applicant for a training permit may not be required to take a practical examination.~~ The commissioner shall determine the form and content of examinations.

**6. Reexamination.** The commissioner may require any taxidermist to be reexamined if the commissioner receives a written complaint and, upon investigation, finds that the taxidermist no longer meets the qualifications to be licensed as a taxidermist.

**7. Fee.** License applicants who successfully meet the qualifications set forth in this section must be issued a license upon payment of a ~~\$3~~ \$65 fee. This fee is in addition to the \$10 examination fee. ~~Permit applicants who successfully meet the qualifications of this section must be issued a training permit. A fee in addition to the \$10 examination fee is not required for a training permit.~~

**8. Annual renewal of license; fees; effect of failure to renew.** Licenses and permits issued pursuant to this section run for the current year until the 30th day of June following the date of the issuance, on which date the license or permit terminates unless sooner revoked. Subject to any revocation or suspension, the license or permit may be renewed annually upon application by the licensee or permittee accompanied by a ~~\$13~~ \$75 license fee or \$5 permit fee.

**Sec. 18. 12 MRSA §7357**, as enacted by PL 1989, c. 913, Pt. C, §4, is amended to read:

**§7357. Investigation; grounds for suspension of license**

The commissioner shall investigate or cause to be investigated all complaints made to the department and

all cases of noncompliance with or violation of sections 7354 to 7356 and this section. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any licensee ~~or permittee~~. These complaints must be in writing, be sworn to by the person making them and filed with the department.

**1. Disciplinary action.** The commissioner may suspend or revoke a license ~~or permit~~ pursuant to sections 7077 to 7079 and Title 5, section 10004. The commissioner may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license ~~or permit~~ for any one of the following causes:

- A. Procuring a license ~~or permit~~ by fraud or deceit practiced upon the department or a purchaser;
- B. Failure to meet the competency standards established pursuant to section 7354;
- C. Engaging in the art of taxidermy ~~or taxidermy training~~ under a false name or alias with fraudulent intent;
- D. Incompetence, negligence or neglect in the conduct of the practice of the act of taxidermy ~~or taxidermy training~~, including, but not limited to, entering into a contractual agreement with a customer to provide services and then failing, without just cause, to provide the services as agreed;
- E. Failure to meet the qualifications for a license ~~or permit~~, including, but not limited to, failing to pass a reexamination pursuant to section 7356, subsection 6; or
- F. For any violation of sections 7354 to 7356 and this section or any rules adopted pursuant to section 7354, subsection 5.

**2. Reissue of license ~~or permit~~.** The commissioner may reissue a license ~~or permit~~ to any former licensee ~~or permittee~~ whose license ~~or permit~~ has been revoked.

**3. Hearings.** Hearings may be conducted by the commissioner to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license ~~or permit~~, or as otherwise necessary to implement the provisions of sections 7354 to 7356 and this section. The commissioner shall hold an adjudicatory hearing at the written request of any person who is denied a license ~~or permit~~ without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the commissioner within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to

the extent applicable. The commissioner may subpoena witnesses, records and documents in any hearing the commissioner conducts.

**4. Terms of revocation of license.** A person whose license ~~or permit~~ has been revoked under this subsection may not apply for a new license for a minimum of 3 years.

**Sec. 19. 12 MRSA §7365, sub-§3**, as amended by PL 1989, c. 883, §2 and c. 918, Pt. D, §4, is repealed and the following enacted in its place:

**3. Fee.** The annual basic fee for a commercial whitewater license must be set by the department and adjusted biennially by rule to reflect the actual cost of administering the license program. The fee for reissuance of a license is equal to the annual basic fee for a license.

**Sec. 20. 12 MRSA §7365, sub-§6**, as amended by PL 1989, c. 883, §4, is further amended to read:

**6. Sale of business.** When a licensed whitewater outfitter's business is sold, the license must be returned to the department. On application, the license must be reissued to the purchaser, provided that the purchaser meets the licensing requirements of the department and pays the license fee. Profit on the return and reissuance of the license itself is prohibited, but nothing in this subchapter may be construed to prohibit profit on the sale of any of the assets of a business. The license is not an asset and may not be transferred as part of ~~any~~ a sale or transaction. The department may require an affidavit from the purchaser to aid in enforcement of this provision. ~~Allocations may be transferred, pursuant to this chapter, from a selling outfitter to one or more buying outfitters only if the license of the selling outfitter is returned to the department.~~

**Sec. 21. 12 MRSA §7368, sub-§2-A, ¶B**, as amended by PL 1989, c. 883, §9, is further amended to read:

B. Sundays: 800 commercial passengers, ~~which shall be set by the department by rule if the department anticipates a sufficient release of water on the Kennebec River for commercial use; and~~

**Sec. 22. 12 MRSA §7369, sub-§6**, as amended by PL 1983, c. 786, §5, is further amended to read:

**6. Allocation procedure.** Except for the initial allocation in 1983, which ~~shall be~~ is governed by subsection 4, the department shall award allocations to licensed outfitters on the basis of the criteria established in this section. ~~Any~~ An outfitter desiring an allocation shall submit a proposal to the department in the year preceding the year for which the allocation is desired, on or before a date specified by rule. Allocations ~~shall~~ must be awarded on or before December 1st, but, if ~~any~~ an



open allocation remains, it may be awarded at any time. Allocations ~~shall~~ must be awarded in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V. The department shall hold at least one public hearing prior to final issuance of allocations. The department shall ~~promulgate~~ adopt rules as necessary to facilitate the allocation process.

~~Based on the demand for noncommercial public use, the department shall set aside up to 10% of the recreational use limit on any particular rapidly flowing river for non-commercial public use of whitewater craft.~~

**Sec. 23. 12 MRSA §7369, sub-§7, ¶A**, as amended by PL 1989, c. 883, §12, is further amended by amending subparagraph (2) to read:

(2) The experience of the outfitter and ~~any~~ an employee in providing whitewater trips on rivers other than those for which the allocation is sought, including, but not limited to, such factors as the number of trips and passengers carried, length of time as an outfitter, safety record and experience of guides and staff. The company experience of only one company within an affiliated group at the time of that experience may be counted as company experience for purposes of allocation. For purposes of this subparagraph, "rivers other than those for which the allocation is sought" means all rapidly flowing rivers in the State, including a river on which commercial recreational use limits are imposed, for which an allocation is not being sought by the outfitter in the allocation period;

**Sec. 24. 12 MRSA §7369, sub-§10, ¶A**, as repealed and replaced by PL 1989, c. 883, §15, is amended to read:

A. Allocations are required for Saturdays for the period of June 8th to August 31st. ~~Allocations~~ Except as provided in paragraph F, allocations are required for Sundays on the Penobscot River for the period of June 8th to August 31st. If the department determines that the recreational use limit will be reached other days, the department shall provide by rule for allocations.

**Sec. 25. 12 MRSA §7369, sub-§10, ¶D**, as enacted by PL 1983, c. 786, §8, is repealed.

**Sec. 26. 12 MRSA §7369, sub-§10, ¶F** is enacted to read:

F. Allocations are not required for Sundays on the Penobscot River for the period of June 8, 1994 to August 31, 1994. The commissioner may by rule establish allocations for this period if the commissioner determines allocations are necessary.

The commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters no later than January 15, 1995 on use of the Penobscot River by commercial whitewater outfitters during this period.

**Sec. 27. 12 MRSA §7369-A**, as amended by PL 1989, c. 503, Pt. B, §68, is repealed.

**Sec. 28. 12 MRSA §7377, sub-§4, ¶C**, as enacted by PL 1979, c. 420, §1, is amended to read:

C. A person licensed or otherwise entitled to fish in Maine waters may take suckers in all rivers, brooks and streams ~~which that~~ are open to fishing between April 1st and June 30th of each calendar year by the use of a hand spear ~~or~~ bow and arrow ~~or by snagging~~. If suckers are taken by bow and arrow, the arrow ~~shall~~ must have a barbed or prong point and ~~shall~~ must be attached to the bow with a line; and

**Sec. 29. 12 MRSA §7377, sub-§6**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 30. 12 MRSA §7453-B** is enacted to read:

#### **§7453-B. Trapping beaver**

**1. Traps.** A person may use snares to trap for beaver during the open beaver trapping season.

**2. Rules.** All rules adopted pursuant to section 7035, subsection 1, pertaining to the trapping of beaver with killer-type traps also apply to the trapping of beaver with snares.

**Sec. 31. 12 MRSA §7458, sub-§8**, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

**8. Illegal possession of a gift deer.** Notwithstanding the provisions of subsection 11, a person is guilty, except as provided in subsection 15, paragraph C, of illegal possession of a gift deer if that person possesses a part or parts of a deer given to that person unless each separate part is plainly labeled with the following:

A. The registration seal number; and

B. The name and address of the person who registered the deer.

**Sec. 32. 12 MRSA §7458, sub-§11**, as enacted by PL 1979, c. 420, §1, is amended to read:

**11. Illegally transporting deer.** A person is guilty, except as otherwise provided in chapters 701 to 721 and except as provided in subsection 15, ~~paragraph~~ paragraphs

C-1, C-2 and D, of illegally transporting deer if he that person, at any time and in any manner, moves or transports any deer; and:

- A. The deer is not open to view;
- B. The deer tag portion of the hunting license bearing the name and address of the person who killed the deer is not securely attached to the deer; or
- C. The person who killed the deer does not accompany the deer while it is being moved or transported.

**Sec. 33. 12 MRSA §7458, sub-§15, ¶C-2** is enacted to read:

C-2. Notwithstanding subsection 11, paragraph B, any person who takes a deer on land that that person owns, in accordance with section 7377, subsection 1, may move or transport that deer if a tag bearing the name and address of the person who killed the deer is securely attached to the deer.

**Sec. 34. 12 MRSA §7464, sub-§7**, as repealed and replaced by PL 1981, c. 118, §8, is amended to read:

**7. Illegal possession of a gift moose.** A person is guilty, notwithstanding subsection 3, of illegal possession of a gift moose parts if he that person possesses any a part or parts of a moose ~~taken in accordance with this section;~~ unless each separate part given to that person is plainly labeled with the following:

- A. The registration seal number; and
- B. The name and address of the person who registered the moose.

**Sec. 35. 12 MRSA §7572, sub-§2**, as amended by PL 1989, c. 493, §46, is further amended to read:

**2. Cusk.** Unless otherwise provided by rule, a person licensed to fish may fish through the ice in the nighttime for cusk in waters which that have been opened ~~to ice fishing by the commissioner pursuant to section 7571, subsection 2,~~ by using not more than 5 lines set or otherwise. All lines set for cusk in the nighttime ~~shall~~ must be visited at least once every hour by the person setting them.

**Sec. 36. 12 MRSA §7607**, as amended by PL 1979, c. 543, §61, is repealed and the following enacted in its place:

**§7607. Snagging**

Except as provided in section 7377, subsection 4, paragraph C, a person is guilty of snagging fish if that

person fishes by snagging as defined by section 7001, subsection 33-E.

**Sec. 37. 12 MRSA §7732**, as enacted by PL 1979, c. 420, §1, is amended to read:

**§7732. Propagating of wild animals and wild birds**

The ~~breeding~~ propagating of wild animals and wild birds is governed by sections ~~7235, 7236~~ 7235-A and 7241.

**Sec. 38. 12 MRSA §7736, sub-§1, ¶A**, as amended by PL 1983, c. 440, §14, is further amended to read:

- A. A person may keep a wild animal in captivity in accordance with sections 7231, ~~7235~~ 7235-A, 7241, 7242; 7035, subsection 3; section 7771, subsection 2; or Title 7, section 1809; and

**Sec. 39. 12 MRSA §7857, sub-§13-C** is enacted to read:

**13-C. Carrying a passenger on an ATV without headgear.** Notwithstanding Title 29, section 1376, a person is guilty of carrying a passenger on an ATV without protective headgear, if that person carries a passenger under 18 years of age on an ATV and the passenger is not wearing protective headgear.

**Sec. 40. 12 MRSA §7857, sub-§16**, as amended by PL 1989, c. 913, Pt. B, §14, is further amended to read:

**16. Operating an ATV with insufficient lights.** A person is guilty, except as provided in subsection 24, paragraphs B ~~and~~, E-1 ~~and~~ G, of operating an ATV with insufficient lights, if he that person operates an ATV ~~which that~~ that is not equipped as follows.

- A. Every ATV ~~shall~~ must have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the ATV.

- B. Every ATV ~~shall~~ must have mounted on the rear at least one lamp capable of displaying a red light ~~which shall~~ that must be visible at a distance of at least 100 feet behind the ATV.

- C. Every new ATV, except 2-wheel off-road motorcycles, manufactured after January 1, 1991, and sold in Maine, must be equipped with working headlights, taillights and brake lights.

**Sec. 41. 12 MRSA §7857, sub-§24, ¶G** is enacted to read:

G. Notwithstanding the provisions of subsection 16, a person may operate an ATV without a headlight, taillight and brake light between the hours of sunrise and sunset, provided:

(1) The ATV has an engine size of 90 cubic centimeters or less;

(2) Has 4 or more wheels; and

(3) The American National Standards for Four-Wheel All-Terrain Vehicles, Equipment, Configuration, and Performance Requirements prescribed equipping the vehicle at the time of manufacture with the lighting equipment specified in subsection 16, paragraphs A, B and C.

**Sec. 42. 12 MRSA §7861, sub-§3**, as enacted by PL 1991, c. 443, §40, is amended to read:

**3. Rock dove permits.** Notwithstanding section 7456, the commissioner may issue permits to persons licensed as ~~breeders~~ under section ~~7235~~ 7235-A to take rock doves from the wild by the use of box traps or nets for the purpose of training sporting dogs pursuant to this section and section 7863.

**Sec. 43. 12 MRSA §7863, sub-§5, ¶A**, as enacted by PL 1987, c. 696, §18, is amended to read:

A. Notwithstanding this section, the commissioner may issue a permit to any person authorizing the use of firearms during the training of sporting dogs to shoot and kill wild birds propagated or legally acquired by the permittee and possessed in accordance with section ~~7235~~ 7235-A.

**Sec. 44. 12 MRSA §7901, sub-§12**, as enacted by PL 1987, c. 742, §11, is amended to read:

**12. Guiding without a license.** A violation of section 7371, subsection 3, as it applies to section 7311, subsection 1, is a Class D crime for which a fine of \$1,000 and imprisonment of 3 days ~~shall~~ must be imposed. Neither the fine nor the imprisonment may be suspended.

**Sec. 45. Conveyance of interest in fishway.** The Department of Inland Fisheries and Wildlife and the Atlantic Sea Run Salmon Commission are authorized to convey any interest that the State has in the Denil Fishway in the Milford Dam on the Penobscot River to the Bangor Hydro-Electric Company. The authorization is not intended and may not be construed to divest these agencies, or any other agency of State Government, of any regulatory authority that those agencies may have over the fishway or the dam.

**Sec. 46. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1993-94 1994-95

INLAND FISHERIES  
AND WILDLIFE,  
DEPARTMENT OF

Resource Management Services

All Other	\$28,800	\$28,800
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Provides allocations for the operating expenses of the pheasant program.

See title page for effective date.

**CHAPTER 439**

**H.P. 976 - L.D. 1307**

**An Act to Clarify Responsibility for Workers' Compensation Coverage for Town Forest Fire Wardens and Laborers Hired for Forest Fire-fighting Activities**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas**, there is significant ambiguity in the law regarding who is responsible for workers' compensation coverage for forest fire wardens and laborers hired for forest fire-fighting activities; and

**Whereas**, this ambiguity could result in significant costs to forest fire wardens, hired laborers, the State and municipalities should the forest fire wardens or hired laborers be injured while performing their duties; 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. 39-A MRSA §112** is enacted to read:

**§112. Workers' compensation coverage for forest firefighters**

Notwithstanding Title 12, section 8901, subsection 2 and Title 12, sections 8902, 8905, 9201, 9202, 9204 and 9205, workers' compensation coverage is provided to for-