

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

levy for the next year. The remaining unencumbered surplus funds may only be allocated for the following purposes:

A. To further reduce the tax levy;

B. To establish a capital reserve account under section 921 to fund items in the capital improvement program approved under subsection 5;

C. To restore the contingent account as provided in section 922, subsection 2; or

D. To fund the county charter commission as provided in section 1322, subsection 4.

Sec. 3. 30-A MRSA §924, first ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

The county commissioners of each county shall use the unexpended balances and the actual revenue in excess of estimates from the previous fiscal year only as provided in this section, except that the Androscoggin County commissioners shall act in accordance with section 725, subsection 9.

See title page for effective date.

CHAPTER 574

H.P. 1338 - L.D. 1801

An Act to Revise Certain Fish and Wildlife Laws

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 laws administered by the Department of Inland Fisheries and Wildlife; and

Whereas, this confusion poses difficulties for the sporting public and those charged with enforcement of these 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 the State; 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-§1-A, ¶¶B, C, E, F and P, as enacted by PL 1985, c. 607, §1, are amended to read:

B. ~~Silvery~~ Eastern silvery minnow, (*Hybognathus ~~nuchalis~~ regius*);

C. Golden shiner, (*Notemigonus ~~chrysoleucas~~ crysoleucas*);

E. ~~Bridled~~ Bridle shiner, (*Notropis bifrenatus*);

F. Common shiner, (~~Notropis~~ Luxilus *cornutus*);

P. Pearl dace, (~~Semotilus~~ Margariscus *margarita*);

Sec. 2. 12 MRSA §7001, sub-§1-A, ¶U, as amended by PL 1991, c. 443, §1, is further amended to read:

U. Creek chubsucker, (*Erimyzon oblongus*); ~~and~~

Sec. 3. 12 MRSA §7001, sub-§1-A, ¶V, as corrected by RR 1991, c. 1, §20, is amended to read:

V. American eel, (*Anquilla rostrata*); and

Sec. 4. 12 MRSA §7001, sub-§1-A, ¶W is enacted to read:

W. Blackchin shiner, (*Notropis heterdon*).

Sec. 5. 12 MRSA §7034, sub-§1, as amended by PL 1983, c. 819, Pt. A, §18, is further amended to read:

1. Appointment of deputy. The commissioner shall appoint, to serve at ~~his~~ the commissioner's pleasure, a Deputy Commissioner of Inland Fisheries and Wildlife, who ~~shall~~ must be qualified by training and experience in fisheries and wildlife management and conservation law enforcement. Under the commissioner's direction, the deputy commissioner shall assist ~~him~~ in the administration of the department. The deputy commissioner shall serve as the commissioner if the commissioner is disabled or absent or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent.

Sec. 6. 12 MRSA §7035, sub-§14 is enacted to read:

14. Sale of advertising in abstracts of fish and wildlife laws. The commissioner may sell advertis-

ing, except advertising of a political nature, in abstracts of laws published by the department pursuant to section 7034, subsection 5. All revenue derived from the sale of advertising in these publications must be used to support the landowner relations program described in subsection 13.

Sec. 7. 12 MRSA §7076, sub-§1, as amended by PL 1991, c. 17, §1 and affected by §2, 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, a pheasant hunting permit under section 7106-A and a muzzle-loading hunting license under section 7107-A, must be issued to any resident of Maine who is 70 years of age or older upon application to the commissioner. These complimentary licenses, upon issuance, remain valid for the remainder of the life of the license holder, provided the license holder continues to satisfy the residency requirements set out in section 7001, subsection 32 and provided the license is not revoked or suspended. Residents who apply for these complimentary licenses at any time during the calendar year of their 70th birthday must be issued a license upon application, regardless of the actual date during that calendar year in which 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 must be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency. When the holder of a license issued under this subsection no longer satisfies the residency requirements set out in section 7001, subsection 32, the license is no longer valid and further use of the license for purposes of hunting, fishing or trapping constitutes a license violation under section 7371, subsection 3.

Sec. 8. 12 MRSA §7076, sub-§14 is enacted to read:

14. Groups of resident students. The commissioner may permit groups of residents who attend high school or who are enrolled in special education courses for persons who are underprivileged, persons with handicaps or people with special learning needs to fish without licenses for periods of not more than 3 days as long as the fishing activity is conducted as part of an educational program and is under the direct supervision of a teacher or instructor.

Sec. 9. 12 MRSA §7103-A, sub-§2, ¶A, as enacted by PL 1993, c. 438, §4, is amended 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 equivalent to the sum of the annual fees estab-

lished for each of the years for which the permit is issued.

Sec. 10. 12 MRSA §7105, as amended by PL 1993, c. 419, §9, is further amended to read:

§7105. Commercial shooting area hunting license

1. Issuance. The commissioner or ~~his~~ the commissioner's authorized agent may issue a special commercial shooting area hunting license authorizing a person to hunt ~~on~~ mallard ducks, pheasants, quail and Chukar partridge in a commercial shooting area.

2. Fee. The fee for a special commercial shooting area hunting license is ~~\$15 for 1993~~, \$17 for 1994, \$18 for 1995 and \$19 for 1996 and every year ~~thereafter~~ after 1996.

3. Open season. The annual open season for commercial shooting areas is ~~July~~ January 1st to ~~November 30th~~ December 31st, including Sundays.

4. Restrictions. No wild animal or wild bird other than mallard ducks, pheasants, quail and Chukar partridge may be shot ~~on~~ in a commercial shooting area, except that the operator of a commercial shooting area may authorize a person to hunt other wild birds or wild animals in a commercial shooting area during the regular open season on those other wild animals and wild birds species in accordance with the provisions of chapters 701 to 721 provided that the person possesses a valid state hunting license that allows the hunting of those wild birds and wild animals.

Sec. 11. 12 MRSA §7107-A, sub-§1, ¶A, as enacted by PL 1993, c. 47, §1, is amended to read:

A. Any person 16 years of age or older at the beginning of the special season established under subsection 4 may obtain a muzzle-loading license from the commissioner or the commissioner's authorized agent, provided that the person possesses a valid license to hunt big game with firearms.

Sec. 12. 12 MRSA §7107-A, sub-§3, as amended by PL 1993, c. 419, §10, is further amended to read:

3. Schedule of fees. The schedule of fees is as follows:

	1993	1994	1995	1996 and after
A. Resident 6-day muzzle-loading hunting license	\$7	\$9	\$10	\$11

B. Nonresident 6-day muzzle-loading hunting license	\$25	\$29	\$31	\$33
C. Alien 6-day muzzle-loading hunting license	\$50	\$54	\$56	\$58

Sec. 13. 12 MRSA §7107-A, sub-§4, as amended by PL 1989, c. 493, §13, is further amended to read:

4. Open season. There ~~shall be~~ is a special muzzle-loading open season on deer ~~on the first 6 hunting days after~~ immediately following 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 the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting pressure. The length of the special muzzle-loading season is as follows:

A. In 1994, the special muzzle-loading season extends for 6 hunting days;

B. In 1995 and 1996, the commissioner shall establish by rule the length of the special muzzle-loading season. The commissioner may establish seasons of different lengths in different regions of the State. The season may extend for no more than 12 hunting days in any part of the State; and

C. In 1997 and thereafter, the special muzzle-loading season extends for 6 hunting days.

Sec. 14. 12 MRSA §7111, sub-§2, as enacted by PL 1989, c. 878, Pt. A, §35, is amended to read:

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 or from the loss of the use of both arms; 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.

A person who applies for a license to hunt deer with an unconventional weapon on the basis that the person has lost the use of both arms must submit a statement by a doctor licensed to practice medicine in this State verifying that the applicant has lost the use of both arms to the extent that it would be medically

impossible for that person to hunt with a conventional weapon.

Sec. 15. 12 MRSA §7133, sub-§5, ¶C, as enacted by PL 1987, c. 696, §6, is amended to read:

C. Notwithstanding section 7406, subsections 4 and 5, any person who holds a valid trapping license may carry a ~~.22 caliber~~ firearm at any time during the open trapping season for the sole purpose of dispatching trapped animals.

Sec. 16. 12 MRSA §7171, sub-§6 is enacted to read:

6. Inspection of live smelts and baitfish. A person licensed under this section who possesses live smelts or baitfish at a fixed place of business shall make these fish available for inspection by a warden during normal business hours. A person licensed under this section who possesses live smelts or baitfish at a location other than the licensee's fixed place of business shall make these fish available for inspection by a warden at any time, upon request.

Sec. 17. 12 MRSA §7235-A, sub-§2, as enacted by PL 1993, c. 438, §11, is amended to read:

2. Fee. The fee for a ~~one-year~~ 2-year permit to possess, propagate or sell wild birds and wild animals is \$25. All permits issued under this section for calendar year 1994 are valid through December 31, 1995.

Sec. 18. 12 MRSA §7237, sub-§2 is enacted to read:

2. Application. Each applicant for a permit to import wildlife into the State shall submit a written application in the form required by the commissioner. The application must be accompanied by a non-refundable application fee of \$25.

Sec. 19. 12 MRSA §7369, sub-§10, ¶F, as enacted by PL 1993, c. 438, §26, is amended to read:

F. Allocations are not required for Sundays on the Penobscot River for the period of June 8, 1994 to August 31, ~~1994~~ 1995. 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 the first year of this period and a 2nd report no later than January 14, 1996 on use of the Penobscot River by commercial whitewater outfitters during this period.

Sec. 20. 12 MRSA §7371-B is enacted to read:

§7371-B. Purchase of live smelts from unlicensed dealers

A person licensed to deal in live baitfish pursuant to section 7171 is guilty of purchasing live smelts from an unlicensed dealer if that person purchases live smelts from a person who does not hold a current license to sell live smelts issued pursuant to section 7171, subsection 2, paragraph A or C. The commissioner, subject to the hearing provisions of section 7077, shall revoke for a period of at least one year from the date of conviction any licenses issued under section 7171 to a person convicted of a violation of this section.

Sec. 21. 12 MRSA §7457, sub-§1, ¶H, as amended by PL 1991, c. 398, is further amended to read:

H. The commissioner may regulate the taking of antlerless deer within any area of the State, as necessary, to maintain deer populations in balance with available habitat if the following conditions are met.

(1) The demarcation of each area must follow recognizable physical boundaries such as rivers, roads and railroad rights-of-way.

(2) The determination must be made and published prior to August 1st of each year.

(3) The application fee for a permit to take an antlerless deer may not exceed \$1. The application must include a detachable portion on which the applicant shall write the applicant's name and address and to which the applicant shall affix a stamp of adequate postage. The department shall return this portion of the application to the applicant in acknowledgement of the department's receipt of the application.

(4) The commissioner may adopt rules necessary for the administration, implementation, enforcement and interpretation of this subsection, except that there may not be an antlerless deer permit system unless otherwise specified in this paragraph.

(5) An antlerless deer permit system adopted by the commissioner pursuant to this section may include a provision giving special consideration to landowners who keep their lands open to hunting by the public.

Sec. 22. 12 MRSA §7463-A, sub-§4-A, as enacted by PL 1989, c. 493, §§38 and 76, is repealed and the following enacted in its place:

4-A. Subpermittees. A person may not hunt moose with a permittee unless the person is a subpermittee authorized in accordance with this subsection. An applicant for a moose permit may indicate on the application filed pursuant to subsection 6 the name of a subpermittee-designate and the name of an alternate subpermittee-designate. If the applicant is issued a moose permit under subsection 7, the subpermittee-designate becomes a subpermittee and the permittee may authorize the subpermittee to participate in the moose hunt with the permittee. The permittee may authorize the alternate subpermittee-designate to participate in the hunt in place of the subpermittee-designate if the permittee notifies the department of the authorization at least 5 business days prior to the first day of the moose season, in which case, the alternate subpermittee-designate becomes the subpermittee. The permittee may choose not to authorize a subpermittee to participate in the hunt, but a subpermittee must always be in the presence of the permittee while hunting moose. A subpermittee is not in the presence of the permittee if contact between the permittee and the subpermittee requires visual or audio enhancement devices, including binoculars or citizen band radios. A permittee may hunt moose with no more than one authorized subpermittee.

Sec. 23. 12 MRSA §7468, sub-§9, as enacted by PL 1985, c. 95, §1, is amended to read:

9. Legal hunting time. The legal hunting time, unless otherwise provided by rule of the commissioner, is 1/2 hour before sunrise to 11 a.m. each wild turkey hunting day.

Sec. 24. 12 MRSA §7504, sub-§2, ¶B, as enacted by PL 1979, c. 420, §1, is amended to read:

B. The commissioner may cause ~~department personnel agents of the department~~ to take nuisance beaver at any time ~~without the consent of the landowner~~.

Sec. 25. 12 MRSA §7504, sub-§3, as enacted by PL 1979, c. 420, §1, is amended to read:

3. Birds. Wild birds, with the exception of rock doves, may not be taken or killed under sections 7501 and 7502.

Sec. 26. 12 MRSA §7824, sub-§9, as amended by PL 1991, c. 477, §6, is repealed and the following enacted in its place:

9. Reciprocity. Except as specifically provided in this subsection, and notwithstanding any other

provision of law, a snowmobile may be possessed or operated by any person in this State without being registered in this State as long as:

A. The snowmobile is properly registered in the name of a nonresident owner of the snowmobile; and

B. The nonresident owner of the snowmobile is a resident of a state, province, country or district with which this State has reciprocity.

For purposes of this subsection, "state, province, country or district with which this State has reciprocity" means a state, province, country or district that offers similar privileges to residents of this State. A state, province, country or district does not offer similar privileges if Maine residents holding a valid Maine snowmobile registration are charged a fee for access to the trail system in that state, province, country or district, or if, as determined by the commissioner, privileges and opportunities offered to snowmobile users in that state, province, country or district are not otherwise comparable to those offered in this State.

If a snowmobile is owned by a nonresident, but is primarily operated by a Maine resident, it must be registered in this State pursuant to this section. Nothing in this subsection authorizes the operation of any snowmobile in any manner contrary to this subchapter.

Sec. 27. 12 MRSA §7910, sub-§13, as enacted by PL 1993, c. 6, Pt. S, §2, is amended to read:

13. Nonlapsing appropriations. All General Fund appropriations to the department may not lapse but must be carried forward ~~and expended for the purposes for which the appropriations were made in a separate General Fund program and appropriated by the Legislature to the department for the purposes described in section 7074.~~ Funds in this program are revenues collected by the department and must be added to the sum of all other revenues collected, received and recovered by the department in calculating the amount of funds that must be appropriated to the department pursuant to the Constitution of Maine, Article IX, Section 22.

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

Effective March 31, 1994.

CHAPTER 575

S.P. 646 - L.D. 1805

An Act to Make Certain Revisions to the Maine Emergency Medical Services Act of 1982

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

Sec. 1. 32 MRSA §88, sub-§2, ¶F-1, as enacted by PL 1991, c. 588, §16, is repealed and the following enacted in its place:

F-1. The director must be qualified by training or by experience and is appointed by the board with approval of the commissioner. The director serves for an indefinite term, subject to removal for cause. The Governor shall set the compensation of the director.

Sec. 2. 32 MRSA §90-A, sub-§4, ¶D, as enacted by PL 1987, c. 273, §8, is amended to read:

D. Except in the specific circumstances where the Maine Administrative Procedure Act, Title 5, section 10004 may be invoked, if the board or its staff concludes that suspension or revocation of the license is in order, the board or its staff shall hold a hearing or request the Attorney General to file a complaint in the Administrative Court in accordance with Title 4, chapter 25; to commence either full or emergency proceedings.

Sec. 3. 32 MRSA §90-A, sub-§5, ¶G, as amended by PL 1991, c. 588, §19, is further amended to read:

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement that relates directly to the practice for which the licensee is licensed ~~or~~ conviction of ~~any~~ a crime for which incarceration for one year or more may be imposed or conviction of a crime defined in Title 17-A, chapter 11 or 45;

See title page for effective date.

CHAPTER 576

H.P. 1349 - L.D. 1815

An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws