

# MAINE STATE LEGISLATURE

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**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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

tion, completion or performance of the brokerage agreement, except the duties of:

A. Accounting in a timely manner for all money and property related to, and received during, the relationship; and

B. Treating as confidential information provided by the client during the course of the relationship that could have a negative impact on the client's real estate activity, unless:

(1) The client to whom the information pertains grants written consent;

(2) Disclosure of the information is required by law;

(3) The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the real estate brokerage agency or the affiliated licensee; or

(4) Disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in a judicial proceeding before the commission or before a professional committee.

See title page for effective date.

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## CHAPTER 680

S.P. 676 - L.D. 1852

### An Act to Correct Errors and Inconsistencies in the Laws of Maine

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

**Whereas,** Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the law of Maine; and

**Whereas,** these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

**Whereas,** it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following

legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

## PART A

**Sec. A-1. 4 MRSA §164, sub-§1-A,** as amended by PL 1987, c. 758, §2, is further amended to read:

**1-A. Appoint bail commissioners.** Appoint bail commissioners pursuant to Title 15, section 1023, for any district when the resident judge for that district, because of illness, absence or disability, is unable to appoint;

**Sec. A-2. 4 MRSA §164, sub-§13,** as enacted by PL 1975, c. 408, §19, is amended to read:

**13. Additional duties.** ~~The Chief Judge of the District Court shall perform~~ Perform such additional duties as may be assigned by the Chief Justice of the Supreme Judicial Court;

**Sec. A-3. 4 MRSA §164, sub-§14,** as enacted by PL 1975, c. 488, §19, is repealed.

**Sec. A-4. 4 MRSA §164, sub-§15,** as amended by PL 1981, c. 414, §1, is further amended to read:

**15. Fisheries and wildlife bureau.** ~~The Chief Judge shall establish~~ Establish in each division a Fisheries fisheries and Wildlife Bureau wildlife bureau. The Chief Judge shall appoint ~~the clerks~~ a clerk of the District Court in each division as violations clerk for the Fisheries fisheries and Wildlife Bureau wildlife bureau in ~~their respective divisions~~ that division.

The violations clerk shall accept written appearances, ~~waiver~~ waivers of trial, ~~plea~~ pleas of guilty and ~~payment~~ payments of ~~fine~~ fines and costs in fisheries and wildlife offense cases, subject to the limitations ~~hereinafter~~ prescribed in this subsection. The violations clerk ~~shall serve~~ serves under the direction and control of the judge of the court for which ~~he~~ the violations clerk is appointed.

A. A fisheries and wildlife offense ~~shall mean~~ means any violation of any provision of Title 12, Part 10; any provision of law enumerated in Title 12, section 7053; or any ~~regulation promulgated~~ rule adopted by the Commissioner of Inland Fisheries and Wildlife pursuant ~~thereto~~ to the rules.

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the fisheries and wildlife offenses within the authority of the violations clerk, except that such offenses ~~shall~~ may not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for such offenses. The order of the court establishing the schedules ~~shall~~ must be prominently posted in the place where the fines are paid. Fines and costs ~~shall~~ must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions.

C. Any person charged with any fisheries and wildlife offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk and enter a plea admitting the infraction charged and waiver of trial and pay the fine established for the infraction charged, and costs. Any person ~~so~~ entering a plea admitting the infraction charged ~~shall~~ must be informed of ~~his~~ that person's rights, including ~~his~~ the right to stand trial, that ~~his~~ that person's signature to a plea admitting the infraction charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Inland Fisheries and Wildlife.

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous fisheries and wildlife offenses subject to this subsection within a ~~12 month's~~ 12-month period ~~shall~~ may not be permitted to appear before the violations clerk unless the court ~~shall~~, by order, ~~permit such permits that~~ appearance. Each waiver of hearing filed under this subsection ~~shall~~ must recite on the oath or affirmation of the offender whether or not ~~he~~ the offender has been previously found guilty of, or to have committed, or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more fisheries and wildlife offenses within a ~~12 month's~~ 12-month period. Any person swearing falsely to such a statement ~~shall~~, upon conviction, ~~be~~ is subject to a fine of not more than \$50.

E. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial Court or ~~his~~ the Chief Justice's delegate, may authorize ~~such~~ forms and procedures ~~as he deems~~ the Chief Judge considers appropriate to carry out this subsection.

**Sec. A-5. 4 MRSA §164, sub-§16**, as reallocated by PL 1977, c. 696, §23, is amended to read:

**16. Development and implementation of administrative concepts.** ~~The Chief Judge shall carry~~ Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the District Court and make recommendations to the Chief Justice of the Supreme Judicial Court concerning the number of judges and other personnel required for the efficient administration of justice and examine, with the advice of the judges of the District Court, the status of dockets of the various District Courts ~~so as~~ to determine whether the business of the court is being carried out in an efficient manner. From such an examination, the Chief Judge shall annually make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines and policies for the scheduling and trial of matters before the District Court. In providing ~~such~~ recommendations, the Chief Judge shall give due and appropriate regard to the recommendations of the judges and other personnel of the District Court and shall provide a mechanism whereby their individual recommendations and comments may be brought to the attention of the Chief Justice. The Chief Judge, in advising as to the appropriateness of the methods or the systems for scheduling trials and the management of matters before the District Court, shall take into consideration systems and methods operational in the Superior Court. The final decision as to the management of personnel and the implementation of guidelines, policies and procedures for the scheduling of trials and management of matters before the District Court ~~shall~~ must be made by the Chief Justice only after consultation with the Chief Judge.

**Sec. A-6. 4 MRSA §164, sub-§17**, as enacted by PL 1985, c. 481, Pt. A, §4, is amended to read:

**17. Marine resources bureau.** Establish in each division a ~~Marine Resources Bureau~~ marine resources bureau. The Chief Judge shall appoint ~~the clerk~~ a clerk of the District Court in each division as violations clerk for the ~~Marine Resources Bureau~~ marine resources bureau in ~~their respective divisions~~ that division.

The violations clerk shall accept written appearances, ~~waiver~~ waivers of trial, ~~plea~~ pleas of guilty and ~~payment~~ payments of ~~fine~~ fines and costs in marine ~~resources'~~ resources' offense cases, subject to the limitations prescribed in this subsection. The violations clerk ~~shall serve~~ serves under the direction and control of the judge of the court for which ~~he~~ the violations clerk is appointed.

A. A marine ~~resources'~~ resources' offense means any violation of any provision of Title 12, chap-

ters 601 to 627 and chapter 715, or any ~~regulation promulgated~~ rules adopted by the Commissioner of Marine Resources pursuant to those chapters.

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the marine ~~resources'~~ resources offenses within the authority of the violations clerk, except that the offenses ~~shall~~ may not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for the offenses. The order of the court establishing the schedules ~~shall~~ must be prominently posted in the place where the fines are paid. Fines and costs ~~shall~~ must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions.

C. Any person charged with any marine ~~resources'~~ resources offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk. Any person may enter a plea admitting the violation charged and waiver of trial and pay the fine, and costs, established for the violation charged. Any person ~~so~~ entering a plea admitting the infraction charged ~~shall~~ must be informed of ~~his~~ that person's rights, including ~~his~~ the right to stand trial, that ~~his~~ that person's signature to a plea admitting the violation charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Marine Resources.

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous marine ~~resources'~~ resources offenses subject to this subsection within a 12-month period ~~shall~~ may not be permitted to appear before the violations clerk unless the court, by order, permits ~~such~~ that appearance. Each waiver of hearing filed under this subsection ~~shall~~ must recite on the oath or affirmation of the offender whether or not ~~he~~ the offender has been previously found guilty of or to have committed or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more marine ~~resources'~~ resources offenses within a 12-month period. Any person swearing falsely to such a statement ~~shall~~ is, upon conviction, ~~be~~ subject to a fine of not more than \$50.

E. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial Court

or ~~his~~ the Chief Justice's delegate, may authorize such forms and procedures as ~~he deems~~ the Chief Judge considers appropriate to carry out this subsection; ~~and~~

**Sec. A-7. 4 MRSA §164**, as amended by PL 1991, c. 824, Pt. A, §2, is further amended by adding a new paragraph at the end to read:

Powers not enumerated in this section but necessary or desirable for the proper administration of the courts may, from time to time, be promulgated and assigned, by rule of the Supreme Judicial Court.

**Sec. A-8. 5 MRSA §453-A, first ¶**, as amended by PL 1993, c. 349, §5, is further amended to read:

The Mining Excise Tax Trust Fund Board of Trustees, as established in section 12004-G, subsection ~~33-A~~ 33-B and referred to in the chapter as the "board," consists of 5 members, at least one of whom must be a resident of the unorganized territory.

**Sec. A-9. 5 MRSA §1543, first ¶**, as amended by PL 1993, c. 445, §1 and c. 477, Pt. D, §1 and affected by Pt. F, §1, is repealed and the following enacted in its place:

Money may not be drawn from the State Treasury except in accordance with appropriations duly authorized by law. Every disbursement from the State Treasury must be upon the authorization of the State Controller and the Treasurer of State, as evidenced by their facsimile signatures, except that the Treasurer of State may authorize interbank and intrabank transfers for purposes of pooled investments. Disbursements must be in the form of a check or an electronic transfer of funds against a designated bank or trust company acting as a depository of the State Government.

**Sec. A-10. 5 MRSA §4654, sub-§4, ¶C**, as amended by PL 1993, c. 199, §4 and c. 475, §1, is repealed and the following enacted in its place:

C. Entering the plaintiff's residence, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff.

**Sec. A-11. 5 MRSA §4654, sub-§4, ¶D**, as amended by PL 1993, c. 475, §1, is further amended to read:

D. Taking, converting or damaging property in which the plaintiff may have a legal interest; ~~or~~

**Sec. A-12. 5 MRSA §4654, sub-§4, ¶E**, as enacted by PL 1993, c. 199, §5 and c. 475, §1, is repealed and the following enacted in its place:

E. In the case of rental property, damaging the plaintiff's property or threatening, assaulting, molesting, harassing or otherwise disturbing the peace of any aggrieved tenant; or

**Sec. A-13. 5 MRSA §4654, sub-§4, ¶F** is enacted to read:

F. Repeatedly and without reasonable cause:

- (1) Following the plaintiff; or
- (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment.

**Sec. A-14. 5 MRSA Pt. 15-A, first 4 lines,** as repealed and replaced by PL 1989, c. 502, Pt. A, §157 and c. 571, Pt. B, §1, are repealed and the following enacted in their place:

**PART 15-A**

**LAND FOR MAINE'S FUTURE**

**CHAPTER 353**

**LAND FOR MAINE'S FUTURE**

**Sec. A-15. 5 MRSA §12004-G, sub-§33-A,** as reenacted by PL 1991, c. 883, §2, is repealed.

**Sec. A-16. 5 MRSA §12004-G, sub-§33-B,** as repealed by PL 1993, c. 349, §12, is reenacted to read:

<b><u>33-B.</u></b>	<u>Board of Trustees,</u>	<u>Not Authorized</u>	<u>5 MRSA §453-A</u>
<u>Taxation</u>	<u>Mining Excise Tax Trust Fund</u>		

**Sec. A-17. 5 MRSA §18506, sub-§2, ¶A,** as amended by PL 1991, c. 885, Pt. E, §13 and affected by §47, is further amended to read:

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

- (1) The workers' compensation or similar law, except amounts that may be paid or payable under former Title 39, section ~~56 or 56-A~~ 56-B or Title 39-A, section 212, subsection 3; or
- (2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was

also covered under that Act at the date of disability retirement.

**Sec. A-18. 5 MRSA §18506, sub-§2, ¶D,** as amended by PL 1991, c. 885, Pt. E, §13 and affected by §47, is further amended to read:

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

- (1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section ~~56 or 56-A~~ 56-B or Title 39-A, section 212, subsection 3.
- (2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

**Sec. A-19. 10 MRSA §1032, sub-§6,** as amended by PL 1993, c. 410, Pt. EEEE, §2 and c. 460, §7, is repealed and the following enacted in its place:

**6. Obligations outstanding.** The authority may not have at any one time outstanding obligations to which this section is stated in any agreement of the authority to apply in principal amount exceeding \$150,000,000, less the amount of revenue obligation securities to which section 1053 is stated in the trust agreement or other document to apply. Amounts of revenue obligation securities that are not taken into account pursuant to section 1053, subsection 6, may not be taken into account for purposes of determining the amount that may be outstanding under this section. Notwithstanding the foregoing, the authority may additionally have outstanding at any one time up to \$3,500,000 of obligations relating to direct loans to students pursuing higher education.

**Sec. A-20. 11 MRSA §4-203,** as amended by PL 1993, c. 293, Pt. B, §20, is further amended to read:

**§4-203. Effect of instructions**

Subject to ~~Article 3~~ Article 3-A concerning conversion of instruments (section 3-1420) and restrictive indorsements (section 3-1206) only a collecting bank's transferor can give instructions that affect the bank or constitute notice to it and a collecting bank is not liable to prior parties for any action

taken pursuant to the instructions or in accordance with any agreement with its transferor.

**Sec. A-21. 12 MRSA §7463-A, sub-§4**, as amended by PL 1993, c. 206, §6 and affected by §7 and as amended by c. 419, §27, is repealed and the following enacted in its place:

**4. Hunting permits.** In accordance with the provisions of subsections 1-A and 2-A, the commissioner may issue moose hunting permits and may establish the number of moose hunting permits to be issued for each moose hunting zone. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters. A person whose application is selected may purchase a moose hunting permit upon presentation of proof that the person possesses:

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

B. A valid Maine big game hunting license, if the person is a nonresident or alien.

The fee for a moose hunting permit is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996 and every year thereafter for residents and \$200 for 1993, \$202 for 1994, \$203 for 1995 and \$204 for 1996 and every year thereafter for nonresidents and aliens. While hunting moose, each nonresident or alien hunter, both permittee and subpermittee, must be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.

**Sec. A-22. 13-B MRSA §201, sub-§2**, as amended by PL 1993, c. 316, §29, is further amended to read:

**2. Corporations not organized.** The following types of corporations may not be organized under this Act:

A. Parishes and societies, as that term is used in Title 13, ~~section 2861 et seq chapter 93, subchapter I~~; independent local churches, as that term is used in Title 13, ~~section 3021 et seq chapter 93, subchapter II~~; meeting houses, as that term is used in Title 13, ~~section 3101 et seq chapter 93, subchapter IV~~; and churches organized as noncapital stock corporations under Title 13, ~~section 901 et seq chapter 81, subchapter I~~.

If any of the foregoing corporations files an annual report pursuant to section 1301 of this Act, the filing of the report is deemed an election by that corporation to be governed by all of the provisions of this chapter, unless clearly inapplicable; and

B. Cooperatives, as that term is used in Title 13, ~~section 1771, et seq chapter 85, subchapter II~~; credit unions, as defined in Title 9-B, section 131; rural electrification cooperatives, as that term is used in Title 35-A, chapter 37, subchapters I, II and III; consumers' cooperatives, as that term is used in Title 13, ~~section 1501 et seq chapter 85, subchapter I~~; and fish marketing associations, as that term is used in Title 13, ~~section 2001 et seq chapter 87~~.

**Sec. A-23. 13-B MRSA §1301**, as repealed and replaced by PL 1993, c. 316, §44 and c. 349, §35, is repealed and the following enacted in its place:

**§1301. Annual report of domestic and foreign corporations; excuse**

**1. Annual report.** Each domestic corporation, unless excused as provided in subsection 5, and each foreign corporation authorized to carry on activities in this State shall deliver for filing, within the time prescribed by this Act, an annual report to the Secretary of State setting forth:

A. The name of the corporation and the jurisdiction of its incorporation;

B. The address of the registered office of the corporation in this State and the name of its agent for service of process if a domestic corporation, or its registered agent if a foreign corporation in this State, at that address, including the street or rural route number, town or city and state and, if a foreign corporation, the address of its registered or principal office in its jurisdiction of incorporation; and

C. The names and business or residence addresses of the president, the treasurer, the registered agent and the secretary or clerk of the corporation, including the street or rural route number, town or city and state.

**2. Information contained in annual report.** The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in subsection 4. The information contained in the annual report must be current as of the date the report is signed.

**3. Execution.** The annual report must be executed as provided by section 104, except that signing by the president, a vice-president, the secretary, the treasurer, an assistant secretary or any other duly authorized individual without a 2nd signature is deemed valid under section 104, subsection 1, paragraph B, subparagraph (2).

**4. Filing.** Subject to rules adopted under section 1302-A, subsection 4, the annual report must be

delivered for filing to the Secretary of State or a designee. The annual reports may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that the report was deposited in the United States mail in a sealed envelope, properly addressed and with postage prepaid, before the date that penalties become effective for late delivery of annual reports, as established by the Secretary of State by rule, is considered compliance with this subsection. One copy of the report, together with the filing fee required by this Act, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this Act. If the Secretary of State finds that the report does not conform, the Secretary of State shall promptly mail or otherwise return the report to the corporation for necessary corrections, in which event the penalties prescribed by this Act for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days from the date on which it was mailed or otherwise returned to the corporation by the Secretary of State.

**5. Certificate of fact.** The Secretary of State, upon application by a corporation and satisfactory proof that it has ceased to carry on activities, shall file a certificate of that fact and shall give a duplicate certificate to the corporation. The corporation is then excused from filing annual reports with the Secretary of State as long as the corporation carries on no activities.

**6. Vote to carry on activities.** The members entitled to vote or, if none, the directors of a corporation that has been excused pursuant to subsection 5 may vote to resume carrying on activities at a meeting duly called and held for that purpose. A certificate executed and filed as provided in sections 104 and 106, setting forth that a members' or directors' meeting was held, the date and location of the meeting and that a majority of the members or directors voted to resume carrying on activities, authorizes that corporation to carry on activities; after that certificate is filed, the corporation is required to file annual reports beginning with the next reporting deadline following resumption as established by subsection 4.

**Sec. A-24. 23 MRSA §1961, sub-§2,** as amended by PL 1991, c. 9, Pt. E, §14 and IB 1991, c. 1, §2, is repealed and the following enacted in its place:

**2. Cooperation with the Department of Transportation.** The Department of Transportation

must be provided each year the operating surplus of the Maine Turnpike Authority. These amounts are considered necessary for use by the department for construction, reconstruction, operation and maintenance of all roads on the state highway system, which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike and its users have received and will continue to receive a benefit from, or have caused and will continue to cause, or both, the State acting by and through the Department of Transportation to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly be and should be compensated from the tolls to be collected. The Maine Turnpike Authority should be maintained to carry out the purposes of this chapter in cooperation with the Department of Transportation.

**Sec. A-25. 23 MRSA §1965, sub-§1, ¶O,** as amended by PL 1991, c. 9, Pt. E, §15 and repealed by IB 1991, c. 1, §6, is repealed.

**Sec. A-26. 23 MRSA §1974, sub-§4,** as amended by PL 1991, c. 9, Pt. E, §17 and as repealed by IB 1991, c. 1, §8, is repealed.

**Sec. A-27. 30-A MRSA §5772, sub-§9,** as enacted by PL 1987, c. 873, §§2 and 3 and as enacted by PL 1989, c. 104, Pt. A, §50 and Pt. C, §10, is repealed and the following enacted in its place:

**9. Interest or dividend exemption from state taxation.** Interest or dividends paid on general obligation securities issued under this section are exempt from taxation within the State, whether or not such income is subject to taxation under the United States Internal Revenue Code, as amended.

**Sec. A-28. 32 MRSA §226, sub-§2, ¶C,** as amended by PL 1993, c. 349, §65 and c. 389, §18, is repealed and the following enacted in its place:

C. Alterations, renovations or remodeling of a building when the cost of the work contemplated by the design does not exceed 15% of the assessed value of the building or \$50,000, whichever is the lesser, or does not require the issuance of a permit under applicable building codes or when the work involves those structures as provided in paragraphs A, B, F, G and H or when the work involves interior design services performed by a certified interior designer:

**Sec. A-29. 36 MRSA §653, sub-§1, ¶E,** as repealed and replaced by PL 1993, c. 395, §11 and



c. 427, §7, is repealed and the following enacted in its place:

E. The word "veteran" as used in this subsection means any person, male or female, who was in active service in the Armed Forces of the United States during any federally recognized war period or the Korean Campaign, the Vietnam War or the Persian Gulf War and who, if discharged, retired or separated from the Armed Forces, was discharged, retired or separated under other than dishonorable conditions. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964 and before May 7, 1975, except if the veteran died in service or was discharged for a service-connected disability after such date. "Vietnam War" means that period between August 5, 1964 and May 7, 1975. "Persian Gulf War" means service on active duty between August 7, 1990 and April 11, 1991;

**Sec. A-30. 36 MRSA §2013, sub-§1, ¶C**, as amended by PL 1993, c. 151, §1 and c. 395, §17, is repealed and the following enacted in its place:

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7; attachments and equipment for the production of field and orchard crops; and new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7; or

(3) New or used watercraft, machinery or equipment used directly and primarily for aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feed-

ers and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor vehicles as defined in section 1752, subsection 7.

**Sec. A-31. 36 MRSA §4641-C, sub-§2**, as amended by PL 1993, c. 373, §5 and c. 398, §4, is repealed and the following enacted in its place:

2. Mortgage deeds. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds, deeds from a mortgagor to a mortgagee in lieu of foreclosure and deeds from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323. In the event of a deed to a 3rd party at such a public sale, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds;

**Sec. A-32. 37-B MRSA §105**, as amended by PL 1987, c. 370, §12, is repealed and the following enacted in its place:

#### **§105. Staff organization**

The Governor may create, organize, abolish or reorganize staff sections that the Governor determines necessary to provide for the National Guard and other state military forces, and appoint staff officers necessary to provide for the operation of the staff sections. Officers of these sections shall perform the duties required of them by law and those other duties not inconsistent with the laws of the State that correspond to the duties performed by officers in corresponding staff sections in the federal military establishment.

**Sec. A-33. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 1993, c. 150, §1 and c. 427, §8, is repealed and the following enacted in its place:

A-1. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried minor child, unmarried dependent child enrolled in secondary school or unmarried adult child who became incapable of self-

support before reaching 18 years of age on account of mental or physical defects.

(2) "Eligible veteran" means any person who:

(a) Served on active duty in the United States Armed Forces during any federally recognized period of conflict, served on active duty in the United States Armed Forces at any time during the period December 22, 1961 to August 5, 1964 or was eligible for an Armed Forces Expeditionary Medal or campaign medal, and who:

(i) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty; and

(ii) Was a resident of the State at the time of entering military service, death or the death of an eligible dependent;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on state active duty as provided in chapter 3, subchapter III; or

(c) Served in the Armed Forces in the United States at any time and was killed or died as a result of hostile action and was a resident of the State at the time of entering military service, at the time of death or at the time of the death of an eligible dependent.

(3) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, or March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975; and the Persian Gulf War, August 7, 1990 to April 11, 1991.

**Sec. A-34. 37-B MRSA §601**, as amended by PL 1993, c. 426, §1 and c. 427, §10, is repealed and the following enacted in its place:

### **§601. Home established; purpose**

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing home located in Augusta, a 120-bed home located in southern Maine, a home not to exceed 60 beds located in Aroostook County, a home located in Bangor not to exceed 120 beds and a home located in South Paris not to exceed 90 beds may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Board of Trustees of the Maine Veterans' Homes shall plan and develop these additional homes and may use any funds available for those purposes, except for the Augusta facility's funded depreciation account. The primary purpose of the homes is to provide support and care for honorably discharged veterans who served in the United States Armed Forces during wartime, including the Korean Conflict, the Vietnam War and the Persian Gulf War.

**Sec. A-35. 38 MRSA §482, sub-§5**, as amended by PL 1993, c. 366, §§1 to 3 and amended by c. 383, §17 and affected by §42, is repealed and the following enacted in its place:

**5. Subdivision.** A "subdivision" is the division of a parcel of land into 5 or more lots to be offered for sale or lease to the general public during any 5-year period if the lots to be offered, together with the roads, common areas, easement areas and all portions of the parcel of land in which rights or interests, whether express or implied, are to be offered make up an aggregate land area of more than 20 acres except for the following:

C. Lots of 40 or more acres but not more than 500 acres may not be counted as lots except where:

(1) The proposed subdivision is located wholly or partly within the shoreland zone;

C-1. Lots of more than 500 acres in size may not be counted as lots;

D. Five years after a subdivider establishes a single-family residence for that subdivider's own use on a parcel and actually uses all or part of

the parcel for that purpose during that period, a lot containing that residence may not be counted as a lot;

E. Unless intended to circumvent this article, the following transactions may not be considered lots offered for sale or lease to the general public:

(1) Sale or lease of lots to an abutting owner or to a spouse, child, parent, grandparent or sibling of the developer if those lots are not further divided or transferred to a person not so related to the developer within a 5-year period, except as provided in this subsection;

(2) Personal, nonprofit transactions, such as the transfer of lots by gift or devise, if those lots are not further divided or transferred within a 5-year period; or

(3) Grant of a bona fide security interest in the whole lot or subsequent transfer of the whole lot by the original holder of the bona fide security interest or that person's successor in interest;

F. In those subdivisions that would otherwise not require site location approval, unless intended to circumvent this article, the following transactions may not, except as provided, be considered lots offered for sale or lease to the general public:

(1) Sale or lease of common lots created with a conservation easement as defined in Title 33, section 476, provided that the department is made a party; and

H. The transfer of contiguous land by a permit holder to the owner of a lot within a permitted subdivision is exempt from review under this article, provided that the land was not owned by the permit holder at the time the department approved the subdivision. Further division of the transferred land must be reviewed under this article.

The exception described in paragraph F does not apply, and the subdivision requires site location approval, whenever the use of a lot described in paragraph F changes or the lot is offered for sale or lease to the general public without the limitations set forth in paragraph F. For the purposes of this subsection only, a parcel of land is defined as all contiguous land in the same ownership provided that lands located on opposite sides of a public or private road are considered each a separate parcel of land unless that road was established by the owner of land on both sides of the road subsequent to January 1, 1970. A lot

to be offered for sale or lease to the general public is counted, for purposes of determining jurisdiction, from the time a municipal subdivision plan showing that lot is recorded or the lot is sold or leased, whichever occurs first, until 5 years after that recording, sale or lease.

**Sec. A-36. 38 MRSA §569-A, sub-§6,** as amended by PL 1993, c. 410, Pt. H, §1 and c. 412, §6, is repealed and the following enacted in its place:

**6. Allocation from Ground Water Oil Clean-up Fund.** From the fees assessed in subsection 5, 6¢ per barrel of gasoline, refined petroleum products and their by-products, other than liquid asphalt and #6 fuel oil, must be transferred by the department upon receipt as follows.

A. Sixty-two and one half percent of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine for deposit in the Underground Oil Storage Replacement Fund, and after \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to paragraph B, 100% of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine.

B. Thirty-seven and one half percent of the 6¢ per barrel fee must be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks located on owner-occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned. After \$3,000,000 has been transferred, the Maine State Housing Authority does not receive a percentage of the 6¢ per barrel fee.

After an aggregate sum of \$10,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to subsection 5 must be reduced by 6¢ per barrel. For the purposes of this subsection, the transfers from the Underground Oil Storage Replacement Fund under Public Law 1993, chapter 6 and under unified appropriations and allocations for fiscal year 1993-94 and fiscal year 1994-95 are not included in calculating the amount transferred from the Ground Water Oil Clean-up Fund to the Underground Oil Storage Replacement Fund.

**Sec. A-37. 38 MRSA §1310-N,** as amended by PL 1993, c. 191, §1 and affected by §4, and

amended by c. 378, §§5 and 6 and c. 383, §36, is repealed and the following enacted in its place:

**§1310-N. Solid waste facility licenses**

No person may locate, establish, construct, expand the disposal capacity of or operate any solid waste facility unless approved by the department under the provisions of this chapter. When the proposed facility is located within the jurisdiction of the Maine Land Use Regulation Commission, in addition to any other requirement, the department shall require compliance with existing standards of the commission.

**1. Licenses.** The department shall issue a license for a waste facility whenever it finds that:

A. The facility will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare or create a nuisance;

B. In the case of a disposal facility, the facility provides a substantial public benefit; and

C. In the case of a disposal facility, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal.

**2-A. Aquifer protection.** The department may not issue a license for a solid waste disposal facility when it finds that the proposed facility overlies a significant sand and gravel aquifer or when the department finds that the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer it does not overlie, or to an underlying fractured bedrock aquifer.

A. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water likely to provide drinking water supplies.

B. "Fractured bedrock aquifer" is defined as a consolidated rock formation that is fractured and that is saturated and recharged by precipitation percolating through overlying sediments to a degree that will permit wells drilled into the rock to produce a sufficient water supply for domestic use.

C. In determining whether or not the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer, the department shall require the applicant to provide:

(1) A thorough hydrogeological assessment of the proposed site and the contiguous area including any classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers that could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment must include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer.

**2-D. Setback requirements for transfer stations.** The department may not issue a permit or a license for a municipal solid waste transfer station unless the location of the handling site conforms to the following setback requirements.

A. For a transfer station on an island that is not connected to the mainland by a road, there is no setback requirement. The department shall review the proposed location of the handling site and determine whether the property setbacks proposed by the developer are reasonable and compatible with the abutting land uses. To the fullest extent possible, the department shall ensure that the handling site of a transfer station on an island is located in a manner that minimizes any adverse impact on the island residents.

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

(1) The department finds the abutting property to be a conforming use. If the department finds an abutting property to be a conforming use, the handling site may be within 250 feet of the boundary but not within 250 feet of any permanent structure on that abutting property; or

(2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site.

This subsection does not apply to transfer station permit or license renewals.

**2-E. Automobile dismantling, recycling and salvage operations.** The department may not issue a license for a solid waste facility that is larger than 3

acres in size and that is the location of automobile dismantling, recycling and salvage if the automobile dismantling, recycling and salvage operations take place within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the facility or the owner's or operator's abutting residence.

**2-F. Siting standards.** The department shall issue a license for a new or expanded solid waste facility when it finds that the following standards, in addition to any other requirements of this chapter, have been met.

A. The applicant has the financial and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this chapter.

B. The applicant has made adequate provision for traffic movement of all types into, out of and within the proposed solid waste facility. The department shall consider traffic movement both on site and off site. In making its determination, the department shall consider the following factors:

- (1) Vehicular weight limits;
- (2) Road construction and maintenance standards;
- (3) Vehicle type;
- (4) Public safety and congestion on any public or private road traveled by vehicles transporting waste to or from the proposed facility; and
- (5) Other relevant factors.

C. The applicant has made adequate provision for fitting the proposed solid waste facility harmoniously into the existing natural environment and the proposed solid waste facility will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

D. The proposed solid waste facility will be built on soil types that are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment.

E. The proposed solid waste facility will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

F. The applicant has made adequate provision for utilities including water supplies, sewerage

facilities, solid waste disposal and roadways required for the project, and the proposed solid waste facility will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services.

G. The project will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to a structure.

**3. Public benefit determination.** The department shall determine the public benefit of a proposed facility according to the following provisions.

A. Prior to the initial adoption of the state plan, the department shall find that a proposed facility provides a substantial public benefit when the applicant demonstrates that the facility is designed, located and will be operated so that it is consistent with and meets the needs identified in the capacity needs analysis under former section 1310-O.

B. Subsequent to the initial adoption of the state plan and for those facilities not subject to chapter 24, subchapter IV, the department shall employ a rebuttable presumption of public benefit.

C. Subsequent to the adoption of the state plan and for those facilities subject to chapter 24, subchapter IV, the agency shall determine whether or not the proposed facility meets the requirements of section 2157.

**5. Recycling and source reduction determination.** The department shall find that the provisions of subsection 1, paragraph C are satisfied when the applicant demonstrates that all requirements of this subsection have been satisfied.

A. The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law.

(1) The department shall attach this requirement as a standard condition to the license of a solid waste disposal facility governing the future acceptance of solid waste at the proposed facility.

B. The applicant has shown consistency with the recycling provisions of the state plan.

**6. Terms and compliance schedules.** Except as provided in subsection 6-D, licenses are issued under terms and conditions the department prescribes.

and for a term not to exceed 5 years. The department may establish reasonable time schedules for compliance with this article and rules adopted by the board. A licensed or unlicensed municipal solid waste landfill operating on December 31, 1991 may continue to operate until December 31, 1992 unless the commissioner finds that continued operation of a landfill poses an immediate hazard to the public health or the environment, including, without limitation, a threat to a public or private water supply.

**6-A. Relicensing.** Notwithstanding subsection 6, a transfer station or a recycling facility licensed under this chapter is not subject to relicensing unless the standards in effect at the time the previous license was issued are changed or the facility significantly changes its operation. For the purposes of this subsection, a transfer station includes any associated area or use that is permitted by the license, such as areas used to burn or chip wood or brush and areas used to store or handle white goods or tires, but does not include any associated wood waste or demolition debris landfills.

**6-B. Unlicensed landfills operating after December 31, 1992.** Notwithstanding subsection 6, the commissioner shall enter into an agreement with a municipality allowing that municipality to operate an unlicensed municipal solid waste landfill after December 31, 1992 if the commissioner determines that the municipality has:

- A. Selected an alternative solid waste handling or disposal option that is licensed or capable of being licensed;
- B. Proposed to the department a reasonable and mutually acceptable schedule for implementing that option; and
- C. Agreed to cease accepting waste at the unlicensed landfill on a date certain.

An agreement under this subsection between a municipality and the department may not include any provision that prevents the municipality from using its unlicensed landfill for the disposal of municipal solid waste during the term of the agreement. Notwithstanding any provision of an agreement entered into under this subsection, the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including without limitation a threat to a public or private water supply.

**6-C. Summary of federal regulations.** The commissioner shall provide a summary of the criteria for municipal solid waste landfills set forth in 40 Code of Federal Regulations, Part 258 (1992) to each

municipality operating a licensed or unlicensed municipal solid waste landfill on the effective date of this subsection. The summary must describe the operational and, where possible, the economic implications under federal and state rules of accepting waste at a municipal solid waste landfill after October 8, 1993.

**6-D. Solid waste facilities licensed under rules valid on or after May 24, 1989.** A solid waste facility license issued under applicable solid waste management rules valid on or after May 24, 1989 remains in effect unless modified, revoked or suspended under section 341-D, subsection 3. These licensees must:

- A. Comply with applicable operating rules adopted by the board;
- B. Comply with annual facility reporting rules adopted by the board; and
- C. Beginning 5 years after the date of issuance of the license, pay an annual facility reporting fee established by the commissioner. The annual fee established in this paragraph must be an amount equal to 20% of the relicensing fee that would have applied to that facility.

**7. Criminal or civil record.** The department may refuse to grant a license under this article if it finds that the applicant or, if the applicant is other than a natural person, any person having legal interest in the applicant has been found guilty of a criminal or civil violation of laws administered by the department or other laws of the State, other states, the United States or another country.

**8. Exemption.** The disposal of construction and demolition debris, land clearing debris and wood wastes is exempt from the requirements of this chapter when:

- A. The disposal facility is less than one acre in size;
- B. The disposal facility is located on the same parcel of property where the waste is generated; and
- C. Only one exempt disposal facility is located on a single parcel of property, except that additional disposal facilities on the same parcel that are less than one acre in size and that were in existence prior to the effective date of this subsection do not require a license under this chapter if no additional waste is disposed of in those additional facilities after the effective date of this subsection.

**Sec. A-38. 38 MRSA §2174, sub-§3**, as amended by PL 1993, c. 310, Pt. B, §8 and repealed by c. 355, §62, is repealed.

**Sec. A-39. PL 1975, c. 623, §72, first 2 lines** are repealed and the following enacted in their place:

**Sec. 72. 38 MRSA §247**, as enacted by PL 1971, c. 75, is repealed.

**Sec. 72-A. P&SL 1975, c. 75, §9** is repealed and the following enacted in place thereof:

**Sec. A-40. PL 1991, c. 887, §3** is amended to read:

**Sec. 3. 4 MRSA §1353, sub-§7, ¶A**, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

A. The disability retirement allowance of a beneficiary ~~shall~~ must cease at age 70, or prior thereto, whenever the service retirement allowance of the beneficiary would equal or exceed the amount of ~~his~~ the member's disability retirement allowance.

**Sec. A-41. PL 1993, c. 207, §1, first 2 lines** are repealed and the following enacted in their place:

**Sec. 1. 5 MRSA §12004-L, sub-§4**, as enacted by PL 1987, c. 786, §5, is repealed.

**Sec. A-42. PL 1993, c. 335, §1, first 3 lines** are repealed and the following enacted in their place:

**Sec. 1. 12 MRSA §8003, sub-§3, ¶M**, as amended by PL 1987, c. 308, §10, is further amended to read:

**Sec. A-43. P&SL 1975, c. 84** is amended by striking out the first 2 lines after the enacting clause and inserting in their place the following:

**Sec. 1. P&SL 1907, c. 433**, as amended, is repealed and the following enacted in place thereof:

**Sec. A-44. P&SL 1975, c. 84** is amended by striking out all of the 2nd indented paragraph before the end and inserting in its place the following:

**Sec. 2. P&SL 1913, c. 157, §2** is amended by adding a new paragraph at the end to read:

**Sec. A-45. Resolve 1993, c. 8** is repealed.

## PART B

**Sec. B-1. 12 MRSA §7736, sub-§1, ¶A**, as amended by PL 1993, c. 438, §38, is further amended to read:

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

**Sec. B-2. 25 MRSA §2954**, as amended by PL 1991, c. 837, Pt. B, §12 and c. 841, §10, is repealed and the following enacted in its place:

### **§2954. Maine Drug Enforcement Agency Advisory Board**

In order to develop, coordinate and carry out a statewide drug enforcement program and strategy, there is established the Maine Drug Enforcement Agency Advisory Board. The board consists of the Attorney General or a designee; the Chief of the State Police; a state law enforcement officer selected by the Governor with the advice of the Chief of the State Police; a district attorney selected by the Governor with the advice of the Maine Prosecutors Association; the United States Attorney for the District of Maine or a designee; 3 municipal police chiefs selected by the Governor with the advice of the Maine Chiefs of Police Association; a county sheriff selected by the Governor with the advice of the Maine Sheriffs' Association; the Commissioner of Corrections or a designee; and 2 citizens, one of whom has experience with drug treatment and education programs, appointed for 2-year terms by the Governor.

The board shall provide advice and consultation to the Commissioner of Public Safety for the drug law enforcement effort within the State. This effort must include the integration and coordination of investigative and prosecutorial functions in the State with respect to drug law enforcement. The board shall also make recommendations to the Legislature as it determines to be appropriate for the implementation of an effective drug law enforcement program.

The board, in addition to these responsibilities, shall provide advice to the commissioner regarding the integration of law enforcement officers from county, municipal and all state law enforcement agencies, into the agency.

**Sec. B-3. 25 MRSA §2955**, as amended by PL 1991, c. 837, Pt. B, §13 and c. 841, §11, is repealed and the following enacted in its place:

### **§2955. Maine Drug Enforcement Agency**

The commissioner shall establish and operate within the Maine Drug Enforcement Agency such regional investigative task forces as the commissioner determines, in consultation with the board, are required for effective drug law enforcement throughout the State.

The investigative component of each task force is comprised of law enforcement officers drawn from municipal, county and state law enforcement agencies, who, during the period in which they serve in the task force, must be placed on a temporary assignment by their employing law enforcement agencies and in the nonclassified positions within the agency as established. All agency investigative personnel may not be state employees, for the purposes of Title 26, chapter 9-B. All agency investigative personnel shall act in accordance with rules, policies and procedures established by the commissioner. In determining the number, areas of responsibility and investigative complement of these task forces, the commissioner shall take into account geography, population, the need for service and the advice provided by the board.

**1. Director.** The agency is managed by a director who reports to the commissioner. The director must be an experienced law enforcement officer. The Chief of the State Police, the Maine Sheriffs' Association and the Maine Chiefs of Police Association may each nominate one candidate as director for submission to the Maine Drug Enforcement Agency Advisory Board. The advisory board shall submit one of the 3 nominations to the commissioner, who may appoint that person with the approval of the Governor. If the commissioner or the Governor does not approve of the candidate submitted, each of the nominating groups is requested to submit an additional nomination. The director serves at the pleasure of the commissioner. Eligibility for this appointment is not dependent upon the parent law enforcement agency, if any, of the person selected. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. The director reports directly to the commissioner, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as director.

**2. Assistant director.** The director of the agency is assisted by an assistant director. The assistant director must be an experienced law enforcement officer and may exercise any of the powers of the director as the director may delegate. The assistant director is appointed by and serves at the pleasure of the commissioner.

Eligibility for the selection is not dependent upon the parent law enforcement agency, if any, of the person selected. The assistant director is compensated in a manner equivalent to that of a captain in the State Police, with respect to both regular and overtime

compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. The assistant director reports directly to the director, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as assistant director.

**3. Commanders.** There may be no more than 3 commanders within the agency who may exercise any powers the director may delegate. Each commander must be an experienced law enforcement officer appointed by the director with the concurrence of the commissioner and serves at the pleasure of the director. The appointment of commanders is not dependent upon the parent law enforcement agency, if any, of the person selected. Commanders are compensated from the budget of the agency in a manner equivalent to that of a lieutenant in the State Police, with respect to both regular and overtime compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. A commander reports directly to the director or assistant director, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as commander.

**4. Task force investigative supervisors.** Each task force is supervised by a task force investigative supervisor. Each supervisor must be an experienced law enforcement officer appointed by the director with the concurrence of the commissioner and serves at the pleasure of the director. The appointment of supervisors is not dependent upon the parent law enforcement agency, if any, of the person selected. Supervisors are compensated from the budget of the agency in a manner equivalent to that of a sergeant assigned to the State Police, with respect to both regular and overtime compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. A supervisor reports directly to the assistant director or a commander, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as supervisor.



**5. Task force investigative agents.** The investigative complement of each task force is comprised of task force investigative agents. Agents may be selected from municipal, county and state law enforcement agencies within the State and other state agencies, as long as the prospective agent is certified pursuant to section 2803-A, subsection 1; or may be other experienced law enforcement officers, as long as each is certified pursuant to section 2803-A, subsection 1. Agents are selected and appointed at the discretion of the director with the concurrence of the commissioner from among those persons nominated by the chief administrative officer of a prospective agent's employing agency and other experienced law enforcement officers who apply. Agents serve at the pleasure of the director. Agents receive compensation, paid from the budget of the agency, equivalent to that of a detective in the State Police, with respect to both regular and overtime compensation with the additional credit given to seniority based upon law enforcement experience. If the person selected as an agent is currently an employee of any municipal, county or state law enforcement agency, or any other state agency, the person must be placed on a temporary assignment by the person's employing agency. An agent reports directly to the task force supervisor, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provisions of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as an agent.

Any person employed as a senior agent or special agent investigator within the State Police may be temporarily assigned to the agency. During that temporary assignment, the State Police retains the positions of senior agent and special agent investigator.

**6. Authority of agency officers.** The director, assistant director, commanders, supervisors and agents are vested at the discretion of the commissioner with the following:

A. The authority throughout the State to arrest pursuant to Title 17-A, section 15;

B. The same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve criminal process, to investigate and prosecute violators of any law of this State and to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the State until a warrant can be obtained. They have the same rights as sheriffs to require aid in executing the duties of their office; and

C. The same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve civil process in all matters relating to investigations or violations of Title 17-A, chapter 45 or actions arising under or initiated pursuant to Title 15, chapter 517.

**7. Task force attorneys.** The Attorney General, the United States Attorney for the District of Maine and the respective district attorneys may assign as many of their assistants and special assistants as they determine to be appropriate to each of the task forces or to the agency generally. The attorneys must be available to the agency officers for purposes of ongoing consultation and advice on the propriety and legal consequences of methods of investigation and are responsible for coordinating, with the commanders and supervisors, the prosecutorial and investigative priorities of the task forces. The Attorney General shall appoint one assistant attorney general as a full-time coordinator of drug prosecution matters. That assistant attorney general is responsible to coordinate the efforts of each of the attorneys assigned to the agency.

**8. Compensation; State Police personnel.** Notwithstanding any other provision in this section, State Police officers, senior agents and special investigative agents who are temporarily assigned to the agency continue to be paid from the budget of the Bureau of State Police, except that any additional compensation arising from such a temporary assignment must be paid from the budget of the agency.

## PART C

**Sec. C-1. 1 MRSA §2501, sub-§29,** as enacted by PL 1989, c. 824, §1, is repealed.

**Sec. C-2. 21-A MRSA §1017-A, sub-§1,** as amended by PL 1993, c. 228, §1, is further amended to read:

**1. Contributions.** A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of ~~less than~~ \$200 or less must be reported, and these contributions may be reported as a lump sum.

**Sec. C-3. 24-A MRSA §1106, sub-§6, ¶E,** as enacted by PL 1993, c. 313, §21, is amended to read:

E. The aggregate amount of medium grade obligations issued, guaranteed or insured by any

one institution then held by the insurer exceeds 1% of its admitted assets-; or

**Sec. C-4. 29 MRSA §780-A** is enacted to read:

**§780-A. Required maintenance of financial responsibility**

**1. Requirement.** Every operator or owner of a motor vehicle, trailer or semitrailer registered in this State shall maintain at all times the amounts of motor vehicle liability insurance or financial responsibility specified in section 787.

**2. Evidence of insurance or financial responsibility.** When a law enforcement officer stops an operator or owner of a motor vehicle, trailer or semitrailer registered in this State for a moving violation or the operator is involved in an accident that must be reported under section 891, the officer shall request that the operator present evidence of motor vehicle liability insurance or financial responsibility.

**3. Failure to produce evidence of insurance.** If any person fails to produce evidence of insurance, as defined in section 781, subsection 1, paragraphs A-1 and A-2, to a law enforcement officer, pursuant to this section, this failure is prima facie evidence that the motorist is uninsured, is in violation of this section and is subject to the penalties of this section.

**4. Dismissal.** If any person charged with a violation of this section exhibits to a law enforcement officer designated by the issuing officer evidence of insurance or financial responsibility that was in effect at the time of violation no later than 24 hours before the time set for the court appearance, the proceeding for violation of this section is dismissed.

**5. Penalty.** Violation of this section is a traffic infraction for which a forfeiture of not less than \$100 and not more than \$500 may be assessed.

**6. Suspension.** Thirty days following the receipt of an abstract from the court of an adjudication of a violation of this section, the Secretary of State shall suspend, in accordance with chapter 17, the license and right to operate and obtain a license of the person operating a motor vehicle; the registration certificate and registration plates and the right to register of the person owning a motor vehicle, trailer or semitrailer until that person provides evidence of insurance in accordance with section 781, paragraph A-1 in the amounts required in this subchapter. A person who is convicted of a violation of this section 2 or more times within a 3-year period is subject to the proof of financial responsibility requirements as provided in section 787.

**7. Agent immunity from liability.** An insurance agent, broker or agency may not be held liable for an inaccurate insurance identification card if the card was issued based on information contained in the records of that agent, broker or agency or was issued based on any false or misleading statements made by the operator.

**8. Governmental vehicle exemption.** The provisions of this section do not apply to governmental vehicles under section 256.

**9. Other exemptions.** The provisions of this section do not apply to vehicles owned or controlled by a dealer, as defined by chapter 5, subchapter III-A, nor to any vehicle registered by the Secretary of State as a vehicle for hire.

**Sec. C-5. Effective date.** That section of this Act that enacts the Maine Revised Statutes, Title 29, section 780-A takes effect retroactively to January 1, 1992.

**Sec. C-6. 29 MRSA §790, sub-§2, ¶A,** as enacted by PL 1987, c. 341, §§5 and 7, is amended to read:

A. The number of those persons injured by uninsured operators of motor vehicles who were not compensated fully by the uninsured operator or by any health or accident insurance policy and were not in violation of section ~~780~~ 780-A; and

**Sec. C-7. 38 MRSA §482, sub-§2,** as amended by PL 1993, c. 350, §3 and c. 383, §3 and affected by §42, is repealed and the following enacted in its place:

**2. Development that may substantially affect the environment.** "Development that may substantially affect the environment," in this article also called "development," means any federal, state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development that:

A. Occupies a land or water area in excess of 20 acres;

B. Contemplates drilling for or excavating natural resources on land or under water where the area affected is in excess of 60,000 square feet;

C. Is a mining or advanced exploration activity as defined in this section;

D. Is a structure as defined in this section; or

E. Is a subdivision as defined in this section.

"Development" does not include borrow pits regulated under article 7.

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

Effective April 14, 1994.

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## CHAPTER 681

### S.P. 710 - L.D. 1918

#### An Act to Prohibit the Use of Gill Nets in the Kennebec and Androscoggin Rivers

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

**Whereas,** the lower Kennebec and Androscoggin Rivers once supported abundant runs of striped bass that spawned in the rivers in spring and provided a significant commercial fishery; and

**Whereas,** the construction of dams and the pollution from mills and cities that poured into these 2 great rivers eventually wiped out the native striper population around 1930; and

**Whereas,** as river water quality began to improve in the late 1970s the Department of Marine Resources was urged to reintroduce stripers to this river system; and

**Whereas,** starting in 1982 and continuing until 1989 the Kennebec and Androscoggin estuaries were stocked with a total of almost 200,000 young striped bass; and

**Whereas,** beginning in 1987, annual samplings of the Kennebec estuary resulted in the capture of small numbers of striped bass young-of-the-year each year and in late November 1993 several hundred 5-inch long young-of-the-year were captured in a fyke net just upstream from the Bath bridge in the Kennebec River; and

**Whereas,** the estuaries of both the Kennebec and Androscoggin Rivers and their tributaries are presently open to commercial fishing with gill nets, which kill all the fish they catch, and there is a significant danger that gillnetting after ice-out in 1994 for alewives, shad or other species will result in large numbers of these small, native stripers being killed in gill nets; and

**Whereas,** the restoration of a natural, native population of striped bass in the estuaries of the

Kennebec and Androscoggin Rivers and their tidewater tributaries is a priority issue for the State's fishery management program; and

**Whereas,** the risk of killing large numbers of the young-of-the-year nucleus of a native striped bass population in the estuaries of the Kennebec and Androscoggin Rivers presently exists; 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 §6553-B** is enacted to read:

**§6553-B. Fixed gill nets; limited prohibition**

A person may not use a gill net that is fixed or anchored to the bottom or shore in any tidal waters of the Kennebec River or the Androscoggin River or their tidal tributaries, including those tidal waters of Phippsburg, West Bath, Bath, Bowdoinham, Topsham, Dresden, Woolwich, Arrowsic and Georgetown that are connected to the Kennebec River upstream from Fort Popham, unless that fixed gill net is tended continuously, hauled back and emptied at least once every 2 hours and is affixed with a floating marker that includes the name and address of the owner of the net. Notwithstanding section 6204, a violation of this section is a civil violation for which a forfeiture of not more than \$500 may be adjudged.

This section is repealed July 1, 1996.

**Sec. 2. Monitoring and report.** To the extent that resources are available, the Department of Marine Resources shall cooperate with the Maine Chapter of the New England Coast Conservation Association, anglers and others engaged in recreational striped bass fishing on the tidal waters of the Kennebec River and the Androscoggin River to develop a program to record the catches of striped bass in those waters. The program may utilize "catch and release" sampling methods to assist with any efforts to determine the striped bass population in those waters. The Commissioner of Marine Resources, the New England Coast Conservation Association, anglers and others involved in the data collection efforts shall report their results to the joint standing committee of the Legislature having jurisdiction over marine resource matters by December 1, 1996.