

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

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Augusta, Maine
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1. Goals. The strategy must include a statement of goals for great ponds that includes, but is not limited to:

A. Maintaining water quality in the State's great ponds or, where water quality is already degraded, restoring it so that algal blooms do not occur;

B. Ensuring that water quality is protected from long-term and cumulative increases in pollution;

C. Maintaining the ecological functions, biological diversity and important habitat of the natural ecosystem;

D. Avoiding the increase of natural hazards such as flooding;

E. Protecting the quality of drinking water;

F. Maintaining the traditional use and character of great ponds and their environs; and

G. Ensuring that the public has reasonable access to all great ponds.

2. Prevention efforts. In allocating state resources for great ponds management, the strategy must give priority to preventing the deterioration of water quality over restoration efforts.

3. Research. The strategy must include a research plan to determine significant existing or potential threats to water quality and other special values.

4. Report. The task force shall submit the strategy to the Governor and the Legislature by January 1, 1997.

5. Repeal. This section is repealed December 31, 1998.

See title page for effective date.

CHAPTER 346

H.P. 178 - L.D. 226

An Act to Strengthen the Laws Pertaining to Poaching

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

Sec. 1. 12 MRSA §7035, sub-§7, as enacted by PL 1979, c. 420, §1, is amended to read:

7. Sale of arms and ammunition. The commissioner may sell all ~~arms and ammunition~~ property

held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife. ~~He~~ The commissioner shall transmit all moneys money received by the sales forthwith to the Treasurer of State to be credited to the department.

Sec. 2. 12 MRSA §7035, sub-§15 is enacted to read:

15. Possession and disposal of fish and wildlife. The commissioner may take possession of sick, injured or dead fish and wildlife that is not the property of another person. For any fish and wildlife possessed by the commissioner under this section, the commissioner may:

A. For sick or injured fish and wildlife, destroy that fish or wildlife when necessary in a manner consistent with the provisions of Title 17, section 1043; and

B. For dead fish or wildlife, dispose of that fish or wildlife in any manner considered appropriate by the commissioner.

This subsection does not apply to fish or wildlife seized by the commissioner under section 7907.

Sec. 3. 12 MRSA §7071, sub-§6, as enacted by PL 1979, c. 543, §4, is repealed.

Sec. 4. 12 MRSA §7077, sub-§1, as amended by PL 1987, c. 317, §3, is repealed and the following enacted in its place:

1. Conviction of violation. Any conviction for a violation of chapters 701 to 721 is grounds for suspension of any license or permit issued under this Part. Except where provided by law, the commissioner shall determine the suspension period. To suspend a license or permit based upon a conviction, the commissioner shall follow the procedures under section 7077-B. Suspensions and revocations of a license by the Administrative Court are subject to the provisions of section 7101, subsection 8.

Sec. 5. 12 MRSA §7077, sub-§1-A, as enacted by PL 1993, c. 136, §1, is amended by repealing the first paragraph and enacting the following in its place:

1-A. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of a violation of one of the following:

Sec. 6. 12 MRSA §7077, sub-§1-B, as enacted by PL 1993, c. 136, §1, is amended by repealing the first paragraph and enacting the following in its place:

1-B. Mandatory fishing license revocation for certain violations. The commissioner shall suspend a person's fishing license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of a violation of one of the following:

Sec. 7. 12 MRSA §7077, sub-§1-B, ¶B, as enacted by PL 1993, c. 136, §1, is amended to read:

B. Taking or possessing sport fish in violation of bag, weight and size limits in violation of section 7604, as it relates to trout, salmon, togue and black bass, whenever the violation involves twice the ~~general~~ bag and possession limit adopted by rule by the commissioner for that species of fish in that body of water;

Sec. 8. 12 MRSA §7077, sub-§2, as amended by PL 1987, c. 317, §4, is repealed.

Sec. 9. 12 MRSA §7077, sub-§§3, 5 and 6, as enacted by PL 1979, c. 420, §1, are repealed.

Sec. 10. 12 MRSA §7077, sub-§7, as enacted by PL 1983, c. 329, §2, is repealed.

Sec. 11. 12 MRSA §7077-A, as enacted by PL 1993, c. 141, §1, is amended to read:

§7077-A. Mandatory license revocation for certain violations

1. Shooting domestic animals. Notwithstanding any other provision of this Part, a person convicted of shooting a domestic animal in violation of section 7406, subsection 14 is not eligible to obtain a license to hunt in this State for a period of at least 5 years from the date of conviction.

2. Offenses against a person. Notwithstanding any other provision of this Part, a person convicted of a violation of Title 17-A, chapter 9, if the offense occurred in the context of a hunting activity and if, through failure of the hunter to make proper target identification, the offense resulted in the injury or death of another person, is not eligible to obtain a license to hunt in this State for a period of at least 10 years from the date of the conviction.

~~3. Notice and hearing.~~ ~~The commissioner shall give notice to any person whose license has been revoked pursuant to this section as provided by section 7077, subsection 7.~~

~~A. Any person whose licenses have been revoked under this section may, within 30 days of the effective date of the revocation, petition for a hearing before the commissioner to show cause why the licenses should not have been revoked.~~

~~B. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of subsection 1 or 2 do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of subsection 1 or 2 apply, the revocation remains in effect. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.~~

4. Conviction of violation of Title 17-A while hunting or fishing. If a person holding a license or permit under this chapter is convicted of the violation of any provision of Title 17-A while on a hunting or fishing trip or in the pursuit of wild animals, wild birds or fish, the commissioner may revoke the license or permit held by that person for a period not to exceed 5 years, except when the killing or wounding of a human being has occurred, in which case the commissioner may revoke the license or permit for not less than 5 years.

5. Persons convicted of disturbing traps. A person convicted of a violation of section 7432, subsection 7 is not eligible to obtain any license issued by the department for 3 years from the date of conviction in the case of a first offense and 5 years from the date of conviction in the case of a 2nd or subsequent offense. Any license in effect at the time of conviction is revoked upon conviction and must be immediately surrendered to the commissioner.

~~A hunting license held by a person whose license eligibility is restricted in accordance with subsection 1 or 2 is considered revoked on the date of conviction and must be surrendered to the commissioner.~~

A person whose privilege to hold a hunting license has been revoked under this section becomes eligible to obtain a hunting license at the end of the period of ineligibility described in ~~subsection 1 or 2~~ this section only upon successful completion of a firearms training program established under section 7035, subsection 10 or some other ethics program established by the commissioner.

Sec. 12. 12 MRSA §§7077-B, 7077-C and 7077-D are enacted to read:

§7077-B. Effective date for suspensions

1. For mandatory suspensions. For violations having a minimum statutory suspension period, a suspension is effective upon conviction and the license holder must surrender the license immediately to the commissioner. That person is not entitled to a hearing under section 7077-D if the suspension period does not exceed the minimum period of suspension required by law.

2. For all other suspensions. For violations that do not have a minimum statutory suspension period, a suspension is effective upon written notification of suspension by the commissioner. That person must surrender that license to the commissioner upon receipt of a notice of suspension and is entitled to a hearing under section 7077-D.

The commissioner may require a person whose license is suspended for a violation of section 7077 or 7077-A to complete a course on hunting ethics prior to reinstatement of any suspended license.

§7077-C. Notice of suspension

A decision by the commissioner to suspend a license of a person convicted of a violation that does not carry a mandatory suspension must be made within 60 days after that conviction. The commissioner shall give written notice of all suspensions immediately following a decision to suspend. A notice of suspension must state the license or permit that is suspended and the effective date and length of the suspension and must inform the person of any applicable hearing provisions under section 7077-D.

§7077-D. Hearings

A person receiving a notice of suspension under section 7077-C may request a hearing on that suspension. A request for a hearing must be in writing and must be made not later than 30 days after receipt of the suspension notice required under section 7077-B. The commissioner shall notify the person of the date and location of the hearing.

1. Evidence. A person may present evidence at a hearing concerning the violation that might justify reinstatement of the license or permit or the reduction of the suspension period. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.

2. Decisions. Decisions of the commissioner must be in writing. Except as provided in subsection 3, the commissioner may reinstate the license or permit or reduce the suspension period if the commissioner finds that the person has not been convicted or that reinstatement of the license or permit or reduction of the suspension period would be in the best interests of justice.

3. Mandatory suspension period not waived. The commissioner may not waive or reduce any mandatory minimum suspension period established in statute.

Sec. 13. 12 MRSA §7101, sub-§8, as amended by PL 1979, c. 618, is further amended to read:

8. Suspension and revocation.

A. The commissioner may bring a complaint in the Administrative Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person who ~~he~~ the commissioner reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting. The Administrative Court shall revoke or suspend the person's license or privilege for a period ~~not to exceed~~ of at least 5 years if it finds that the person, while hunting, has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of ~~his~~ that license or privilege. For the purpose of this paragraph, "recklessly" has the same meaning as that set out in Title 17-A, section 10, subsection 3.

B. Any person described in paragraph A whose hunting license has been revoked or suspended, or whose right to hunt or the right to obtain a hunting license ~~for a period not to exceed 5 years~~ has been denied, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of ~~his~~ the person's privilege to procure such a license.

C. The commissioner, after hearing, may restore the petitioner's privilege if ~~he~~ the commissioner determines that the public safety will not be endangered by it.

D. If the commissioner disallows the petition and thereby refuses to grant the restoration of ~~his~~ the privilege, the petitioner may appeal to the commissioner's advisory council which, after hearing on the petition, may allow it and restore the privilege.

Sec. 14. 12 MRSA §7235-A, sub-§7, as enacted by PL 1993, c. 438, §11, is amended to read:

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

Sec. 15. 12 MRSA §7315, sub-§1-A, as enacted by PL 1993, c. 258, §1, is amended to read:

1-A. Mandatory revocation. The commissioner shall revoke for a period of 3 years the guide's license of a guide who is convicted of violating a provision of this Part punishable by a mandatory fine of not less than \$1,000 and at least 3 days in jail. The commissioner shall provide notice of revocation as provided in ~~section 7077, subsection 7~~ section 7077-C. A person whose license has been revoked under this subsection may, within 30 days of the effective date of the revocation, petition the commissioner for a hearing to show cause why the license should not have been revoked. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of this subsection do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of this subsection apply, the revocation remains in effect.

Sec. 16. 12 MRSA §7907, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

§7907. Seizure of fish, wildlife and equipment

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of chapters 701 to 721, and all equipment, including firearms, possessed or used in violation of chapters 701 to 721 are contraband and subject to seizure by any officer authorized to enforce chapters 701 to 721. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 7909.

2. Exemption from libel proceedings. The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

A. Unless reasonable doubt exists as to ownership, property having a value less than \$10;

B. Any firearm seized in connection with a violation of:

(1) Section 7406, subsection 5;

(2) Section 7077, subsection 1-A; or

(3) Section 7077-A;

C. Any fishing equipment that is contraband under this section and is seized in connection with a violation of section 7077, subsection 1-B; and

D. Any fish or wildlife that is contraband under this section and is seized in connection with any violation of chapters 701 to 721.

Property seized by the commissioner that is exempt from libel under this subsection must be retained by the commissioner pending disposition of criminal proceedings and is forfeited to the State upon conviction.

Property forfeited to the State under this section may be disposed of by the commissioner in any manner considered appropriate by the commissioner.

Sec. 17. Application. This Act does not apply to violations that occurred prior to the effective date of this Act.

See title page for effective date.

CHAPTER 347

S.P. 347 - L.D. 952

**An Act to Ensure Consistency
Between State and Federal
Environmental Requirements**

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

Sec. 1. 38 MRSA §341-D, sub-§1, as amended by PL 1993, c. 328, §1, is further amended to read:

1. Rulemaking. Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

The department shall identify in its regulatory agenda, ~~where~~ when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal ~~standard statute or regulation~~, if an applicable federal ~~standard statute or regulation~~ exists.

During the consideration of any proposed rule by the board, ~~where~~ when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the corresponding federal