

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**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**  
**1997**

not subject to federal unemployment tax; ~~and~~

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

**Sec. 2. 26 MRSA §1043, sub-§11, ¶F**, as corrected by RR 1995, c. 2, §62, is amended by adding 2 new subparagraphs to read:

(40) Services provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum; and

(41) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.

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

Effective June 10, 1997.

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## CHAPTER 432

S.P. 520 - L.D. 1604

### An Act to Revise Certain Provisions of Fish and Wildlife Laws

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

**Whereas**, confusion exists as to the application of certain laws administered by the Department of Inland Fisheries and Wildlife; and

**Whereas**, this confusion poses difficulties for the sporting public and those charged with enforcement of these laws; and

**Whereas**, it is vitally necessary that this confusion be resolved to prevent any injustice or hardship to the hunters, anglers, trappers and recreational vehicle owners of the State; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §7001, sub-§10-A** is enacted to read:

**10-A. Fishway.** "Fishway" means an artificial device, including fish elevators, fish locks and fish ladders, used to enable fish to migrate upstream past dams, waterfalls, rapids or other obstacles.

**Sec. 2. 12 MRSA §7001, sub-§15-A** is enacted to read:

**15-A. Hunting equipment.** "Hunting equipment" means the following:

A. Firearms of any type that are permitted under the laws governing hunting, including muzzle-loading firearms; or

B. Archery equipment that is permitted under the hunting laws governing archery, including, but not limited to, recurved bows and compound bows.

**Sec. 3. 12 MRSA §7001, sub-§39-A**, as enacted by PL 1995, c. 536, Pt. B, §1, is amended to read:

**39-A. Weir.** "Weir" means a ~~structure~~ device placed in the inland waters of a river, stream or brook that is designed to entrap fish and that exceeds more than 1/3 of the wetted width of the channel.

**Sec. 4. 12 MRSA §7035, sub-§4, ¶E** is enacted to read:

E. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or

(2) If a person knowingly provided false information that leads to a search and rescue operation, from the person who provided that false information.

**Sec. 5. 12 MRSA §7035, sub-§11-B**, as enacted by PL 1997, c. 113, §1, is amended to read:

**11-B. Free fishing days.** ~~The commissioner shall designate 2 weekends in each calendar year as "free fishing days." One weekend must be during ice fishing season and one weekend must be during open water fishing season. For purposes of this subsection, "weekend" means a consecutive Saturday and Sunday. The Saturday and Sunday of Father's Day weekend and the Sunday immediately preceding President's Day are free fishing days.~~ Notwithstanding sections 7151 and 7371, it is lawful during any free fishing day established under this subsection for any person to fish without a license in inland waters, except that this subsection does not apply to any person whose license to fish is under suspension or revocation. All other provisions of chapters 701 to 721 relating to fishing apply during any free fishing day.

**Sec. 6. 12 MRSA §7035, sub-§14**, as enacted by PL 1993, c. 574, §6, is amended to read:

**14. Sale of advertising in abstracts of fish and wildlife laws.** The commissioner may sell advertising, except advertising of a political nature, in abstracts of laws published by the department pursuant to section 7034, subsection 5. All revenue derived from the sale of advertising in these publications must be used to ~~support the landowner relations program described in subsection 13~~ offset the cost of printing these publications.

**Sec. 7. 12 MRSA §7053, sub-§5** is enacted to read:

**5. Assistance to federal agencies.** The Bureau of Warden Service may provide assistance to federal agencies. The director of the Bureau of Warden Service may charge the various federal agencies for these services. Revenues received from these agencies must be allocated for the purpose of funding the cost of providing the services.

**Sec. 8. 12 MRSA §7056, sub-§2**, as enacted by PL 1979, c. 420, §1 and amended by PL 1995, c. 502, Pt. E, §30, is further amended to read:

**2. Snowmobile laws.** ~~All foresters, wardens law enforcement personnel of the State, including those of the Bureau of Forestry, and supervisors and rangers of the State Bureau of Parks and Lands and Allagash Wilderness Waterway shall have the same powers and duties as game wardens to enforce chapter 715, subchapter II.~~

**Sec. 9. 12 MRSA §7056, sub-§3**, as amended by PL 1979, c. 723, §2, is further amended to read:

**3. Airmobile laws.** ~~All foresters and rangers shall law enforcement personnel of the State, including those of the Bureau of Forestry, have the same powers and duties as game wardens to enforce chapter 715, subchapter I, as it applies to airmobiles.~~

**Sec. 10. 12 MRSA §7076, sub-§2**, as enacted by PL 1979, c. 420, §1, is amended to read:

**2. Blind residents.** A complimentary license to fish ~~shall~~ must be issued to any resident of Maine who is 16 years of age or older and blind and applies for it to the commissioner. This complimentary license remains valid for the life of the license holder, if the license holder continues to satisfy the residency requirements in section 7001, subsection 32 and the license is not revoked or suspended. The application ~~shall~~ must be accompanied by certified evidence that the applicant is permanently blind. For the purpose of this subsection, "blind person" means a person whose visual acuity for distant vision is 20/200 if the widest diameter of field of vision subtends an angle no greater than 20 degrees.

**Sec. 11. 12 MRSA §7076, sub-§3, ¶A**, as amended by PL 1989, c. 493, §10, is further amended to read:

A. The commissioner may issue, upon application, complimentary resident hunting and fishing licenses to a resident of Maine who is suffering from the loss of, or the permanent loss of the use of, both lower extremities. Any license issued under this paragraph ~~shall remain~~ remains valid ~~through December 31st of the 2nd complete calendar year following the year of issuance~~ for the life of the license holder, if the license holder continues to satisfy the residency requirements in section 7001, subsection 32 and the license is not revoked or suspended.

**Sec. 12. 12 MRSA §7076, sub-§4**, as amended by PL 1993, c. 237, §1, is repealed.

**Sec. 13. 12 MRSA §7076, sub-§4-A**, as amended by PL 1991, c. 443, §7, is repealed.

**Sec. 14. 12 MRSA §7076, sub-§4-B** is enacted to read:

**4-B. Resident disabled veteran.** A resident disabled veteran may apply to the commissioner for one or more following complimentary permits and licenses: a license to hunt with a firearm, a license to fish, an archery hunting license as provided in section 7102-A, a pheasant hunting permit as provided in section 7106-B and a muzzle-loading hunting license

as provided in section 7107-A. The commissioner must issue the permit, license or licenses requested under this subsection if the commissioner determines the applicant is a resident disabled veteran and is not otherwise ineligible to hold that permit or license. For the purposes of this subsection, "resident disabled veteran" means a person who:

A. Is a resident as defined in section 7001, subsection 32;

B. Is a veteran as defined in Title 37-B, section 505, subsection 1, paragraph A, subparagraph (5); and

C. Has a service-connected disability evaluated at:

(1) One hundred percent; or

(2) Seventy percent or more as a result of honorable military service and who has served in a combat zone during any armed conflict in which participants were exposed to war risk hazards as defined in 42 United States Code, Section 1711 (b).

Each application must be accompanied by satisfactory evidence that the applicant meets the requirements of this subsection. A permit or license issued under this subsection remains valid for the life of the permit or license holder, as long as the permit or license holder continues to satisfy the residency requirement in section 7001, subsection 32, and the permit or license is not revoked or suspended.

**Sec. 15. 12 MRSA §7076, sub-§13**, as enacted by PL 1989, c. 199, is amended to read:

**13. Mentally retarded person.** A 3-year complimentary license to fish shall must be issued to any mentally retarded person, as defined in Title 20-A, section 7001, subsection 3, upon application to the commissioner. The application must be accompanied by certified evidence that the applicant meets the defined condition. This complimentary license remains effective for the life of the license holder, if the license is not revoked or suspended.

**Sec. 16. 12 MRSA §7077-B**, as enacted by PL 1995, c. 346, §12, is amended 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. In addition to any suspension period

ordered by the commissioner, a person whose license is suspended for a violation having a mandatory suspension must successfully complete an outdoor ethics course conducted or endorsed by the department prior to being eligible to have that license reinstated.

**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 shall adopt rules specifying the conditions under which a person whose license is suspended for violations that do not carry a mandatory suspension is required to complete an outdoor ethics course. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

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.

Outdoor ethics courses must be scheduled by the Bureau of Warden Service and must be given whenever there are 10 or more persons needing or wanting to take the course. The fee for an outdoor ethics course is \$100, payable 10 working days prior to the start of the course. All fees collected under this section are allocated to the Sport Hunter Program established in section 7035, subsection 13, paragraph B.

**Sec. 17. 12 MRSA §7101, sub-§5, ¶G**, as repealed and replaced by PL 1993, c. 419, §5, is amended to read:

<p>G. Nonresident junior hunting license (10 years of age or older and under 16) (Permits hunting of all species, except deer and bear, with firearms)</p>	<p>\$23    \$25    \$25    \$25</p>
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**Sec. 18. 12 MRSA §7101, sub-§5, ¶H-2**, as enacted by PL 1995, c. 667, Pt. A, §19, is repealed.

**Sec. 19. 12 MRSA §7104, sub-§2, ¶A**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 20. 12 MRSA §7107-A, sub-§4, ¶A**, as enacted by PL 1993, c. 574, §13, is repealed.

**Sec. 21. 12 MRSA §7107-A, sub-§4, ¶B**, as amended by PL 1995, c. 667, Pt. A, §21, is further amended to read:

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

**Sec. 22. 12 MRSA §7107-A, sub-§4, ¶C**, as enacted by PL 1993, c. 574, §13, is repealed.

**Sec. 23. 12 MRSA §7171, sub-§4, ¶A**, as repealed and replaced by PL 1985, c. 607, §§3 and 9, is amended to read:

A. The following restrictions apply to the selling of live smelts and baitfish under the live bait retailer's license.

(1) If a person sells live smelts or baitfish from more than one retail facility, ~~he that~~ person must obtain a separate license for each place of business.

(2) The holder of a live bait retailer's license may designate others to assist ~~him~~ in selling live smelts and baitfish at ~~his~~ the license holder's business facility.

(3) The holder of a live bait retailer's license, or ~~his~~ a designee, may transport live smelts and baitfish.

(4) The holder of a live bait retailer's license may possess more than the daily bag limit of smelts at any time, providing that the smelts were acquired in a lawful manner. As evidence of lawful possession, the receipted invoice, bill of lading, bill of sale or other satisfactory evidence ~~shall~~ must be presented upon request to any agent of the commissioner.

(5) A person licensed to sell live fish as bait may not possess at that person's place of business any species of fish that may not legally be sold as bait.

(6) A person holding a live bait retailer's license may obtain live smelts only from a person lawfully licensed under this section to deal in live smelts.

**Sec. 24. 12 MRSA §7171, sub-§4, ¶B**, as amended by PL 1995, c. 667, Pt. A, §23, is further amended by enacting a new subparagraph (10) to read:

(10) A person licensed to sell live fish as bait may not possess at that person's place

of business any species of fish that may not legally be sold as bait.

**Sec. 25. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1995, c. 455, §§14 and 15, is further amended by amending subparagraph (9) to read:

(9) The holder of a smelt wholesaler's license who attempts to take live smelt for resale using drop nets from the inland waters of the State by fishing through the ice must mark all holes made in the ice by that person for that purpose. The holes must be marked either by evergreen boughs placed around the hole or by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

**Sec. 26. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1995, c. 455, §§14 and 15, is further amended by enacting new subparagraphs (10), (11) and (12) to read:

(10) A person holding a smelt wholesaler's license may obtain live smelts only from a person lawfully licensed under this section to deal in live smelts.

(11) A person holding a smelt wholesaler's license must, at the time that person is engaged during the winter months in the taking of smelts, have a number 14 fish grader in operable condition in that person's immediate proximity during the taking of smelts and must use that grader during the smelt harvesting activity. The license holder must liberate immediately all undersized smelts alive into the waters from which they were taken. For the purpose of this subparagraph, a number 14 grader is a grader having a maximum grate size of 14/64 inches.

(12) A person licensed to sell live fish as bait may not possess at that person's place of business any species of fish that may not legally be sold as bait.

**Sec. 27. 12 MRSA §7171, sub-§6**, as enacted by PL 1993, c. 574, §16, is amended to read:

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

make these fish available for inspection by a warden or a department fisheries biologist at any time, upon request.

**Sec. 28. 12 MRSA §7201**, as amended by PL 1993, c. 419, §18, is further amended to read:

**§7201. License to cultivate or sell commercially grown and imported fish**

**1. Issuance.** The commissioner may issue a license to cultivate and sell fish which that have been either commercially grown within the State or imported from without the State.

**2. Fee.** The fee for a license to sell commercially grown or imported fish is \$21 for 1993, \$23 for 1994, \$24 for 1995 and \$25 for 1996 and every year thereafter.

**3. Restrictions.**

A. Licenses ~~shall~~ must be kept constantly and publicly posted in the office or place of business of the licensee.

B. Whenever any person sells these fish in more than one wholesale or retail outlet, each outlet ~~shall~~ must be licensed.

C. All fish sold under this section ~~shall~~ must be identified with the name and address of the source of the fish in a manner approved by the commissioner. ~~No~~ A person may not offer for sale any commercially grown or imported fish that is not so identified.

D. All licensees shall keep invoices of fish sold and purchased under this section so that the invoices are available at all times for inspection by the commissioner or ~~his~~ the commissioner's duly authorized agent.

**Sec. 29. 12 MRSA §7205**, as amended by PL 1993, c. 419, §19, is repealed.

**Sec. 30. 12 MRSA §7205-A** is enacted to read:

**§7205-A. License to operate a private fee pond**

**1. License required.** A person who owns a private pond may not charge others for the opportunity to fish in that private pond unless the owner of that pond possesses a private fee pond license issued by the commissioner under this section.

**2. Licensed activities.** A private fee pond license authorizes the owner of a private pond to charge others for the opportunity to fish in that private pond and authorizes persons who fish in that pond to fish for, take, possess and transport fish harvested from

that pond, notwithstanding other provisions of the law or rules of the department pertaining to manner, time, season, bag limit, length limit or fishing license requirements.

**3. Fee.** The fee for a private fee pond license is \$25.

**4. Restrictions.** All fish taken from a private fee pond operated pursuant to this section must be killed prior to being transported from the site. All fish transported from the site must be tagged as provided by rules established by the commissioner.

**Sec. 31. 12 MRSA §7206** is enacted to read:

**§7206. Permit to transport live fish for breeding and advertising**

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

**Sec. 32. 12 MRSA §7241**, as amended by PL 1993, c. 438, §12, is further amended to read:

**§7241. Permit to transport wildlife for breeding and advertising**

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

**Sec. 33. 12 MRSA §7313, sub-§1**, as enacted by PL 1987, c. 742, §7, is amended to read:

**1. Requirement.** A person who has not ~~previously~~ held a guide license must pass an examination. A guide carrying passengers for hire must also be certified in the area of watercraft safety.

This subsection is repealed June 30, 1998.

**Sec. 34. 12 MRSA §7313, sub-§1-A** is enacted to read:

**1-A. Requirement.** An examination is required for any person who has not held a valid guide license within the previous 3 years. A guide carrying passengers for hire must also be certified in the area of watercraft safety.

This subsection takes effect June 30, 1998.

**Sec. 35. 12 MRSA §7313, sub-§6**, as enacted by PL 1995, c. 667, Pt. A, §25, is amended to read:

**6. Oral examination.** If an oral examination is administered, it must be conducted by at least one

trained public member of the Advisory Board for the Licensing of ~~Whitewater~~ Guides who has been designated by the commissioner and one trained member of the Bureau of Warden Service.

**Sec. 36. 12 MRSA §7354, sub-§2, ¶¶C and D**, as amended by PL 1993, c. 438, §14, are further amended to read:

C. Sell lawfully acquired specimens of fish and wildlife that have been preserved through the art of taxidermy if that sale does not violate regulations of the United States Federal Migratory Bird Treaty Act or other federal regulations; ~~and~~

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

**Sec. 37. 12 MRSA §7354, sub-§2, ¶F** is enacted to read:

F. Buy, sell or barter raw, untanned hides or heads of wild animals.

**Sec. 38. 12 MRSA §7366**, as amended by PL 1995, c. 667, Pt. B, §§2 and 3, is further amended to read:

#### **§7366. Whitewater guide license**

**1. Eligibility.** ~~No~~ A person may ~~not~~ act as a whitewater guide until ~~he~~ that person is 18 years of age or older and has procured a license from the commissioner pursuant to this section.

**2. Rules.** The commissioner shall by rule establish the requirements for a whitewater guide's license.

**3. Examination.** All initial applicants for a whitewater guide's license are required to pass an examination developed and administered by the commissioner. ~~The fee is \$50 for the first examination and \$10 for subsequent examinations. All examination fees are nonrefundable and must be applied toward the license fees of successful applicants.~~

**4. Fee.** ~~The annual fee for a whitewater guide's license is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996. The fee for an examination is \$100 and is not refundable. An applicant may retake the examination once without paying an additional examination fee.~~ Beginning in 1997, a whitewater guide license is a 3-year license. The fee for a 3-year license is \$87.

**5. Renewal.** A whitewater guide whose license is not suspended or revoked may renew that license ~~annually~~ upon the payment of the ~~annual~~ license fee. Completion and passage of the whitewater guide's examination is not a requirement for renewal.

This subsection is repealed June 30, 1998.

**6. Renewal.** A whitewater guide whose license is not suspended or revoked may renew that license upon the payment of the license fee. An examination is required for any person who has not held a valid whitewater guide license within the previous 3 years.

This subsection takes effect June 30, 1998.

**Sec. 39. 12 MRSA §7377, sub-§4**, as amended by PL 1979, c. 543, §34, is further amended to read:

**4. Fishing for alewives, eel, suckers and yellow perch.** Notwithstanding section 7371 as it applies to section 7153:

~~A. Any person may fish for cusk, eel, hornpout, suckers and yellow perch by use of a single hook and line for consumption by himself or members of his family without a permit;~~

B. Any person may fish for alewives by use of a dip net or single hook and line for consumption by ~~himself~~ that person or members of ~~his~~ that person's family, provided that the person takes or possesses no more than one bushel in any day and provided also that the alewives may not be taken from any waters in which a municipality or other person has been granted exclusive rights under section 6131;

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

D. Any person may fish for or possess alewives from inland waters if ~~he~~ that person has been granted fishing rights under section 6131; ~~and~~

E. Any person may take suckers for use as bait for fishing in inland waters as provided in section 7171 without a permit under section 7153.

**Sec. 40. 12 MRSA §7406, sub-§10**, as enacted by PL 1979, c. 420, §1, is amended to read:

**10. Illegal possession.** A person is guilty of illegal possession of wild animals or wild birds if ~~he~~ that person possesses any wild animal or wild bird taken in violation of ~~subsections~~ subsection 4, 5, 6, 7, 8 ~~or~~, 9, 13, 16 or 17 or Title 17-A, section 402, except as otherwise provided in chapters 701 to 721.



**Sec. 41. 12 MRSA §7406, sub-§15, ¶C**, as enacted by PL 1979, c. 420, §1, is amended to read:

C. Fails to give notice of the event by the quickest means to a ~~state police officer, sheriff, game warden or other~~, in the event that the game warden can not be contacted, to the law enforcement officer nearest the place where the event occurred.

**Sec. 42. 12 MRSA §7451, sub-§3, ¶A**, as amended by PL 1995, c. 667, Pt. A, §32, is further amended to read:

A. Bait may not be used to hunt or trap black bear, unless:

- (1) The bait is placed at least 50 yards from any travel way that is accessible by a conventional 2-wheel or 4-wheel drive vehicle;
- (2) The stand, blind or bait area is plainly labeled with a 2-inch by 4-inch tag with the name and address of the baiter;
- (3) The bait is placed more than 500 yards from any dump or campground;
- (4) The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or leasee;
- (5) The bait is placed not more than 30 days before the opening day of the season and not after October 31st;
- (6) The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and
- (7) The person hunting from any stand or blind of another person has permission of the owner of that stand or blind.

**Sec. 43. 12 MRSA §7457, sub-§1, ¶I**, as enacted by PL 1993, c. 246, §1, is amended to read:

I. The commissioner, by rule, may create special hunting seasons for the taking of deer in any part of the State to maintain deer populations in balance with available habitat, subject to the following.

- (1) The demarcation of each area must follow recognizable physical boundaries, such as rivers, roads and railroad rights-of-way.
- (2) The determination of these areas must be made and published prior to August 1st of each year.

(3) The commissioner may implement a permit system and establish fees to regulate hunter participation in a special season and the number, sex and age of deer harvested.

(4) Special hunts must take place between the close of the special muzzle-loading season and January 31st.

(5) The commissioner may establish limits on the number of deer taken or possessed by persons during any special season. Limits established by the commissioner under this subparagraph are exceptions to the limits imposed under section 7458, subsections 1 and 2.

(6) The commissioner may specify types of weapons to be used during a special season.

**Sec. 44. 12 MRSA §7463-A, sub-§1-A**, as enacted by PL 1993, c. 206, §2 and affected by §7, is amended to read:

**1-A. Moose hunting districts and zones.** ~~The commissioner may establish one or more moose hunting districts.~~ The commissioner may also establish moose hunting zones ~~within those districts.~~ Physical boundaries must be used to delineate all zones ~~and districts.~~ The boundaries of the ~~districts~~ and zones and the number of permits to be issued for each zone must be made public at least 14 days before application for permits may be made.

**Sec. 45. 12 MRSA §7463-A, sub-§3**, as amended by PL 1993, c. 206, §5 and affected by §7, is further amended to read:

**3. Length of season.** On or after January 1, 1982, the commissioner may establish open seasons on moose within the moose hunting ~~districts~~ zones established by the commissioner under subsection 1-A, ~~provided that~~ as long as the number of hunting days in each year does not exceed 6.

**Sec. 46. 12 MRSA §7463-A, sub-§14** is enacted to read:

**14. Point system for public chance drawing.** The department shall adopt rules establishing a point system for applicants beginning with the 1998 public chance drawing. The rules must allow a person to accumulate one point for each consecutive year that person purchases an application for a permit but is not selected to receive a permit. Each point entitles that applicant to one chance in the public chance drawing. A person's accumulated points are eliminated if, in any year, that person is selected to receive a permit or that person fails to purchase a new chance. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 47. 12 MRSA §7551, sub-§3**, as enacted by PL 1979, c. 420, §1, is amended to read:

**3. Ponds of 10 acres or less.** All ponds of 10 acres or less in area, formed on brooks, streams or rivers, shall be governed by the same laws or rules governing fishing that apply to the brook, stream or river on which they are situated, whether the pond be natural or artificial. This subsection ~~shall~~ does not apply to private ponds as set forth in section ~~7205~~ 7205-A.

**Sec. 48. 12 MRSA §7606-B**, as enacted by PL 1995, c. 455, §37, is amended to read:

**§7606-B. Failure to check baitfish traps**

A person is guilty of failure to check a baitfish trap if that person, while trapping for baitfish in the inland waters with the use of a baitfish trap as defined in section 7001, subsection 1-B, fails to check the baitfish trap or cause the same to be checked at least once in every ~~3~~ 7 calendar days.

**Sec. 49. 12 MRSA §7608**, as amended by PL 1987, c. 696, §17, is further amended to read:

**§7608. Fishing with illegal implements or devices**

A person is guilty of fishing with illegal implements or devices if ~~he~~ that person uses any fish spawn, grapnel, spear, spear gun, trawl, weir, gaff, seine, gill net, trap or set lines for fishing or if that person uses any electronic or battery-powered devices for luring or attracting fish, except that a person may take suckers, eels, ~~hornpout~~, alewives, and yellow perch ~~and eusk~~ in accordance with section 7153 and except as otherwise provided.

**Sec. 50. 12 MRSA §7614**, as enacted by PL 1979, c. 420, §1, is repealed.

**Sec. 51. 12 MRSA §7630, sub-§1, ¶A**, as enacted by PL 1979, c. 420, §1, is amended to read:

A. Nothing in this Title prohibits the use of ~~the eggs of either Atlantic sea-run salmon or land-locked salmon~~ commercially prepared eggs from species that do not naturally occur in the State for bait; and

**Sec. 52. 12 MRSA §7824, sub-§1**, as amended by PL 1995, c. 467, §1, is further amended to read:

**1. Application and issuance.** The commissioner or the commissioner's designee may register and assign a registration number to all snowmobiles upon application and payment of a registration fee by the owner. The commissioner shall charge a fee of \$1 for each registration issued by department employees.

**Sec. 53. 12 MRSA §7827, sub-§10**, as enacted by PL 1979, c. 420, §1, is amended to read:

**10. Operating a snowmobile to endanger.** A person is guilty of operating a snowmobile to endanger if ~~he~~ that person operates any snowmobile so as to endanger any person or property as follows.

A. A person may not operate a snowmobile on the statewide snowmobile trail system or a public right-of-way that is open to snowmobiling except at a reasonable and prudent speed for the existing conditions, including when approaching and crossing an intersection or railway grade crossing, when approaching and taking a curve, when approaching a hill crest, when traveling upon any narrow or winding trail and when a special hazard exists with respect to pedestrians, skiers or other traffic by reason of weather or trail conditions.

B. Speed must be controlled at all times as necessary to avoid colliding with any person, vehicle, snowmobile or other object on or adjacent to the snowmobile trail.

**Sec. 54. 12 MRSA §7854, sub-§1**, as amended by PL 1989, c. 493, §61, is further amended to read:

**1. Application and issuance.** The commissioner, or an agent designated by the commissioner, may register and assign a registration number to any ATV upon application and payment of an annual fee by the owner. The commissioner shall charge a fee of \$1 in addition to the annual fee for each registration issued by an employee of the department. The registration number ~~shall~~ must be clearly displayed on the front and rear of the vehicle. A registration ~~shall~~ be ~~is~~ valid for one year commencing July 1st of each year.

**Sec. 55. 12 MRSA §7857, sub-§13**, as repealed and replaced by PL 1989, c. 493, §67, is amended to read:

**13. Unlawfully operating ATV while under age.** A person is guilty of unlawfully operating an ATV while under age, if:

A. That person is under the age of 10 years;

B. That person is under the age of ~~15~~ 16 years and operates an ATV across any public way maintained for travel; or

C. That person is under ~~15~~ 16 years of age and operates an ATV while unaccompanied by an adult.

Notwithstanding this subsection, persons over the age of ~~12~~ 10 years, who have successfully completed a

training course approved by the department pursuant to section 7853, may cross public ways as permitted under subsection 24, paragraph D, subparagraph (1), provided that they are accompanied by an adult.

A person is not guilty of unlawfully operating an ATV while under age if that person is operating on land ~~which is~~ owned by the parent or guardian of the operator.

**Sec. 56. 12 MRSA §7857, sub-§14**, as amended by PL 1985, c. 762, §15, is further amended to read:

**14. Permitting an unaccompanied child to operate an ATV.** A person is guilty, except as provided in subsection 24, paragraph E, of permitting an unaccompanied child to operate an ATV, if ~~he that~~ that person permits a child under ~~15~~ 16 years of age to operate any ATV, ~~unless he is accompanied by an adult.~~

**Sec. 57. 12 MRSA §7901, sub-§5-B** is enacted to read:

**5-B. Reckless operation of a snowmobile, watercraft or all-terrain vehicle; Class D crime.**  
Violation of any of the following is a Class D crime:

- A. Section 7801, subsection 8;
- B. Section 7827, subsection 8; or
- C. Section 7857, subsection 9.

**Sec. 58. 12 MRSA §§7943 to 7945**, as enacted by PL 1979, c. 420, §1, are amended to read:

**§7943. Possession of hunting equipment without license**

The possession of any ~~firearm~~ hunting equipment in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required hunting license duly issued to ~~him that person~~, covering the period of time within which the ~~firearm~~ hunting equipment is found in ~~his that person's~~ possession, ~~shall be~~ is prima facie evidence of hunting in violation of law, unless the person furnishes satisfactory evidence of the issuance of a hunting license.

**§7944. Possession of hunting equipment while intoxicated**

The possession of ~~firearms~~ hunting equipment in the fields or forests or on the waters or ice in the State by any person while under the influence of intoxicating liquor or drugs is prima facie evidence that the possessor was violating section 7406, subsection 3.

**§7945. Possession of hunting equipment on Sunday**

Possession of ~~firearms~~ hunting equipment in the fields or forests or on the waters or ice in the State or in a motor vehicle being operated on an unpaved highway or road located in an unorganized township on Sunday is prima facie evidence of a violation of section 7406, subsection 4, unless:

**1. Hunting equipment covered.** The ~~firearm~~ hunting equipment is carried, securely wrapped, in a complete cover;

**2. Hunting equipment fastened.** The ~~firearm~~ hunting equipment is fastened in a case; or

**3. Hunting equipment in pieces.** The ~~firearm~~ hunting equipment is carried in at least 2 separate pieces in such a manner that it ~~cannot~~ can not be fired, unless the separate pieces are joined together. For the purpose of this subsection, a clip, magazine or cylinder of a firearm ~~shall~~ may not be considered a piece of the ~~firearm~~ hunting equipment. Bows and arrows must be kept in a case or cover if broadheads or field points are kept attached to the arrows.

**Sec. 59. Study of stocking of alewives.**

**1. Study.** The Department of Inland Fisheries and Wildlife and the Department of Marine Resources shall jointly and within the existing resources of those departments study and summarize, within existing resources, the current laws, policies and procedures of the State on the stocking of alewives in inland waters and shall make any recommendations to improve, clarify or otherwise modify any of those laws, policies and procedures, including:

- A. Policies and procedures for determining which waters are stocked;
- B. The biological basis for that determination;
- C. The impact of stocked alewives on other wild fish or wild animal populations;
- D. The recreational and commercial use and demand for alewives;
- E. The existing process used to permit the stocking of alewives; and
- F. Any other issue related to the stocking of alewives that the commission determines necessary to include in its study or recommendations.

**2. Report.** The Department of Inland Fisheries and Wildlife and the Department of Marine Resources shall submit their report to the Joint Standing Committee on Inland Fisheries and Wildlife no later than February 1, 1998.

**3. Legislation.** The Joint Standing Committee on Inland Fisheries and Wildlife may report out

legislation regarding this study to the Second Regular Session of the 118th Legislature.

**Sec. 60. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</b>		
<b>Savings Fund Program</b>		
All Other	\$12,500	\$12,500
Appropriates funds to be used only to avoid future license fee increases.		
<b>DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL</b>		
	12,500	12,500
<b>TOTAL APPROPRIATION</b>	\$12,500	\$12,500

**Sec. 61. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</b>		
<b>Sport Hunter Program</b>		
All Other	\$10,000	\$10,000
Allocates funds to reflect an increase in revenues from certain course fees.		

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

Effective June 10, 1997.

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**CHAPTER 433**

**H.P. 1190 - L.D. 1689**

**An Act to Provide Court-ordered Income Withholding of Spousal Support**

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

**Sec. 1. 19-A MRSA §954** is enacted to read:

**§954. Income withholding**

**1. Availability and establishment of income withholding.** Spousal support orders issued or modified by the courts in this State must have a provision for the withholding of income to ensure that withholding as a means of obtaining spousal support is available if arrearages occur. Except as provided in chapter 65, subchapter IV, income withholding against all spousal support obligations ordered by a court within the State must be implemented as follows.

A. New orders of spousal support must include a provision withholding the amount of spousal support from the income, regardless of the source, of the person obligated to pay the support. If an existing order of alimony or spousal support does not include a withholding order, the obligee may file a motion to amend the spousal support order to include an order for withholding, which the court shall grant.

B. Each order for withholding must provide for a conspicuous notice to the obligor that withholding may result if the obligor fails to make the spousal support payments and that no withholding may be made until the following conditions are met:

(1) Either the obligor requests that income withholding be implemented or the obligee determines that the payments the obligor has failed to make under the spousal support order are at least equal to the amount payable for one month;

(2) The obligee serves written notice of the amount of arrearage upon the obligor and informs the obligor that the obligee has procured a court order for income withholding;

(3) The obligee mails a copy of the determination of arrearage and a copy of the court's withholding order to the payor of funds;

(4) The obligee mails to the Department of Human Services a copy of the determination of arrearage and a copy of the court's withholding order to enable the department to proceed pursuant to subsection 2; and

(5) The obligor has a 20-day period, after receiving the notice pursuant to subparagraph (2), to file a motion for determination of arrearages with respect to the amount of spousal support owed and to simultaneously request an ex parte stay of service on the payor of funds until the motion for determination is heard. Any stay issued by