

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

alcohol or drug concentration test under section 7408, 7805, 7828 or 7860 ~~within a 6-year period, the fine may not be less than \$500 and the sentence, the fine may not be less than \$800.~~ A conviction under this paragraph must include a period of incarceration of not less than 7 days, which penalties may not be suspended.

D. In the case of a person having 2 or more previous convictions of violations of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; and section 7857, subsection 10 ~~or adjudications of within the previous 6-year period, the fine may not be less than \$1,000.~~ If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7408, 7805, 7828 or 7860 ~~within a 6-year period, the fine may not be less than \$750 and the sentence, the fine may not be less than \$1,300.~~ A conviction under this paragraph must include a period of incarceration of not less than 30 days, which penalties may not be suspended.

F. The penalties provided under paragraphs B, C, ~~and D and, beginning July 1, 1990, paragraph A,~~ may not be suspended by the court.

See title page for effective date.

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## CHAPTER 313

H.P. 16 - L.D. 26

### **An Act to Clarify the Responsibility of a Municipality in Enforcing Personal Watercraft Regulations**

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

**Sec. 1.** PL 1997, c. 739, §17 is amended to read:

**Sec. 17. Recommendations for regulating the use, operation and type of watercraft for great ponds within the organized areas of the State.** A municipality, with the approval of its legislative body, may submit recommendations to the Commissioner of Inland Fisheries and Wildlife for regulating the use, operation and type of watercraft on great ponds within the jurisdiction of that municipality. For great ponds that border more than one municipality, recommendations may be submitted only after approval by the legislative bodies of all municipalities in which those waters are located. For great ponds that border lands within the jurisdiction of the Maine Land Use Regulation Commission, the approval of the commission is also required. If a

municipality chooses to prepare recommendations for such waters, it shall take into consideration the use to which those waters are put, the depth of the water, the amount of water-borne traffic on the waters, wildlife and environmental values, noise, traditional uses of the water body and the safety of persons and property. These recommendations may be submitted only after a public hearing and must include a description of the resources the municipality or municipalities will use to enforce or assist in the enforcement of those regulations if enacted.

The commissioner shall submit a report to the First Regular Session of the 119th Legislature by January 15, 1999 on the recommendations received from municipalities prior to November 1, 1998 and shall submit a report to the Second Regular Session of the 119th Legislature on the recommendations received from municipalities between November 1, 1998 and October 30, 1999. Each report must be accompanied by legislation implementing the municipal recommendations supported by the Department of Inland Fisheries and Wildlife. That legislation may also include recommendations of the department, developed using the criteria in this section, for waters not addressed in the municipal proposals.

See title page for effective date.

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## CHAPTER 314

H.P. 1123 - L.D. 1582

### **An Act to Control the Sale and Display of Tobacco Products**

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

**Sec. 1.** 22 MRSA §1555-B, sub-§11 is enacted to read:

**11. Manner of displaying and offering for sale.** Tobacco products may be displayed or offered for sale only in a manner that does not allow the purchaser direct access to the tobacco products. The requirements of this subsection do not apply to the display or offering for sale of tobacco products in multi-unit packages of 10 or more units, in tobacco specialty stores or in locations in which the presence of minors is generally prohibited. This requirement does not preempt a municipal ordinance that provides for more restrictive regulation of the sale of tobacco products.

**Sec. 2. Effective date.** This Act takes effect January 1, 2000.

Effective January 1, 2000.

**CHAPTER 315**

**S.P. 153 - L.D. 473**

**An Act to Clarify the Laws  
Pertaining to the Importation of Fish**

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

**Sec. 1. 12 MRSA §7201, sub-§1,** as amended by PL 1997, c. 432, §28, is further amended to read:

**1. Issuance.** The commissioner may issue a license to cultivate and sell fish that have been either commercially grown within the State or imported from without the State except that the commissioner may not issue permits governing any aspect of either the commercial aquaculture of Atlantic salmon when intended for use in commercial aquaculture in coastal waters or the Atlantic salmon restoration program.

**Sec. 2. 12 MRSA §7201, sub-§2,** as amended by PL 1993, c. 419, §18, is further amended to read:

**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 annually.~~

**Sec. 3. 12 MRSA §7202, sub-§1,** as enacted by PL 1979, c. 420, §1, is amended to read:

**1. Issuance.** The commissioner may grant permits to introduce, import or transport any live ~~freshwater~~ fish or ~~eggs gametes~~ into the State or to receive or have in possession fish or ~~eggs gametes~~ so introduced, imported or transported if the commissioner determines that the species does not pose an unreasonable risk to any species of fish or other organism after evaluating fish health, habitat and population management issues. The commissioner may not adopt rules or issue permits governing any aspect of either the commercial aquaculture of Atlantic salmon when intended for use in commercial aquaculture in coastal waters or the Atlantic salmon restoration program.

**Sec. 4. 12 MRSA §7202, sub-§2, ¶¶B and C,** as enacted by PL 1979, c. 420, §1, are amended to read:

B. The name and address of the source; ~~and~~

~~C. A statement from a recognized fish pathologist, from a college or university, from a state conservation department or from the United States Fish and Wildlife Service an American Fisheries Society certified fish health inspector, an American Fisheries Society certified fish pathologist or a licensed accredited veterinarian, certifying that the fish or eggs gametes are from sources which that show no evidence of viral hemorrhagic septicemia, infectious pancreatic necrosis, infectious hematopoietic necrosis, Myxosomo cerebralis or other diseases which that may threaten fish stocks within the State; and~~

**Sec. 5. 12 MRSA §7202, sub-§2, ¶D** is enacted to read:

D. Other professionally recognized tests or analyses, including evaluation of fish health, habitat or population management issues that the commissioner may require by rule to ensure that the species will not pose an unreasonable risk to any species of fish or other organism.

**Sec. 6. 12 MRSA §7202, sub-§3** is enacted to read:

**3. Rules.** The commissioner may adopt rules allowing the importation of certain species of tropical fish and goldfish without a permit, for aquarium purposes only, if the commissioner determines that the species does not pose an unreasonable risk to any species of fish or other organism after evaluating fish health, habitat and population management issues. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

**CHAPTER 316**

**S.P. 708 - L.D. 2017**

**An Act to Allow the Taking of  
Endangered or Threatened Species  
Under the Authority of the  
Department of Inland Fisheries and  
Wildlife**

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

**Sec. 1. 12 MRSA §7756,** as amended by PL 1987, c. 175, §2, is further amended to read:

**§7756. Prohibited acts**