

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

The reinsurance agreement may condition the payments upon written notice by the ceding insurer's domiciliary receiver to the assuming insurer of the pendency of a claim on the contract reinsured within a reasonable time after the claim is filed in the proceeding where the claim is to be adjudicated. During the pendency of such a claim, any assuming insurer may investigate the claim and interpose, at the assuming insurer's own expense, any defenses in the proceeding that the assuming insurer determines available to the ceding insurer or to the ceding insurer's receiver. The expenses may be filed as a claim against the insolvent ceding insurer to the extent of its proportionate share of the benefit that may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. When 2 or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

**Sec. 8. 24-A MRSA §731-B, sub-§7**, as enacted by PL 1989, c. 846, Pt. E, §2 and affected by §4, is amended to read:

7. The superintendent may adopt rules, subject to Title 5, chapter 375, to implement this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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**CHAPTER 48**

**H.P. 152 - L.D. 163**

**An Act to Extend Workers' Compensation Twenty-four-hour Pilot Projects**

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

**Sec. 1. 39-A MRSA §403, sub-§2, ¶D**, as amended by PL 1995, c. 36, §1 and c. 277, §1, is repealed and the following enacted in its place:

D. Unless continued or modified by law, this subsection is repealed January 1, 2005.

**Sec. 2. Retroactivity.** This Act applies retroactively to January 1, 2001.

See title page for effective date.

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**CHAPTER 49**

**H.P. 155 - L.D. 166**

**An Act Concerning Commercial Shooting Areas**

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

**Whereas**, banding of game birds used in commercial shooting areas and used by game bird suppliers no longer serves an important purpose in managing the State's natural resources; and

**Whereas**, Hungarian partridge are highly sought after as a game species by the patrons of commercial shooting areas and appear to pose no threat of establishing a viable wild population outside of commercial shooting areas; and

**Whereas**, the current commercial shooting fee structure imposes an undesirable burden on the patrons of commercial shooting areas; 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 §7104**, as amended by PL 1997, c. 432, §19, is repealed.

**Sec. 2. 12 MRSA §7104-A, first ¶**, as enacted by PL 1993, c. 216, §1, is amended to read:

A person may not charge any fee for access to land if the fee is contingent upon the taking of game on that land or directly related to the taking of game on the land unless the land is an authorized commercial shooting area licensed under section ~~7104~~ 7105-A. This section does not apply to the following fees:

**Sec. 3. 12 MRSA §7105**, as amended by PL 1999, c. 790, Pt. A, §15, is repealed.

**Sec. 4. 12 MRSA §7105-A** is enacted to read:

**§7105-A. License to operate a commercial shooting area**

**1. Issuance.** The commissioner may issue licenses authorizing the establishment and operation of commercial shooting areas to qualified applicants. A commercial shooting area license authorizes the owner of a commercial shooting area to charge others for the

opportunity to hunt mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in that area. A commercial shooting area license is valid for one year and is renewable annually.

**2. Eligibility.** In order to qualify for a commercial shooting area license:

A. The location of the land may not be within 5 miles from another commercial shooting area, as measured by a straight line between the property lines at their closest points to each other;

B. The land may not be less than 200 acres nor more than 400 acres in area;

C. The land must be contiguous. Property bisected by a road or highway is considered to be contiguous for purposes of this paragraph; and

D. The land must be owned or leased by the licensed operator of the commercial shooting area.

A new shooting area license may not be issued within 6 months of the expiration of the license for another shooting area located within 5 miles unless the holder of the expired license states in writing to the commissioner that the license will be abandoned.

A renewal of a shooting area license may be issued for a commercial shooting area within 5 miles of another commercial shooting area, notwithstanding paragraph A, as long as the renewed license is applied for within 6 months following the expiration of the old license.

**3. Fees.** The fee for a commercial shooting area license issued after January 1, 2002 is:

A. For the first year of operation, \$500; and

B. For each subsequent year, \$250, payable prior to July 1st of each year.

**4. Requirements.** The following requirements apply to a commercial shooting area.

A. The operator of the commercial shooting area shall maintain and keep open to inspection by representatives of the department a register of:

(1) The name and address of each person shooting in the area;

(2) The date or dates when that person hunted in the area; and

(3) The number and type of birds killed by that person.

B. The operator of the commercial shooting area shall provide to each person taking birds in that

area a receipted invoice or bill of sale for possession and transportation of those birds.

C. The operator of the commercial shooting area shall mark the boundary of the shooting area in a manner prescribed by the commissioner and shall post the boundary conspicuously with signs or other markings approved by the commissioner. The signs or markings must be of a color, size and wording prescribed by the commissioner and must be placed not more than 250 feet apart facing the outside of the area.

**5. Enforcement.** Enforcement of the trespass laws of a commercial shooting area is the responsibility of the owner and may not in any manner be considered an obligation of the department.

**6. Exceptions.** The following exceptions apply to a commercial shooting area.

A. Notwithstanding subsection 1, the operator of a commercial shooting area may authorize a person to hunt other wild birds or wild animals in a commercial shooting area during the regular open season on those species, in accordance with the provisions of chapters 701 to 721, as long as the person possesses a valid state hunting license that allows the hunting of those wild birds and wild animals.

B. Commercial shooting areas and game bird suppliers are exempt from the requirements of section 7235-A, subsection 3, paragraph A.

**Sec. 5. 12 MRSA §7239**, as amended by PL 1983, c. 440, §9, is further amended to read:

**§7239. Importation permit for mallard ducks, quail, Chukar partridge and Hungarian partridge**

**1. Issuance.** The commissioner may grant permits to import live mallard ducks, quail and Chukar partridge and Hungarian partridge to operators of commercial shooting areas.

**2. Application.** When requesting permission to import these birds, an importer shall:

A. Provide the commissioner with information on the number of the birds to be imported and the name and address of the seller; and

B. Furnish the commissioner with a statement from an approved veterinarian, from the department of agriculture, or from the conservation department of the state from which the birds are imported, certifying that they are from flocks which that have been tested for infectious or contagious disease and have not been exposed to

that disease during the 6 months prior to importation.

~~3. Restrictions. Upon receipt of shipment, importers of mallard ducks, quail or Chukar partridge shall attach securely to each bird a metallic leg band.~~

~~B. The leg band shall remain attached to the birds until they are finally prepared for consumption.~~

**Sec. 6. 12 MRSA §7404**, as enacted by PL 1979, c. 420, §1, is amended to read:

**§7404. Commercial shooting areas**

Hunting on commercial shooting areas is governed by the license provisions of ~~sections 7104 and 7105~~ section 7105-A.

**Sec. 7. 12 MRSA §7407**, as amended by PL 1985, c. 304, §17, is further amended to read:

**§7407. Migratory waterfowl hunting**

Migratory waterfowl hunting is governed by the license and permit provisions of ~~sections 7105~~ 7105-A and 7109.

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

Effective April 12, 2001.

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**CHAPTER 50**

**H.P. 47 - L.D. 56**

**An Act to Provide the Right to a Jury Trial in Civil Actions for Civil Rights Violations**

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

**Sec. 1. 5 MRSA §4681**, as amended by PL 1995, c. 417, §1, is repealed and the following enacted in its place:

**§4681. Violations of constitutional rights; civil action by Attorney General**

**1. Interference with rights; action by Attorney General.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with

the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

**2. Place and name of action.** A civil action under subsection 1 must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred.

**3. Jury trial.** There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

**4. Civil penalty for violation.** Each violation of this section is a civil violation for which a civil penalty of not more than \$5,000 for each defendant may be adjudged. These penalties must be applied by the Attorney General in carrying out this chapter.

**5. Service of order or injunction.** Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

**6. Violation of restraining order or injunction.** A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.

**Sec. 2. 5 MRSA §4682**, as amended by PL 1995, c. 417, §2, is repealed and the following enacted in its place:

**§4682. Violations of constitutional rights; civil actions by aggrieved persons**

**1. Interference with rights; private actions.** Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence