

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.

J.S. McCarthy Company
Augusta, Maine
2001

- (1) During recess;
- (2) When children are going to or leaving school during school opening or closing hours. For purposes of this paragraph, school opening and closing hours are 1/2 hour before and 1/2 hour after the beginning of the school day and 1/2 hour before and 1/2 hour after the end of the school day;
- (3) When school speed limit signs are flashing during school opening or closing hours; or
- (4) At other times designated by a municipal traffic ordinance that regulates town ways that are classified as local by the Department of Transportation in accordance with the federal functional classification system.

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

Effective May 14, 2001.

CHAPTER 146

H.P. 140 - L.D. 151

An Act to Ensure that Fishways on Inland Waters are Working

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

Sec. 1. 12 MRSA §7701-A, sub-§2-A is enacted to read:

2-A. Monitoring program. The commissioner shall, in cooperation with the Department of Marine Resources and the Atlantic Salmon Commission, establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. The commissioner has sole authority to take corrective action at fishways as prescribed under this section.

Sec. 2. 12 MRSA §7701-A, sub-§7, as enacted by PL 1983, c. 374, §2, is amended to read:

7. Privileged entry. The commissioner, ~~his~~ the commissioner's agents or subcontractors ~~shall be privileged to~~ may enter upon any private land in order to ~~periodically~~ examine, at least annually, fishways in dams or other artificial obstructions and the examination of dams provided in subsection 2. The commissioner shall notify the landowner, lessee or other person in control of the dam when the examination

will take place and the time required to complete the examination. The commissioner shall make every effort to preserve private land and shall restore surrounding lands to the grade and condition existing prior to entry, if economically feasible.

Sec. 3. 12 MRSA §7701-C, as enacted by PL 1989, c. 275, §2, is amended to read:

§7701-C. Violations; fines

It ~~shall be~~ is considered a violation of this subchapter if a fish kill results from the improper operation of a fishway required pursuant to this subchapter. The department may assess a fine equivalent to the value of the fish killed but not more than \$10,000 for each day of that violation. The department shall adopt rules to establish a schedule of fines for each violation involving the improper operation of a fishway. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 147

H.P. 961 - L.D. 1274

An Act to Increase the Dedicated Wild Blueberry Tax

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

Whereas, Maine wild blueberry growers have petitioned the Legislature to increase the blueberry tax in order to provide additional funding for the Wild Blueberry Commission of Maine to conduct increased advertising and promotion of wild blueberries; and

Whereas, Maine wild blueberry growers produced a record crop of blueberries in 2000 and expect another large crop in 2001; and

Whereas, additional advertising and promotion funds are needed before and during the 2001 growing season in order to increase markets for wild blueberries; and

Whereas, it is necessary for the tax increase proposed in this Act to take effect for the 2001 growing season in order to provide additional funds in a timely manner; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §4303, as amended by PL 1997, c. 511, §11, is further amended to read:

§4303. Rate of tax

There is levied and imposed a tax at the rate of ~~1/2¢~~ 3/4¢ per pound of fresh fruit on all fresh wild blueberries grown, purchased, sold, handled or processed in this State. The tax is computed on a fresh fruit basis, regardless of how the wild blueberries are processed.

Sec. 2. 36 MRSA §4303-A, as amended by PL 1997, c. 511, §12, is further amended to read:

§4303-A. Additional tax

There is levied and imposed an additional tax at the rate of ~~1/2¢~~ 3/4¢ per pound of fresh fruit on all fresh wild blueberries grown, purchased, sold, handled or processed in this State. The tax is computed on a fresh fruit basis, regardless of how the berries are processed, and may not be deducted from the purchase price or collected from the seller under section 4306.

Sec. 3. 36 MRSA §4306, as amended by PL 1997, c. 511, §15, is further amended to read:

§4306. Tax deducted from purchase price

Each processor or shipper purchasing wild blueberries and paying or becoming liable to pay the tax imposed by section 4303 shall charge and collect from the seller a tax at the rate of ~~1/2¢~~ 3/4¢ per pound, to be deducted from the purchase price of all wild blueberries subject to the tax purchased by the processor or shipper.

Sec. 4. 36 MRSA §4307, as amended by PL 1997, c. 511, §16, is further amended to read:

§4307. Records and reports; payment of tax

Every processor or shipper shall, on or before November 1st of each year, report to the State Tax Assessor the quantity of wild blueberries grown, purchased or sold by that processor or shipper during the current season, on forms furnished by the State Tax Assessor. The report must contain the information pertinent to the purchase or sale as the State Tax Assessor prescribes. With the report, each processor or shipper shall forward payment of the tax at the rate of ~~1¢~~ 1 1/2¢ per pound upon all wild blueberries reported as grown, sold or purchased.

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
WILD BLUEBERRY COMMISSION OF MAINE		
Wild Blueberry Commission of Maine		
All Other	\$420,000	\$440,000
Allocates additional funds for the commission.		

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

Effective May 14, 2001.

CHAPTER 148

H.P. 263 - L.D. 312

**An Act to Modernize the Laws
Regarding Bicycle Safety**

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

Sec. 1. 29-A MRSA §101, sub-§9, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

9. Bicycle. "Bicycle" means a device ~~upon which a person may ride that is propelled by human power and that has 2 tandem wheels, either of which is more than 20 inches in diameter~~ primarily propelled by human power, operated by a person usually seated on a seat and driven on the ground on wheels by the operator.

Sec. 2. 29-A MRSA §2060, sub-§1-A is enacted to read:

1-A. Right turns near bicyclists. A person operating a vehicle that passes a person operating a bicycle and proceeding in the same direction may not make a right turn at any intersection or into any road or way unless the turn can be made with reasonable safety.

Sec. 3. 29-A MRSA §2063, sub-§2-A is enacted to read:

2-A. Bicycle riding on shoulder. Notwithstanding subsection 2, a person operating a bicycle may travel on paved shoulders.