

# 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**

criminal forfeiture by indictment or information of any property that may be the subject of any pending civil action commenced pursuant to section 959, the civil action must be immediately stayed and subrogated to the criminal forfeiture action. Discovery in the criminal action must be as provided by the Maine Rules of Criminal Procedure.

3. Property subject to forfeiture that has not already been seized but has been indicted by a grand jury pursuant to this section may also be ordered seized based upon the grand jury's finding of probable cause pursuant to section 959.

4. Trial against property charged by indictment or information may be by jury and must be held in a single proceeding together with the trial of the related criminal violation. Forfeiture of the property must be proved by the State by a preponderance of the evidence. The court, in its discretion, may allow any defendant with an interest in property indicted pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. At trial by jury, the court, upon motion of a defendant or the State, may separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. After a verdict upon the guilt or innocence of all defendants, the court shall instruct and submit to the jury the issue of the forfeiture of the property to be determined by proof by a preponderance of the evidence and the court shall restrict argument to those issues. A special verdict must be returned as to the extent of the interest in property subject to forfeiture, if any.

5. A person not charged in an indictment under this section may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property within 30 days of the date of receipt of the notice may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury.

The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable, but in no event later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

6. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 959.

#### **§961. Construction**

Sections 959 and 960 must be liberally construed to effectuate their remedial purposes.

See title page for effective date.

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## **CHAPTER 462**

**S.P. 568 - L.D. 1732**

### **An Act to Establish for an Additional Two Years the Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine**

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

**Whereas,** the 119th Legislature originally established the Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine in Resolve 1999, chapter 82; and

**Whereas,** the 119th Legislature appropriated \$500,000 to be spent over the current biennium for engineering design for the Embden Hatchery and a statewide assessment of all other hatchery facilities; and

**Whereas,** authorization of this commission for an additional 2-year period is essential to complete the original duties assigned to the commission and to provide ongoing legislative policy guidance on the expenditures of those funds appropriated for engineering design for the Embden Hatchery and a statewide assessment of all other hatchery facilities; 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:**

#### PART A

**Sec. A-1. 12 MRSA §7671-A** is enacted to read:

##### §7671-A. Fish hatchery maintenance fund

The fish hatchery maintenance fund, referred to in this section as the "fund," is established in the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding engineering designs for the Embden Hatchery, a statewide assessment of all other hatchery facilities and maintenance, repair and capital improvements at fish hatcheries and feeding stations owned by the State and the per diem and related expenses of 4 meetings of the Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Fish in Maine in fiscal year 2001-02 and 4 meetings of the commission in fiscal year 2002-03. The fund may not be used to fund personnel services costs or general operating costs of a fish hatchery. The commissioner may accept and deposit into the fund any monetary gifts, donations or other contributions from public or private sources and must use that money for the purposes specified in this section.

**Sec. A-2. Report.** The Commissioner of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife no later than January 15, 2002 with recommendations on sources of revenues for the fish hatchery maintenance fund established under the Maine Revised Statutes, Title 12, section 7671-A to be used to fund maintenance, repair and capital improvements at fish hatcheries and feeding stations. Those recommendations must include draft proposals for any statutory enactments necessary to implement the commissioner's recommendations.

#### PART B

**Sec. B-1. Commission established.** The Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine, referred to in this Part as the "commission," is established.

**Sec. B-2. Commission membership; appointed ad hoc and ex officio members; meetings.** The commission consists of appointed members as follows:

1. Except as otherwise provided in this section, all members appointed pursuant to Resolve 1999, chapter 82, including legislative members, whether or not members of the 120th Legislature, are members of this commission;

2. The President of the Senate shall appoint 2 members of the Senate to the commission. The first Senator appointed pursuant to this subsection is the Senate chair of the commission. When making these appointments, the President of the Senate shall give preference to a Senate member of the Joint Standing Committee on Inland Fisheries and Wildlife and a Senate member of the Joint Standing Committee on Natural Resources;

3. The Speaker of the House shall appoint a member of the House to the commission who is the House chair. When making this appointment, the Speaker of the House shall give preference to a House member of the Joint Standing Committee on Inland Fisheries and Wildlife; and

4. The Governor shall appoint one person to replace one of the persons appointed by the Governor under Resolve 1999, chapter 82, section 2, subsection 6 and one person to replace the person appointed by the Governor under Resolve 1999, chapter 82, section 2, subsection 9.

Upon completion of all appointments, the chairs shall call and convene the first meeting of the commission, which must be held no later than August 15, 2001.

**Sec. B-3. Duties.** The commission shall complete all duties prescribed in Resolve 1999, chapter 82 and shall provide oversight and policy guidance to the Department of Inland Fisheries and Wildlife with respect to the expenditure of funds appropriated by the 119th Legislature in Public Law 1999, chapter 731, Part A, section 1 and Part HHHH, section 1, for engineering design for the Embden Hatchery and a statewide assessment of all other hatchery facilities. In addition, the commission shall:

1. Continue to work with the Department of Inland Fisheries and Wildlife and the department's consultant to continue the work of evaluating the effluent characteristics of fish hatcheries, including private fish hatcheries, with the purpose of ensuring that the state fish hatcheries will be able to comply with licensed effluent discharge standards within 3 years and to obtain information relevant to discussions of discharge license standards for unlicensed private fish hatcheries;

2. Set statewide production goals for the number, size and species mix of recreational sport fish over a 15- to 20-year planning horizon;

3. Determine how to meet those production goals in the most cost-effective manner by evaluating all production options, including options for investing in cost-effective upgrades to existing state-owned facilities to produce more fish, closing noneconomic state-owned facilities and building new capacity in other locations in the State and purchasing fish from privately owned hatcheries; and

4. Within existing budgeted resources, undertake any studies or other activities as are necessary to complete the tasks outlined in this section and is authorized to hold 4 meetings annually.

**Sec. B-4. Staff assistance.** The commission shall request staffing assistance from the Legislative Council.

**Sec. B-5. Compensation.** Members who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission that occur on days the Legislature is not in session. Other members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses incurred for their attendance at authorized meetings. The Commissioner of Inland Fisheries and Wildlife shall use funds in the fish hatchery maintenance fund established in the Maine Revised Statutes, Title 12, section 7671-A to reimburse the Legislature in fiscal years 2001-02 and 2002-03 for all costs incurred to pay the per diem

and expenses of members of the commission who are Legislators and members who are not otherwise compensated by their employers or other entities that they represent and the costs to print the commission report.

**Sec. B-6. Report.** The commission shall submit an interim report to the Joint Standing Committee on Inland Fisheries and Wildlife no later than December 1, 2001 and a final report to that same committee no later than October 31, 2002.

**Sec. B-7. Unexpended balances transferred; balances carried forward.** Unexpended funds appropriated by Public Law 1999, chapter 731, Part A, section 1 and Part HHHH, section 1, to the Department of Inland Fisheries and Wildlife, Fisheries and Hatcheries Operations, are appropriated to the fish hatchery maintenance fund established in the Maine Revised Statutes, Title 12, section 7671-A to be used by the Commissioner of Inland Fisheries and Wildlife pursuant to Title 12, section 7671-A. Those funds may not be encumbered for any other purpose without prior consultation with the commission. Unexpended balances in the fund do not lapse but are carried forward to subsequent years.

**Sec. B-8. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF Fisheries and Hatcheries Operations</b>		
All Other	\$500	\$500
Provides initial allocations for the Fish Hatchery Maintenance Fund.		
<b>DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL</b>		
	\$500	\$500
<b>LEGISLATURE</b>		
<b>Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine</b>		
Personal Services	\$1,320	\$1,320
All Other	3,600	3,600
Provides funds for the per diem and expenses of legislative members and expenses of other eligible members of the Commission to Study the		

Needs and Opportunities  
Associated with the  
Production of Salmonid  
Sport Fish in Maine.

LEGISLATURE		
TOTAL	\$4,920	\$4,920
TOTAL		
ALLOCATION	\$5,420	\$5,420

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

Effective June 28, 2001.

**CHAPTER 463**

**S.P. 425 - L.D. 1380**

**An Act Regarding Uninsured Drivers**

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

**Sec. 1. 29-A MRSA §525, sub-§10,** as repealed and replaced by PL 2001, c. 361, §13, is amended to read:

**10. Suspension.** If a person fails to file a fuel tax report or to pay any taxes, interest, penalties or audit assessment as required pursuant to Title 36, chapter 457 or 459 or any rule adopted pursuant to this section, the Secretary of State shall suspend the person's fuel tax license, all fuel decals issued to the person and that person's privilege to operate as a motor carrier. In order to be reinstated, the person must file all delinquent tax returns and pay all assessments, interest and penalties. In addition, the person must pay a ~~\$30~~ \$35 reinstatement fee pursuant to section 2486, subsection 1.

**Sec. 2. 29-A MRSA §1601-A** is enacted to read:

**§1601-A. Notification of cancellation of insurance**

**1. Notice to Secretary of State required.** A company insuring a motor vehicle registered in this State shall immediately notify the Secretary of State when that insurance coverage is cancelled or terminated or lapses. If the company knows that a replacement policy has been secured in place of the policy cancelled, terminated or lapsed, the company is not required to notify the Secretary of State.

**2. Method of notification.** The notice must be in writing and must be transmitted by the insurance company by electronic means as prescribed by the Secretary of State.

**3. Content of notice.** The notice must include the following:

A. Name, address and date of birth of the owner or owners of the motor vehicle; and

B. Vehicle identification number.

**4. Suspension.** Upon receipt of notice provided in subsection 1, the Secretary of State shall suspend, within 30 days and in accordance with section 2482, the owner's registration certificate and plates for that motor vehicle. The suspension continues until that person provides evidence of insurance to the Secretary of State.

**Sec. 3. 29-A MRSA §2486, sub-§1,** as amended by PL 1997, c. 25, Pt. Q, §2 and affected by §3, is further amended to read:

**1. Reinstatement fee.** Before a suspension is terminated and a license or certificate reinstated, a fee of ~~\$30~~ \$35, in addition to the regular license fee, must be paid to the Secretary of State.

**Sec. 4. 29-A MRSA §2605, sub-§4,** as amended by PL 1999, c. 790, Pt. D, §9, is further amended to read:

**4. Rescission of suspension.** On appearances or payment of the fine, whichever was the basis for the suspension, and on the condition of payment of a ~~\$30~~ \$35 reinstatement fee pursuant to section 2486, subsection 1 to the Secretary of State, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the Secretary of State who, upon receipt of the ~~\$30~~ \$35 reinstatement fee, shall delete any record of the suspension from that person's driving record.

**Sec. 5. 29-A MRSA §2608, 3rd ¶,** as amended by PL 1999, c. 790, Pt. D, §10, is further amended to read:

The clerk shall immediately notify that person of the suspension by regular mail or personal service. The suspension has the same force and effect as a suspension by the Secretary of State. The suspension remains in effect until the person answers or appears, either in person or by counsel, or pays the fine. On answer, appearance or payment of the fine, whichever was the basis for the suspension, and on condition of payment of a ~~\$30~~ \$35 reinstatement fee pursuant to section 2486, subsection 1 to the Secretary of State, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the Secretary of State who, upon receipt of the ~~\$30~~ \$35 reinstatement fee pursuant to section 2486, subsection 1, shall delete any record of the suspension from that person's driving record.