

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
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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
2002

CHAPTER 616

H.P. 1694 - L.D. 2192

**An Act to Amend the Laws
Governing the Unlawful Sale of
Personal Sports Mobiles and the
Registration of New Snowmobiles**

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

Sec. 1. 10 MRSA §1242, sub-§13, as enacted by PL 1997, c. 473, §3, is amended to read:

13. New personal sports mobile. "New personal sports mobile" means a personal sports mobile that has not been sold previously to any person except a distributor or wholesaler or personal sports mobile dealer for resale. "New personal sports mobile" also means a personal sports mobile that has not been registered in this State or any other state or for which sales tax has not been paid in this State or any other state if that other state taxes the purchase of a new personal sports mobile.

Sec. 2. 10 MRSA §1243, sub-§4, ¶¶C and D, as enacted by PL 1997, c. 473, §3, are amended to read:

C. To resort to or use any false or misleading advertisement in connection with that dealer's business as a personal sports mobile dealer; ~~or~~

D. To fail to disclose conspicuously in writing the personal sports mobile dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears; ~~or~~

Sec. 3. 10 MRSA §1243, sub-§4, ¶E is enacted to read:

E. To sell, directly or indirectly, a new personal sports mobile without holding a current and valid franchise with the manufacturer of the brand of new personal sports mobile being sold.

Sec. 4. 10 MRSA §1243-A is enacted to read:

§1243-A. Unlawful sale of new personal sports mobile

A person is guilty of unlawful sale of a new personal sports mobile if that person sells a new personal sports mobile and does not possess a current and valid franchise with the personal sports mobile manufacturer of the brand of new personal sports mobile being sold. If, upon demand by a law enforcement officer, a person fails to produce evidence of a franchise

required by this section, this failure is prima facie evidence that the person does not possess that franchise.

A person who violates this section commits a Class E crime and additionally is liable in any action brought for unfair methods of competition or unfair and deceptive trade practices for treble damages, which include, but are not limited to, damages related to warranty coverage.

This section may be enforced by any law enforcement officer.

Sec. 5. 10 MRSA §1250-K, as enacted by PL 2001, c. 387, §1, is repealed.

Sec. 6. 12 MRSA §7825, sub-§1, as enacted by PL 1979, c. 420, §1, is amended to read:

1. Application and issuance. Any person who is in the business of selling new or used snowmobiles in the State shall register as a dealer and secure a dealer's license from the commissioner. Dealers so registered and licensed need not register individual snowmobiles. For the purposes of this subsection, "new snowmobile" means a snowmobile that has not been registered in this State or any other state or for which sales tax has not been paid in this State or any other state if that other state taxes the purchase of a new snowmobile.

See title page for effective date.

CHAPTER 617

H.P. 1638 - L.D. 2141

**An Act to Amend the Animal
Welfare Laws and Increase Funding
for Animal Welfare**

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

Sec. 1. 4 MRSA §116, first ¶, as amended by PL 1999, c. 357, §1, is further amended to read:

All revenue received by the Supreme Judicial or Superior Court, whether directly or pursuant to an agreement entered into with the Department of Administrative and Financial Services, Bureau of Taxation, from fines, forfeitures, penalties, fees and costs accrues to the State, except as otherwise provided under sections 1057 and 1057-A; Title 7, section 3910-A; Title 12, sections 3055 and 4508; Title 17, section 1015; Title 23, section 1653; and Title 29-A, section 2602.

Sec. 2. 4 MRSA §163, sub-§1, as amended by PL 1999, c. 357, §2, is further amended to read:

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with sections 1057 and 1057-A; Title 5, chapter 316-A; Title 7, section 3910-A; Title 17, section 1015; and Title 29-A, section 2411, subsection 7. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines, surcharges and assessments imposed and to whom each is payable.

Sec. 3. 4 MRSA §1057-A, sub-§2, as enacted by PL 1999, c. 357, §3, is amended to read:

2. Surcharge imposed. In addition to the 12% surcharge collected pursuant to section 1057, the \$10 surcharge collected pursuant to Title 7, section 3910-A and the 10% surcharge collected pursuant to Title 17, section 1015, a 2% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is considered a part of the fine, forfeiture or penalty. All funds collected pursuant to this section must be deposited monthly in the Maine Community Policing Institute Surcharge Fund. All funds collected pursuant to this section must be paid to the University of Maine System for the sole purpose of funding the Maine Community Policing Institute, except that the Judicial Department may incur reasonable expenses to implement the administration of the 2% surcharge, in an amount not to exceed \$11,000 annually, in fiscal years ending June 30, 2000 and June 30, 2002.

Sec. 4. 7 MRSA §3902, as enacted by PL 1987, c. 383, §3, is amended to read:

§3902. Purposes; comprehensive program

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals. To ensure the humane and proper treatment of animals, the commissioner shall develop, implement and administer a

comprehensive program that upholds the animal welfare laws of the State through communication, education and enforcement.

Sec. 5. 7 MRSA §3910, as enacted by PL 1987, c. 383, §3, is repealed.

Sec. 6. 7 MRSA §3910-A is enacted to read:

§3910-A. Forfeitures and surcharge

1. Forfeitures. Unless otherwise provided, any court in this State shall collect fines or forfeitures imposed for violations of this Part and pay the fine or forfeiture into the treasury of the municipality where the offense or violation was committed. The municipal clerk shall deposit and expend fines and forfeitures received in accordance with section 3945.

2. Surcharge imposed. A surcharge of \$10 must be added to every fine, forfeiture or penalty imposed by any court in this State for a violation of this Part or Title 17, chapter 42. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under section 3906-B, subsection 2.

Sec. 7. 7 MRSA §3942, last ¶, as amended by PL 1991, c. 779, §34, is further amended to read:

The clerks shall retain \$1 from each license fee received for dogs incapable of producing young and use these fees in accordance with section 3945 as a recording fee. The clerk shall deposit \$2 from each license for a dog incapable of producing young in the municipality's animal welfare account established in accordance with section 3945.

Sec. 8. 7 MRSA §3945, as amended by PL 1995, c. 490, §14, is further amended to read:

§3945. Use of license fees and court fines retained by municipalities

All Except for the \$1 recording fee pursuant to section 3942 retained by the municipal clerk, all fees and court fines retained by municipalities must be kept in a separate account and must be used for the salaries and costs of animal control, enforcement of licensing laws, care of stray animals that are injured or abandoned and the support of one or more approved animal shelters. Any money not expended for these purposes in a municipality's fiscal year does not lapse, but must be carried over to the next fiscal year.

Sec. 9. 7 MRSA §4011, sub-§1, ¶G, as amended by PL 2001, c. 425, §1, is further amended to read:

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 10;

Sec. 10. 17 MRSA §1015 is enacted to read:

§1015. Surcharge imposed

A surcharge of 10% must be added to every fine or penalty imposed by any court in this State for a violation of this chapter. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under Title 7, section 3906-B, subsection 2.

Sec. 11. 17 MRSA §1031, sub-§1, ¶G, as amended by PL 2001, c. 425, §5, is further amended to read:

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 10;

Sec. 12. Appropriations and allocations.

The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF**

Animal Welfare Fund

Initiative: Provides funds for 2 District Humane Agent positions.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(2.000)
Personal Services	\$0	\$107,560
All Other	<u>0</u>	<u>3,753</u>
Other Special Revenue Funds Total	\$0	\$111,313

Animal Welfare Fund

Initiative: Provides funds for one Veterinarian position.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(1.000)
Personal Services	\$0	\$74,105
All Other	<u>0</u>	<u>5,586</u>
Other Special Revenue Funds Total	\$0	\$79,691

Animal Welfare Fund

Initiative: Provides for the elimination of 4 of the 7 intermittent State Humane Agent positions, 3 positions of 494 hours each and one position of 456 hours.

Other Special Revenue Funds	2001-02	2002-03
Positions - FTE Count	(0.000)	(-0.932)
Personal Services	\$0	(\$26,350)
All Other	<u>0</u>	<u>(919)</u>
Other Special Revenue Funds Total	\$0	(\$27,269)

AGRICULTURE, FOOD AND RURAL RESOURCES,

DEPARTMENT OF DEPARTMENT TOTALS	2001-02	2002-03
OTHER SPECIAL REVENUE FUNDS		
DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$163,734</u>

See title page for effective date.

CHAPTER 618

H.P. 1679 - L.D. 2179

**An Act Regarding the Clearing of
Vegetation in Areas Adjacent to
Protected Natural Resources**

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

Whereas, the provisions of this legislation must take effect immediately to provide the statutory basis for major substantive rules authorized to be finally adopted 90 days after adjournment of the Legislature; 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. 38 MRSA §480-B, sub-§9, as amended by PL 1995, c. 460, §2 and affected by §12, is further amended to read:

9. River, stream or brook. "River, stream or brook" means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least 3 6 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.