

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

3-A. In connection with collecting a debt, a delinquency charge under subsection 1, paragraph A may not be collected on a payment if the only delinquency is attributable to late fees or delinquency charges assessed on earlier installments, and the payment is otherwise a full payment for the applicable period and is paid on its due date, or within the applicable grace period. For the purposes of this subsection, "collecting a debt" means any activity, other than the use of judicial process, that is intended to bring about or does bring about repayment of all or part of the money due or alleged to be due from a consumer.

See title page for effective date.

CHAPTER 136

S.P. 245 - L.D. 707

An Act Regarding the Development and Implementation of an Eradication Plan for Invasive Aquatic Plants

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

Sec. 1. 38 MRSA §410-N, sub-§3, ¶C is enacted to read:

C. The department may study and develop a plan that includes the use of water level draw-down for the eradication of invasive aquatic plants. If determined feasible by the department, the department may implement a plan developed pursuant to this paragraph. The department may seek funding from private sources to support the activities described in this paragraph.

See title page for effective date.

CHAPTER 137

S.P. 205 - L.D. 596

An Act To Improve the Effectiveness of the Maine Coastal and Inland Surface Oil Clean-up Fund

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

Sec. 1. 38 MRSA §551, sub-§1-B, as enacted by PL 1993, c. 720, §3, is amended to read:

1-B. Research and development. The Legislature may allocate not more than ~~\$100,000~~ **\$250,000** per annum of the amount currently in the fund to be

devoted to research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products on the marine environment. Researchers receiving funds under this subsection shall use vessels based in this State as platforms when practicable. Such allocations must be made in accordance with section 555. This subsection takes effect July 1, 1996.

See title page for effective date.

CHAPTER 138

H.P. 528 - L.D. 722

An Act to Protect Against Unlawful Sexual Touching

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

Sec. 1. 17-A MRSA §251, sub-§1, ¶G is enacted to read:

G. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

Sec. 2. 17-A MRSA §254, sub-§1, ¶¶D and E, as enacted by PL 2001, c. 383, §21 and affected by §156, are amended to read:

D. The person violates paragraph C and the actor knows that the student is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class D crime; or

E. The person violates paragraph C and the actor is at least 10 years older than the student. Violation of this paragraph is a Class D crime; or

Sec. 3. 17-A MRSA §254, sub-§1, ¶F is enacted to read:

F. The person intentionally subjects another person, not the actor's spouse, who is either 14 or 15 years of age to any sexual contact and the actor is at least 10 years older than the other person. Violation of this paragraph is a Class D crime.

Sec. 4. 17-A MRSA §254, sub-§2, as amended by PL 2001, c. 383, §21 and affected by §156, is further amended to read:

2. It is a defense to a prosecution under subsection 1, paragraphs A, A-1 ~~and~~, A-2 ~~and~~ F, that the actor reasonably believed the other person is at least 16 years of age.

Sec. 5. 17-A MRSA §260 is enacted to read:

§260. Unlawful sexual touching

1. Unlawful sexual touching. A person is guilty of unlawful sexual touching if the actor intentionally subjects another person to any sexual touching and:

A. The other person has not expressly or impliedly acquiesced in the sexual touching. Violation of this paragraph is a Class D crime;

B. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual touching. Violation of this paragraph is a Class D crime;

C. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 5 years older. Violation of this paragraph is a Class D crime;

D. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the touching involved or of understanding that the other person has the right to deny or withdraw consent. Violation of this paragraph is a Class D crime;

E. The other person, not the actor's spouse, is in official custody as a probationer or parolee or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class D crime;

F. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class D crime;

G. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person. Violation of this paragraph is a Class D crime;

H. The other person submits as a result of compulsion. Violation of this paragraph is a Class D crime;

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Behavioral and Developmental

Services or the Department of Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime; or

J. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime.

See title page for effective date.

CHAPTER 139
H.P. 652 - L.D. 875
**An Act To Promote and Advance
Wild Ring-necked Pheasant
Propagation**

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

Whereas, the spring hunting season for male pheasants will commence before the 90-day period expires for the effective date of legislation passed in the First Regular Session of the 121st 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. 12 MRSA §7106-B, sub-§4, ¶C is enacted to read:

C. A person may not take a female pheasant in an area subject to the provisions of section 7472. A person who violates this paragraph commits a Class E crime.