

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

**§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.

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**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.

**Sec. 2. 12 MRSA §7472** is enacted to read:

**§7472. Pheasants**

The commissioner shall establish by rule a hunting season for male pheasants that disallows the taking of female pheasants in certain areas of the State. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Rulemaking.** Immediately upon the effective date of this Act, the Commissioner of Inland Fisheries and Wildlife shall implement the provisions of the Maine Revised Statutes, Title 12, section 7472 by creating a fall hunting season for male pheasants that disallows the taking of female pheasants in Wildlife Management District 24 as defined in the agency rules of the Department of Inland Fisheries and Wildlife.

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

Effective May 14, 2003.

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**CHAPTER 140**

**H.P. 596 - L.D. 819**

**An Act To Amend the Motor Vehicle Laws Pertaining to Mufflers**

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

**Sec. 1. 29-A MRSA §1912, sub-§6** is enacted to read:

**6. Exception.** Subsections 1 and 3 do not apply to a muffler or exhaust system that does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998. Measurements must be made by participating certified inspection stations.

This subsection applies to motor vehicles as defined in section 101, subsection 42, except that it does not apply to motorcycles.

See title page for effective date.

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**CHAPTER 141**

**H.P. 747 - L.D. 1030**

**An Act To Allow Consumer-owned Utilities To Purchase Power at Negotiated Wholesale Rates, Terms and Conditions**

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

**Sec. 1. 35-A MRSA §3207, sub-§1, ¶A,** as enacted by PL 1997, c. 316, §3, is amended to read:

A. May sell retail generation service only within their respective service territories, and are authorized to purchase electric power and energy at wholesale, provided that the consumer-owned transmission and distribution utility complies with the requirements of section 3203, subsection 3 and section 3210, subsection 3, and to purchase such transmission and related services as may be required to effect the delivery of such power and energy to their respective service territories; and

**Sec. 2. 35-A MRSA §3212, sub-§6,** as enacted by PL 1997, c. 638, §2, is amended to read:

**6. Consumer-owned utilities.** Notwithstanding any other provision of this section, the commission is not required to conduct a competitive bidding process or select a standard-offer service provider or providers for the territory of a consumer-owned transmission and distribution utility if the consumer-owned transmission and distribution utility chooses one or more standard-offer service providers for its territory through a competitive bidding process conducted in accordance with the commission's rules governing the selection and criteria for approval of a standard-offer service provider, or if the consumer-owned transmission and distribution utility enters into one or more contracts to purchase power at wholesale for the purpose of providing retail generation service within its service territory. Selection of a standard-offer service provider or providers and agreements with or purchases from a standard-offer service provider or providers or other wholesale power supply providers are not subject to the approval requirements of section 3133 or 3133-A. A consumer-owned transmission and distribution utility may choose a single standard-offer service provider. A consumer-owned transmission and distribution utility that intends to choose a standard-offer service provider or providers, or to enter into a wholesale power purchase contract for the purpose of providing retail generation service within its service territory, in accordance with this subsection shall notify the commission.

See title page for effective date.

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