

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

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FIRST SPECIAL SESSION
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TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 334

H.P. 140 - L.D. 181

An Act to Clarify the Definition of
Livestock

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

Sec. 1. 7 MRSA §1302, sub-§3, as amended by PL 2001, c. 572, §4, is further amended to read:

3. Livestock and poultry. "Livestock and poultry" includes all cattle, sheep, goats, swine, equines, members of the genus lama, bison, ratites, poultry, domesticated cervidae cervids and other animals raised for food or fiber.

Sec. 2. 7 MRSA §3907, sub-§18-A, as enacted by PL 1997, c. 456, §1, is repealed and the following enacted to read:

18-A. Livestock. "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the genus lama; bison; and ratites.

Sec. 3. 17 MRSA §1011, sub-§18-A, as enacted by PL 1997, c. 456, §11, is repealed and the following enacted to read:

18-A. Livestock. "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the genus lama; bison; and ratites.

See title page for effective date.

CHAPTER 335

H.P. 200 - L.D. 245

An Act To Promote Consistent
Protection of the State's Waters

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

Sec. 1. 12 MRSA §685-A, sub-§12 is enacted to read:

12. Timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. Beginning January 1, 2006, rules adopted by the Commissioner of Conservation pursuant to section 8867-B apply in the unorganized and deorganized areas for the purpose of regulating timber harvesting and timber harvesting activities in areas adjacent to

rivers, streams, ponds, wetlands and tidal waters. The Director of the Bureau of Forestry shall administer and enforce the regulation of timber harvesting and timber harvesting activities in these areas. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5.

Sec. 2. 12 MRSA §8867-B, as amended by PL 2001, c. 566, §1, is further amended to read:

§8867-B. Regulation of timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters

In accordance with the purposes of chapter 206-A and Title 38, chapter 3 and no later than October 1, 2003, the Commissioner of Conservation may provisionally shall adopt rules in accordance with Title 5, chapter 375 to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources. ~~Rules~~ The initial rules adopted pursuant to this section are ~~major substantive routine technical~~ rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA §8869, sub-§8, as amended by PL 1999, c. 263, §1, is further amended by amending the 2nd paragraph to read:

A municipality may not adopt an ordinance that is less stringent than the minimum standards established in this section and in rules adopted by the commissioner to implement this section and section 8867-B. A municipality may not adopt or amend an ordinance that regulates timber harvesting unless the process set out in this subsection is followed in the development and review of the ordinance.

Sec. 4. 38 MRSA §438-A, as amended by PL 1997, c. 726, §2, is further amended by adding a new 2nd paragraph to read:

Notwithstanding other provisions of this article, beginning January 1, 2006 the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Commissioner of Conservation pursuant to Title 12, section 8867-B.

Sec. 5. 38 MRSA §438-B is enacted to read:

§438-B. Timber harvesting and timber harvesting activities in shoreland areas; authority of Director of the Bureau of Forestry in the Department of Conservation

Except as provided in subsection 4, beginning January 1, 2006, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide for the purpose of regulating timber harvesting and timber harvesting activities in shoreland areas.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Director" means the Director of the Bureau of Forestry within the Department of Conservation.

B. "Statewide standards" means the performance standards for timber harvesting activities adopted pursuant to Title 12, section 8867-B.

C. "Timber harvesting" means cutting or removal of timber for the primary purpose of selling or processing forest products.

D. "Timber harvesting activities" means the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

2. Municipal acceptance of statewide standards. A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by repealing all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the director of the repeal. When a municipality accepts the statewide standards in accordance with this subsection, the director shall administer and enforce the statewide standards within that municipality.

3. Municipal adoption of ordinance identical to statewide standards. A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director to administer and enforce the ordinance or to participate in joint administration and enforcement of the ordinance with the municipality. When a municipality requests joint responsibilities, the director and the municipality shall enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the director under this subsection, a municipality must amend its ordinance

as necessary to maintain identical provisions with the statewide standards.

4. Municipal ordinances that are not identical to statewide standards. A municipal ordinance regulating timber harvesting and timber harvesting activities that is in effect and consistent with state laws and rules in effect on December 31, 2005 continues in effect unless action is taken in accordance with subsection 2 or 3. A municipality that retains an ordinance with provisions that differ from the statewide standards shall administer and enforce that ordinance. A municipality may not amend a municipal ordinance regulating timber harvesting and timber harvesting activities unless the process established in Title 12, section 8869, subsection 8 is followed. Beginning on January 1, 2006, a municipality may not amend an ordinance regulating timber harvesting and timber harvesting activities in a manner that results in standards that are less stringent than or otherwise conflict with the statewide standards.

Sec. 6. Adoption of rule; legislation authorized. The Commissioner of Conservation shall proceed with adoption of a rule to establish statewide standards for timber harvesting and timber harvesting activities in shoreland areas. The rule must implement the recommendations submitted in a report dated February 18, 2003 and presented to the Joint Standing Committee on Agriculture, Conservation and Forestry on February 24, 2003. The committee may report out a bill to the Second Regular Session of the 121st Legislature to make statutory revisions necessary to implement a statewide standard for timber harvesting and timber harvesting activities in shoreland areas, to clarify the responsibilities of the Bureau of Forestry in administering and enforcing the standard and to clarify municipal authority to adopt, administer and enforce a standard that is consistent with or more stringent than the statewide standard.

Sec. 7. Review of rules pertaining to timber harvesting in shoreland areas within unorganized and deorganized areas. No later than October 1, 2005, the Maine Land Use Regulation Commission, in consultation with the Director of the Bureau of Forestry within the Department of Conservation, shall review the commission's rules pertaining to timber harvesting and timber harvesting activities in shoreland areas and provide for the repeal or amendment of rules that duplicate or conflict with the rules adopted by the Commissioner of Conservation pursuant to the Maine Revised Statutes, Title 12, section 8867-B. The commission shall ensure that any necessary changes in rule become effective January 1, 2006.

Sec. 8. Review of rules pertaining to timber harvesting in shoreland areas. No later than October 1, 2005, the Commissioner of Environmental

Protection, in consultation with the Director of the Bureau of Forestry within the Department of Conservation, shall review rules adopted by the commissioner or the Board of Environmental Protection pertaining to timber harvesting and timber harvesting activities in shoreland areas and provide for the repeal or amendment of rules that duplicate or conflict with the rules adopted by the Commissioner of Conservation pursuant to Maine Revised Statutes, Title 12, section 8867-B. The Commissioner of Environmental Protection and the board shall ensure that any necessary changes become effective January 1, 2006.

See title page for effective date.

CHAPTER 336

H.P. 637 - L.D. 860

An Act To Allow Smelt Fishing in Long Lake in Aroostook County

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

Sec. 1. 12 MRSA §7552-A is enacted to read:

§7552-A. Smelt fishing in Long Lake

Notwithstanding section 7552, a person may fish for smelt by use of a dip net in the parts of Long Lake and its tributaries that are within Township 17, Range 3, Aroostook County. A person may not:

1. **Exceed daily bag limit.** Exceed the daily bag limit of 2 quarts per person. A person who violates this subsection commits a Class E crime; or

2. **Harvest for commercial purposes.** Harvest smelt for commercial purposes. A person who violates this subsection commits a Class D crime for which a fine of not less than \$1,000 may be adjudged.

This section is repealed December 31, 2005.

See title page for effective date.

CHAPTER 337

H.P. 664 - L.D. 887

An Act To Amend the Maine "Lemon Law"

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

Sec. 1. 10 MRSA c. 203-A is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 203-A

MANUFACTURER WARRANTIES ON MOTOR VEHICLES

Sec. 2. 10 MRSA §1161, sub-§3, as amended by PL 1987, c. 359, §2, is further amended to read:

3. Motor vehicle. "Motor vehicle" means any motor driven vehicle, designed for the conveyance of passengers or property on the public highways, ~~which~~ that is sold or leased in this State, except that the term "motor vehicle" does not include any ~~commercial~~ vehicle used primarily for commercial purposes with a gross vehicle weight of 8,500 pounds or more.

Sec. 3. 10 MRSA §1161, sub-§4, as amended by PL 1999, c. 212, §1, is further amended to read:

4. Reasonable allowance for use. "Reasonable allowance for use" means an amount that can not exceed the lesser of 1/3 of that amount allowed per mile by the United States Internal Revenue Service as provided by regulation, revenue procedure or revenue ruling promulgated under the United States Internal Revenue Code, Title 26, Section 162 for the use of a personal vehicle for business purposes based upon the mileage reported for that motor vehicle on the application for state-certified arbitration accepted by the State plus all mileage directly attributable to use by a consumer beyond 20,000 miles or 10% of the purchase price of the vehicle.

Sec. 4. 10 MRSA §1161-A is enacted to read:

§1161-A. Short title

This chapter may be known and cited as "the Maine Lemon Law."

Sec. 5. 10 MRSA §1163, as amended by PL 1999, c. 212, §2, is further amended to read:

§1163. Rights and duties

1. Repair of nonconformities. If a ~~new~~ motor vehicle does not conform to all express warranties, the manufacturer, its agent or authorized dealer shall make those repairs necessary to conform the vehicle to the express warranties if the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the term of the express warranties, within a period of ~~2~~ 3 years following the date of original delivery of the motor vehicle to a consumer, or during the first 18,000 miles of operation of that motor vehicle, whichever is the earlier date occurs earliest. This obligation exists notwithstanding the fact that the repairs are made after the expiration of the appropriate time period.