

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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Lewiston, Maine
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written agreement must be executed by no fewer than 4 of the 6 voting representatives. ~~The issuer specifically identified in subsection 5 and a~~ A representative of the Department of Economic and Community Development designated each year by the Commissioner of Economic and Community Development shall participate as a nonvoting ~~members~~ member of the group of representatives described in this subsection with respect to agreements or recommendations for allocation or reallocation of the state ceiling. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

Sec. 2. 20-A MRSA §11415, sub-§2, as amended by PL 1999, c. 728, §13, is further amended to read:

2. Qualifications. Each member must be a resident of this State. One member must be the Treasurer of State, ex officio ~~and nonvoting~~, or the Treasurer of State's designee. Of the remaining 6 members to be appointed by the Governor, 3 members must be trustees, directors, officers or employees of institutions of higher education, one of whom must be from an institution not owned or operated by the State or any of its political subdivisions and one of whom must be from a technical college owned or operated by the State. Each member of the authority, before entering upon that member's duties, shall take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX, Section 1. A record of each oath must be filed in the office of the Secretary of State. With the exception of a member serving in an ex officio capacity, a member of the authority may not at the same time serve as an officer, director or employee of a nonprofit corporation formed under section 11407 and former Title 20, section 2237, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter ~~1~~ 1 or of any entity that has a contract to provide a significant level of administrative services to the authority, to a nonprofit corporation formed under section 11407 and former Title 20, section 2237 or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter ~~1~~ 1.

See title page for effective date.

CHAPTER 386

S.P. 542 - L.D. 1583

An Act Concerning the Animal Health and Disease Control Laws

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

Sec. 1. 7 MRSA §446, as repealed and replaced by PL 1979, c. 672, Pt. A, §17, is amended to read:

§446. Inspections

The commissioner or ~~his~~ the commissioner's duly authorized agents may inspect any fruits, vegetables, poultry, eggs, farm products, ~~sardines~~ livestock or other commodities that are marked, branded or labeled in accordance with official grades or standards established and ~~promulgated~~ adopted by the commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of that inspection and executed by the inspector ~~shall~~ must state the date and place of inspection, the grade, condition and approximate quality of the fruits, ~~vegetables~~ vegetables, poultry, eggs, farm products, ~~sardines~~ livestock or other commodities inspected and such other pertinent facts as the commissioner may require. Such a certificate relative to the condition or quality of the farm products ~~and sardines shall be~~ is prima facie evidence in all courts of the State of the facts required to be stated in the certificate.

Sec. 2. 7 MRSA §§1309 and 1310 are enacted to read:

§1309. Maine cattle health assurance program

The commissioner shall develop a Maine cattle health assurance program to ensure the highest quality of products by encouraging all livestock producers in this State to use best management practices. The department shall develop a farm assessment plan that provides for on-site evaluations of farms to assess and suggest ways to improve the health of herds, protect the health and safety of herds from disease and protect farms from environmental liability.

The commissioner in consultation with the University of Maine Cooperative Extension, state and federal veterinarians and livestock producers in this State shall adopt rules for the administration of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§1310. Cattle Health Assurance Program Fund

The Treasurer of State shall establish a separate account known as the Cattle Health Assurance Program Fund. This fund does not lapse but must be carried forward. Funds from this account may be used to pay for administrative costs associated with section 1309.

Sec. 3. 7 MRSA c. 202 is amended by repealing the chapter headnote and enacting in its place the following:

CHAPTER 202

CERVIDS

Sec. 4. 7 MRSA §1331, as amended by PL 2001, c. 572, §§10 and 11, is repealed.

Sec. 5. 7 MRSA §1332, as enacted by PL 1999, c. 765, §2, is amended to read:

§1332. Animal Industry Fund

The Treasurer of State shall establish a separate account known as the Animal Industry Fund. This fund does not lapse but must be carried forward. Except as provided in section 1346, license fees collected under section ~~1331~~, ~~subsection 2~~ 1333, subsection 3 and license and tagging fees collected under section 1342, subsections 3 and 4 must be deposited in the account. Funds from this account may be used to pay for administrative costs associated with licenses issued under sections ~~1331~~ 1333 and 1342, tags issued under section 1342 and other costs associated with administration and enforcement of this chapter and chapter 202-A.

Sec. 6. 7 MRSA §1333 is enacted to read:

§1333. Propagation and possession of cervids

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

A. "Cervid" means a member of the cervidae family and hybrids, including deer, elk, caribou, reindeer and related species specified by the commissioner by rule with the written concurrence of the Commissioner of Inland Fisheries and Wildlife.

B. "Discrepancy" means an instance in which a holder of a license under subsection 3 has failed to comply with a requirement under this Part.

2. License. The commissioner may issue a license for the propagation, possession, purchase or sale of cervids. A holder of a license issued pursuant to this subsection may raise cervids at any season of the year. The fee for a license is \$20 a year. Except as provided in section 1346, a license fee must be

deposited in the Animal Industry Fund established in section 1332.

3. Inspection. The commissioner or commissioner's designee shall conduct an inspection of an applicant's premises before the initial issuance or renewal of a license under subsection 3 or at any time during the pendency of a license under subsection 3 if the department believes the license holder is not in compliance with the provisions of this Part.

4. Renewal. If an inspection for a renewal of a license under subsection 3 reveals a discrepancy, the inspector shall note the discrepancy on an inspection form. The commissioner may issue a temporary license under subsection 3 and give the license holder a reasonable amount of time to correct the discrepancy. Upon a subsequent inspection of the premises of a temporary license holder under this subsection, the commissioner shall renew the license under subsection 3 if the license holder has corrected all of the discrepancies noted on the inspection form from the prior inspection.

5. Penalties. Any person engaged in the business of propagating, possessing, buying or selling cervids without a license under subsection 3 commits a civil violation for which a fine not to exceed \$100 per day for each violation may be adjudged, except that the total of the fines may not exceed \$25,000.

6. Records. A holder of a license issued pursuant to subsection 3 shall maintain records that include the date and location of birth and the date of death or departure of each cervid in the license holder's herd.

7. Revocation. A license issued under this chapter may be suspended or revoked in a manner consistent with Title 5, chapter 375, subchapter 5 for a violation of this chapter. Upon revocation, a similar license may not be reissued to that person for a minimum of 5 years.

8. Rules. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, may adopt rules necessary for the administration of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 7 MRSA §1341, sub-§4, as enacted by PL 1999, c. 765, §3, is repealed.

Sec. 8. 7 MRSA §1341, sub-§4-A is enacted to read:

4-A. Domesticated cervid. "Domesticated cervid" means a member of the cervidae family and hybrids, including deer, elk, caribou, reindeer and related species.

Sec. 9. 7 MRSA §1341, sub-§5, as enacted by PL 1999, c. 765, §3, is amended to read:

5. Large game. "Large game" means domesticated ~~deer~~ cervids, domesticated boar and domesticated bison.

Sec. 10. 7 MRSA §1342, sub-§§2 and 3, as enacted by PL 1999, c. 765, §3, are amended to read:

2. Land and facility requirements. To qualify for a license under this section, an applicant must demonstrate that the shooting area meets the following.

A. Each shooting zone in which ~~large game of the deer family~~ domesticated cervids are enclosed is a minimum of 50 acres.

B. Each shooting zone in which large game other than ~~that of the deer family~~ domesticated cervids are enclosed is a minimum of 200 acres.

C. The total area of land enclosed for operation as a commercial large game shooting area does not exceed 400 acres.

D. A shooting zone is encompassed by fencing or other barriers sufficient to contain the species of large game contained in that shooting area.

E. The applicant owns or leases all of the land to be used as a commercial large game shooting area.

3. Fees. The annual fee for a commercial large game shooting area is \$1,000, except that the annual fee for a commercial large game shooting area is \$500 for an operation that is licensed to possess ~~deer~~ domesticated cervids under chapter 202 and harvests only ~~deer~~ domesticated cervids raised on that farm. Except as provided in section 1346, all fees paid for a license issued under this section must be deposited in the Animal Industry Fund established under section 1332.

Sec. 11. 7 MRSA §1346, as enacted by PL 1999, c. 765, §3, is amended to read:

§1346. License fees deposited in General Fund

Notwithstanding ~~section 1331, subsection 2, section 1332, section 1333, subsection 3~~ and section 1342, subsections 3 and 4, the first \$1,120 collected each year under those sections for license fees for ~~deer~~ domesticated cervid farms and commercial large game shooting areas and transport tag fees must be deposited in the General Fund.

Sec. 12. 7 MRSA §1452, as repealed and replaced by PL 2001, c. 572, §14, is amended to read:

§1452. Definitions

As used in this chapter, unless the context otherwise indicates, "auction" means the offering of cattle, sheep, swine, goats, equines, domesticated ~~cervidae~~ cervids, poultry and other animals raised for food or fiber for sale by means of exchanges between an auctioneer and bidders.

Sec. 13. 7 MRSA §1751, sub-§2, as amended by PL 2001, c. 572, §23, is further amended to read:

2. Domestic animals. "Domestic animals" means cattle, equines, goats, sheep, swine, cats, dogs, domesticated ~~cervidae~~ cervids or other domesticated animals; large game as defined in section 1341, subsection 5; and poultry.

Sec. 14. 7 MRSA §1752, as amended by PL 2001, c. 572, §25, is further amended to read:

§1752. Rules

The commissioner shall, ~~in a manner consistent with the Maine Administrative Procedure Act, adopt rules that, in the commissioner's judgment, are necessary for the enforcement of chapters 201, 202, 202-A, 207, 301, 303 and 305. These rules have the force and effect of law, so far as the same are not inconsistent with the laws of this State or of the United States.~~ Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 15. 7 MRSA §1808-A, first ¶, as enacted by PL 2001, c. 308, §1, is amended to read:

A veterinarian licensed in this State may sell rabies vaccine to a person who owns cattle, sheep, goats or ~~domesticated deer~~ cervids as defined in section ~~1331~~ 1333. A veterinarian who sells rabies vaccine in accordance with this section is not, as a result of selling the vaccine, liable for claims arising from the administration of the vaccine by the purchaser.

Sec. 16. 7 MRSA §1820-A, sub-§2, ¶A, as enacted by PL 2001, c. 572, §49, is amended to read:

A. Require a negative Coggins test, taken within 36 months, on all equines raced on, exhibited at or stabled at racetracks or fairgrounds. The commissioner shall require a negative test from all equines entering this State within ~~6~~ 12 months before the date of entry and may require any equines to be tested prior to entering the State. Any equine not tested or required by the commissioner to be tested prior to entering this State must be quarantined until tested at the owner's expense;

Sec. 17. 7 MRSA §1821, as enacted by PL 1999, c. 765, §8, is amended to read:

§1821. Maine chronic wasting disease surveillance program

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

A. "Chronic wasting disease" means any ~~form of transmissible spongiform encephalopathy member of the family of transmissible spongiform encephalopathies to which cervids, as defined in section 1333, are susceptible.~~

B. "Susceptible animal" means any animal, whether domestic or wild, belonging to a species that is capable or believed to be capable of contracting chronic wasting disease.

2. Powers of commissioner. The commissioner may prohibit the importation of ~~any a~~ susceptible animal from a region, state or country where ~~infection by~~ chronic wasting disease has been ~~documented confirmed.~~

3. Prevention of chronic wasting disease. The commissioner shall monitor reports of ~~infection by confirmed cases of~~ chronic wasting disease and ~~communicate the contents of those reports to people involved in the production, care or management of susceptible animals. The commissioner shall monitor progress in developing the development of~~ diagnostic tests and vaccinations for the disease and ~~communicate the availability of tests and vaccines to people involved in the production, care or management of susceptible animals. The commissioner shall develop a program to prevent, so far as possible, the introduction of chronic wasting disease in the State.~~

4. Maine chronic wasting disease surveillance program; rules. The commissioner shall develop a chronic wasting disease surveillance program. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall adopt rules to ~~establish the requirements for participation in the program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 18. 22 MRSA §2511, sub-§13, as enacted by PL 1999, c. 771, §1, is amended to read:

13. Domesticated deer. "Domesticated deer" means fallow deer, family Cervidae, subfamily Cervinae, genus Dama; red deer, family Cervidae, subfamily Cervinae, genus Cervus, species Elaphus; and any other species specified under Title 7, section ~~1331, subsection 1-A~~ 1333, subsection 1 kept as

domestic animals for ~~the purpose of either~~ breeding stock or for sale as food.

Sec. 19. 22 MRSA §2823-B, sub-§6, as enacted by PL 2001, c. 308, §2, is amended to read:

6. Lawful possession of hypodermic apparatuses by livestock owners. A person who owns livestock is authorized to possess and have control of hypodermic apparatuses for the purpose of administering antibiotics, vitamins and vaccines to treat medical conditions or promote the health of that person's livestock. For the purposes of this subsection, "livestock" means cattle, equines, sheep, goats, swine, ~~llamas~~ members of the genus Lama, poultry, rabbits and ~~domesticated deer cervids~~ as defined in Title 7, section ~~1331~~ 1333, subsection 1.

Sec. 20. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Animal Health and Industry 0394

Initiative: Provides initial allocations for the Cattle Health Assurance Program Fund.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$500	\$500
Other Special Revenue		
Funds Total	\$500	\$500

See title page for effective date.

CHAPTER 387

S.P. 501 - L.D. 1501

An Act To Amend the Laws Relating to the Maine State Retirement System

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

Sec. 1. 4 MRSA §1201, sub-§7, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

7. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for ~~All Urban Wage Earners and Clerical Workers: United States City Average, All items, 1967=100 Consumers, CPI-U~~, as compiled by the United States Department of Labor, Bureau of Labor Statistics; or, if the index is revised or superseded, the board shall employ the Consumer Price Index shall be the index represented compiled by the Bureau of Labor Statistics as