

# 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**

B-1. At the following places, the area within 75 feet of the mouth of the fishway is closed to fishing at all times:

- (1) East Grand Lake Dam in Forest City Township, T9 R4 NBPP; and
- (2) Spednic Lake Dam in Vanceboro;

C. At the so-called ice control dam on the Naraguagus River in the Town of Cherryfield, the area within 100 feet of the dam must be closed to fishing at all times;

D. At East Outlet Dam in Sapling Township (T1R7) in Somerset County and in Big Squaw Township (T2R6) in Piscataquis County at the outlet of Moosehead Lake, the fishway and the area within 50 feet of any part of the fishway must be closed to fishing at all times; and

E. There is no fishing in or from the fishway at the Sheepscot Lake Dam in the Town of Palermo in Waldo County.

**Sec. 26. 12 MRSA §7606, sub-§1-A**, as amended by PL 1989, c. 618, §1 and affected by §2, is further amended to read:

**1-A. Sale of bait or baitfish in biodegradable worm containers.** A person who sells bait or baitfish shall ~~not~~ provide or sell the bait or baitfish in containers that are composed ~~in whole or in part of polystyrene foam plastic~~ of biodegradable paper or cardboard.

**Sec. 27. 12 MRSA §7801, sub-§35, ¶A**, as amended by PL 1999, c. 697, §3, is further amended to read:

A. Mud Pond, Oversett Pond, South Pond, Round Pond, Twitchell Pond, Hicks Pond, Indian Pond or Furlong Pond in the Town of Greenwood in Oxford County;

**Sec. 28. 12 MRSA §7827, sub-§§5 and 6**, as enacted by PL 1979, c. 420, §1, are amended to read:

**5. Failing to stop a snowmobile before entering a public way.** A person is guilty of failing to stop a snowmobile before entering a public way or a private way maintained for travel if ~~he that person~~ fails to bring a snowmobile to a complete stop before entering a public way or a private way maintained for travel.

**6. Failing to yield right-of-way while operating a snowmobile.** A person is guilty of failing to yield the right-of-way while operating a snowmobile if ~~he that person~~ fails to yield the right-of-way to all vehicular traffic while operating a snowmobile on a public way or a private way maintained for travel.

**Sec. 29. 12 MRSA §7827, sub-§10, ¶A**, as enacted by PL 1997, c. 432, §53, is amended to read:

A. A person may not operate a snowmobile ~~on the statewide snowmobile trail system or a public right-of-way that is open to snowmobiling~~ except at a reasonable and prudent speed for the existing conditions, including when approaching and crossing an intersection or railway grade crossing, when approaching and taking a curve, when approaching a hill crest, when traveling upon any narrow or winding trail and when a special hazard exists with respect to pedestrians, skiers or other traffic by reason of weather or trail conditions.

**Sec. 30. 12 MRSA §7827, sub-§21**, as enacted by PL 1979, c. 420, §1, is amended to read:

**21. Unlawfully permitting operation.** A person is guilty of unlawfully permitting operation of a snowmobile if ~~he that person~~ owns a snowmobile ~~and knowingly permits it to be operated~~ that is operated by another person in violation of any section of this subchapter. A person is guilty of unlawfully permitting operation of a snowmobile if that person is the parent or guardian responsible for the care of a minor under 18 years of age who operates a snowmobile in violation of this subchapter.

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

Effective June 3, 2003.

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## CHAPTER 404

H.P. 1106 - L.D. 1513

### An Act To Update the Department of Defense, Veterans and Emergency Management Laws

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

**Sec. 1. 5 MRSA §17652, sub-§4** is enacted to read:

**4. Certain members of the Maine National Guard.** A member of the Maine National Guard who is not governed by section 17651 and who is on active state service for more than 15 consecutive days pursuant to Title 37-B may elect to be a member of the Maine State Retirement System. A member of the Maine National Guard on active state service pursuant to Title 37-B who does not elect to participate in the Maine State Retirement System or is not eligible to participate in the Maine State Retirement System shall

participate in the United States Social Security System. Once a member of the Maine National Guard makes an election under this subsection, that election is irrevocable. A member of the Maine National Guard on active state service pursuant to Title 37-B may participate in the tax-deferred arrangement of chapter 67.

**Sec. 2. 37-B MRSA §3, sub-§1, ¶D**, as amended by PL 2001, c. 662, §14, is further amended by amending subparagraph (15) to read:

(15) The Adjutant General may receive personal property from the United States Department of Defense that the Secretary of Defense has determined is suitable for use by agencies in law enforcement activities, including counter-drug activities, and in excess of the needs of the Department of Defense pursuant to 10 United States Code, Section 2576a, and transfer ownership of that personal property to state, county and municipal law enforcement agencies notwithstanding any other provision of law. The Adjutant General may receive excess personal property from the United States Department of Defense for use by the department, notwithstanding any other provision of law.

**Sec. 3. 37-B MRSA §264, sub-§3, ¶H**, as amended by PL 2001, c. 662, §28, is further amended to read:

H. The Caribou Armory, located at 55 Bennett Drive, Caribou, for market value but not including the organizational maintenance shop, known as OMS5, nor the metal storage building; and

**Sec. 4. 37-B MRSA §264, sub-§3, ¶I**, as enacted by PL 2001, c. 662, §29, is amended to read:

I. The Fort Fairfield Armory located at 25 Columbia Street, Fort Fairfield; and

**Sec. 5. 37-B MRSA §264, sub-§3, ¶J** is enacted to read:

J. The Saco Armory located at 75 Franklin Street, Saco, Maine, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory.

**Sec. 6. 37-B MRSA §389**, as enacted by PL 2001, c. 662, §40, is repealed and the following enacted in its place:

**§389. Stay of proceeding for military members**

**1. Stay of proceeding.** A member of the National Guard or the Reserves of the United States Armed Forces may at any stage of any action or proceeding in any court or administrative hearing in which the member is involved, either as plaintiff, defendant or attorney, during the period of any military service or within 60 days after any military service, at the discretion of the court, case management officer or administrative hearing officer, by the member's own motion or motion of the court, case management officer or administrative hearing officer, be stayed unless, in the opinion of the court, case management officer or the administrative hearing officer, the ability of the plaintiff to prosecute the action, the defendant to conduct the defendant's defense or the attorney to represent either party is not materially affected by reason of the member's military service.

**2. Appearance.** An application for a stay of a court or administrative proceeding pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, 50 United States Code, as amended, or this section does not constitute an appearance for any purpose.

**Sec. 7. 37-B MRSA §509** is enacted to read:

**§509. Confidentiality of military service records**

**1. Certificate of release.** A certificate of release or discharge from active duty issued by the United States Government and filed for safekeeping with any state, county or local government authority is confidential for a period of 75 years following its filing. During that 75-year period, it is unlawful for a person to permit inspection of the record, to disclose information contained in the record or to issue a copy of all or any part of the record except as authorized by this section or by court order.

**2. Identification.** Upon presentation of proper identification, any of the following persons may examine a record filed pursuant to this section and obtain free of charge a copy or certified copy of all or part of the record:

A. The person who is the subject of the record;

B. The spouse or next of kin of the person who is the subject of the record;

C. A person named in an appropriate power of attorney executed by the person who is the subject of the record;

D. The administrator, executor, guardian or legal representative of the person who is the subject of the record;

E. An attorney for any person specified in paragraphs A to D of this subsection; or

F. A civilian employee or military member of the department when in the conduct of official duties.

**3. Records.** Records kept pursuant to this section may not be reproduced or used in whole or in part for any commercial or speculative purposes.

**4. Disclose.** An individual, agency or court that obtains information pursuant to this section may not disseminate or disclose the information or any part of this information except as authorized in this section or otherwise by law.

**Sec. 8. 37-B MRSA §744, sub-§1, ¶C,** as amended by PL 2001, c. 662, §79, is further amended to read:

C. Notwithstanding any other provision of law or regulation, make financial grants to meet necessary expenses or serious needs of individuals or families caused by the disaster that cannot otherwise adequately be met. A grant to an individual or family may not exceed in the aggregate for any single major disaster declared by the President the amount established by the Federal Government for the limit on grants to individuals under ~~the individual and family grant program~~ any federal disaster assistance program for individuals and families.

**Sec. 9. 37-B MRSA §744, sub-§4, ¶A,** as enacted by PL 1983, c. 460, §3, is amended to read:

A. Whenever the Governor has declared a disaster emergency to exist under the laws of this State, or the President has declared a major disaster or emergency to exist in this State, the Governor may:

(1) Notwithstanding any other provision of law, through the use of state departments or agencies or the use of any of the state's instrumentalities, clear or remove from publicly-owned or privately-owned land or water, debris and wreckage ~~which~~ that may threaten public health or safety, or public or private property; ~~and~~

(2) Accept funds from the Federal Government and utilize those funds to make grants to any local government for the purpose of removing debris or wreckage from publicly-owned or privately-owned land or water; ~~and~~

(3) Notwithstanding any other provision of law, agree to indemnify the Federal Government against any claim arising from debris and wreckage removal from private property.

**Sec. 10. 37-B MRSA §783, first ¶,** as amended by PL 2001, c. 614, §15 and c. 662, §84, is repealed and the following enacted in its place:

Each municipality, county and regional emergency management agency shall prepare and keep a current disaster emergency plan for the area subject to its jurisdiction. That plan must include, without limitation:

**Sec. 11. 37-B MRSA §1131, sub-§2, ¶A,** as enacted by PL 2001, c. 662, §99, is amended to read:

A. ~~The Adjutant General or the Adjutant General's~~ Director of the Maine Emergency Management Agency or the director's designee;

**Sec. 12. 37-B MRSA §1131, sub-§2, ¶¶J to L,** as enacted by PL 2001, c. 662, §99, are amended to read:

J. ~~The Meteorologist~~ Meteorologists-in-Charge of the National Weather Service Forecast Office ~~in Gray this State~~ or the designee of the ~~Meteorologist~~ Meteorologists-in-Charge;

K. Representatives from private commerce and industry, including, but not limited to, the major hydroelectric power generators, as determined by the cochairs of the commission; ~~and~~

L. A representative of the public, appointed by the Governor; ~~;~~

**Sec. 13. 37-B MRSA §1131, sub-§2, ¶¶M and N** are enacted to read:

M. The Commissioner of Human Services or the commissioner's designee; and

N. The director of the Senator George J. Mitchell Center for Environmental and Watershed Research at the University of Maine, or the director's designee.

**Sec. 14. 37-B MRSA §1131, sub-§§3 and 4,** as enacted by PL 2001, c. 662, §99, are amended to read:

**3. Chair.** The District Chief of the United States Geological Survey Water Resources Division Maine District Office and the ~~Adjutant General or the Adjutant General's~~ Director of the Maine Emergency Management Agency or the director's designee shall act as cochairs of the commission.

**4. Terms of office.** The term of office of the public member is 5 years. The public member may be removed from office for cause by the Governor. Members from the State Government or Federal Government shall serve a term coincident with their governmental position. ~~The term of a representative~~

~~from the major hydroelectric power generators is 5 years. Members from private commerce and industry serve a term as determined by the respective entities that they represent.~~

**Sec. 15. National Guard Armory.** The Department of Defense, Veterans and Emergency Management shall name the National Guard Armory located in Caribou the Nelson J. Solman Armory.

**Sec. 16. Rescind rules.** The rules adopted by the Maine Veterans' Services entitled "Chapter 1: Veterans Financial Assistance" may be rescinded without public comment or further approval of the Legislature.

See title page for effective date.

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## CHAPTER 405

S.P. 520 - L.D. 1545

### An Act To Amend the Animal Welfare Laws

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

**Sec. 1. 7 MRSA §3906-B, sub-§9,** as amended by PL 1995, c. 502, Pt. C, §11, is further amended to read:

**9. Employees.** ~~The commissioner shall employ personnel, subject to the Civil Service Law, as necessary to assist in enforcing this Part and in carrying out the duties and responsibilities of the department. The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, one full-time humane agent necessary employees to assist the commissioner in enforcing this Part and in carrying out the commissioner's duties and responsibilities. The commissioner shall conduct a background check of a potential employee.~~ The commissioner may not hire as a state humane agent a person who has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739.

**Sec. 2. 7 MRSA §3906-B, sub-§9-A** is enacted to read:

**9-A. Humane agents.** The commissioner shall assign a humane agent to each of the following areas of specialization:

- A. Blood sports;
- B. Exotic animals;
- C. Large animals;

D. Mental health and domestic violence;

E. Small animals; and

F. Training for humane agents.

**Sec. 3. 7 MRSA §3906-B, sub-§16** is enacted to read:

**16. Animal welfare auxiliary fund.** The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants and matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

**Sec. 4. 7 MRSA §3906-C, sub-§1,** as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

**1. Membership.** The council consists of ~~11~~ 12 members appointed by the Governor as follows:

- A. One member representing municipal interests;
- B. One animal control officer;
- C. One member representing licensed animal shelters;
- D. One member representing licensed boarding or breeding kennels;
- E. One member representing licensed pet shops;
- G. One member who is or has been a veterinarian licensed to practice in the State;
- H. One member who represents the interests of the public in animal welfare, generally;
- I. One attorney with experience in animal welfare law;
- J. One cooperative extension agent or specialist;
- K. One member with expertise in equine care; ~~and~~
- L. One member with expertise in livestock representing a statewide farming organization; and