

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

Penmor Lithographers
Lewiston, Maine
2003

employed to be in the other's custody, but in other respects to be and continue subject to the commitment.

~~This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.~~

Sec. 8. 30-A MRSA §1605, sub-§7-A, as enacted by PL 2001, c. 171, §8, is repealed.

Sec. 9. 30-A MRSA §1606, sub-§1-A, as enacted by PL 2001, c. 171, §9, is repealed.

Sec. 10. 30-A MRSA §1659, sub-§1, as amended by PL 2001, c. 171, §11, is further amended to read:

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a home-release monitoring program and recommended by the jail administrator, may electronically monitor or intensively supervise and to release the inmate to participate in a home-release monitoring program established in that county. Prior to releasing an inmate for participation in a home-release monitoring program, the sheriff shall provide to the court in which the inmate was sentenced notice of the release. The court in which the inmate was sentenced may withdraw the privilege of home release at any time by order entered with or without notice of hearing. Prior to issuing an order withdrawing the privilege, the court must provide an opportunity for the sheriff to provide comment. At the time of granting the privilege, the sheriff shall determine whether the inmate is responsible for the cost of participating in the home-release program based on the inmate's ability to pay.

~~This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.~~

Sec. 11. 30-A MRSA §1659, sub-§1-A, as enacted by PL 2001, c. 171, §12, is repealed.

Sec. 12. 30-A MRSA §1659, sub-§3, ¶I, as amended by PL 2001, c. 171, §13, is further amended to read:

I. As a condition of participation of an inmate in a home-release program, the sheriff shall require the inmate to pay a fee, as determined by the sheriff, including an electronic monitoring fee, if applicable, a substance testing fee or both, unless the sheriff determines that the inmate does not have the financial resources to pay these fees. The fee charged may include the costs associated with a home-release program for people who do not have the financial resources to pay the fees.

~~This paragraph is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.~~

Sec. 13. 30-A MRSA §1659, sub-§3, ¶I-1, as enacted by PL 2001, c. 171, §14, is repealed.

See title page for effective date.

CHAPTER 414

S.P. 553 - L.D. 1600

An Act To Recodify the Laws Governing Inland Fisheries and Wildlife

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

PART A

Sec. A-1. 12 MRSA Pt. 10, as amended, is repealed.

Sec. A-2. 12 MRSA Pt. 13 is enacted to read:

PART 13

INLAND FISHERIES AND WILDLIFE

SUBPART 1

GENERAL DEFINITIONS

CHAPTER 901

DEFINITIONS

§10001. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. Aircraft. "Aircraft" means a machine or device designed for flight.

2. Alien. "Alien" means a person who is not a citizen of the United States.

3. Antlerless moose. "Antlerless moose" means a moose without antlers or a moose with antlers that are shorter than its ears.

4. Artificial lure. "Artificial lure" means a fishing lure constructed by humans as an imitation of or substitute for natural bait or fish forage. "Artificial lure" includes, but is not limited to, artificial flies, spinners, spoons, poppers, plugs, jigs and plastic, rubber or other artificial imitations of natural bait.

5. Atlantic salmon. "Atlantic salmon" means the anadromous fish species *Salmo salar* that customarily migrates from inland waters to the ocean as part of its life cycle. This definition also applies to chapter 811.

6. Baitfish. "Baitfish" means only those species in the following list:

- A. Lake chub, (*Couesius plumbeus*);
- B. Eastern silvery minnow, (*Hybognathus regius*);
- C. Golden shiner, (*Notemigonus crysoleucas*);
- D. Emerald shiner, (*Notropis atherinoides*);
- E. Bridle shiner, (*Notropis bifrenatus*);
- F. Common shiner, (*Luxilus cornutus*);
- G. Blacknose shiner, (*Notropis heterolepis*);
- H. Spottail shiner, (*Notropis hudsonius*);
- I. Northern redbelly dace, (*Phoxinus eos*);
- J. Finescale dace, (*Phoxinus neogaeus*);
- K. Fathead minnow, (*Pimephales promelas*);
- L. Blacknose dace, (*Rhinichthys atratulus*);
- M. Longnose dace, (*Rhinichthys cataractae*);
- N. Creek chub, (*Semotilus atromaculatus*);
- O. Fallfish, (*Semotilus corporalis*);
- P. Pearl dace, (*Margariscus margarita*);
- Q. Banded killifish, (*Fundulus diaphanus*);
- R. Mummichog, (*Fundulus heteroclitus*);
- S. Longnose sucker, (*Catostomus catostomus*);
- T. White sucker, (*Catostomus commersoni*);
- U. Creek chubsucker, (*Erimyzon oblongus*);
- V. American eel, (*Anquilla rostrata*); and
- W. Blackchin shiner, (*Notropis heterodon*).

7. Baitfish trap. "Baitfish trap" means a device used to take baitfish fitted with rigid entrance or exit holes and having a volume no greater than 50 cubic feet.

8. Bear bait. "Bear bait" means an animal or plant or derivative of an animal or plant used to attract bear. "Bear bait" does not include packaging or

container materials that fall within the definition of litter under Title 17, section 2263.

9. Boundary waters between Maine and New Brunswick. "Boundary waters between Maine and New Brunswick" means:

A. In Aroostook County: St. Francis River; Glacier Lake; St. John River; Monument Brook; North Lake; the thoroughfare between North Lake and East Grand Lake; and East Grand Lake; and

B. In Washington County: East Grand Lake; Mud Lake; St. Croix River; Spednic Lake and Grand Falls flowage.

10. Closed season. "Closed season" means the time during which it is unlawful to hunt, trap or possess any wild animal or wild bird or to fish for or possess fish.

11. Commissioner. "Commissioner" means the Commissioner of Inland Fisheries and Wildlife.

12. Department. "Department" means the Department of Inland Fisheries and Wildlife.

13. Domicile. "Domicile" means the place where a person's true, fixed and permanent home is located.

14. Drive deer or moose. To "drive deer or moose" means an organized or planned effort to pursue, drive, chase or otherwise frighten or cause a deer or moose to move in the direction of a person who is part of the organized or planned hunt and known to be waiting for the deer or moose.

15. Drowning set. "Drowning set" means a trap set for wild animals that is:

A. Set completely underwater; and

B. Rigged in such a way as to reasonably ensure the drowning of any species of trapped furbearer that would reasonably be expected to visit the set location and be held in the type of trap used at the set.

16. Eel. "Eel" means a member of the species *Anguilla rostrata* in that stage of its life cycle when it is 6 inches or more in length.

17. Eel pot. "Eel pot" means a cylindrical or rectangular trap with funnels that is baited and used to harvest eels. An eel pot is 50 cubic feet or less in total volume and utilizes wire or slatting no smaller than 1/2 inch square measure.

18. Elver. "Elver" means a member of the species *Anguilla rostrata* in that stage of its life cycle when it is less than 6 inches in length.

19. Endangered species. "Endangered species" means a species of fish or wildlife that has been determined by the commissioner to be in danger of extinction throughout all or a significant portion of its range and that is listed as a state endangered species under section 12803, subsection 3.

20. Exotic. "Exotic" means of foreign nature or character, not native, introduced from abroad, and not fully naturalized or acclimatized.

21. Firearm. "Firearm" means any instrument used in the propulsion of pellets, shot, shells or bullets by action of gunpowder, compressed air or gas exploded or released within it.

A. "Autoloading firearm" means a firearm that reloads itself after each shot and requires that the trigger be pulled for each shot.

B. "Automatic firearm" means a firearm that will continue to fire as long as the trigger is held back.

22. Fish, the noun. "Fish" means a cold-blooded, completely aquatic vertebrate characteristically having gills, fins and an elongated streamlined body usually covered with scales, and includes any physical part of a fish. The term refers to fish living predominantly in inland waters, and anadromous and catadromous fish while in inland waters. Whenever the name of a fish, such as "bass" or "trout," is used, it means the named fish or any of its physical parts.

23. Fish, the verb. To "fish" means to take, catch, kill, molest or destroy fish or to attempt to take, catch, kill, molest or destroy fish.

24. Fishing derby. "Fishing derby" means an organized fishing event conducted on inland waters during which contestants compete for cash awards or other prizes.

25. Fishway. "Fishway" means an artificial device, including fish elevators, fish locks and fish ladders, used to enable fish to migrate upstream past dams, waterfalls, rapids or other obstacles.

26. Fly. "Fly" means a single, pointed hook dressed with feathers, hair, thread, tinsel or any similar material to which no additional hook, spinner, spoon or similar device is added.

27. Fly-fishing. "Fly-fishing" means casting upon water and retrieving in a manner in which the weight of the fly line propels the fly. No more than 3

unbaited artificial flies individually attached to a line may be used.

28. Guide. "Guide" means a person who receives any form of remuneration for that person's services in accompanying or assisting a person in the fields, forests or on the waters or ice within the jurisdiction of the State while hunting, fishing, trapping, boating, snowmobiling or camping at a primitive camping area.

29. Harass. "Harass" means an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns.

30. Hook. "Hook" means a single fishhook constructed with one, 2 or 3 points.

31. Hunt. To "hunt" means to pursue, catch, take, kill or harvest wild animals or wild birds or to attempt to catch, take, kill or harvest wild animals or wild birds.

32. Hunter orange. "Hunter orange" means a daylight fluorescent orange color with a dominant wave length between 595 and 605 nanometers, excitation purity not less than 85% and luminance factor of not less than 40%.

33. Hunting equipment. "Hunting equipment" means:

A. Firearms of any type that are permitted under the laws governing hunting, including muzzle-loading firearms; or

B. Archery equipment that is permitted under the hunting laws governing archery, including, but not limited to, recurved bows and compound bows.

34. Ice-fishing shack. "Ice-fishing shack" means a temporary structure used for ice fishing on frozen inland waters.

35. Inland waters. "Inland waters" means all waters within the State above the rise and fall of the tide and wholly or partially within the territorial limits of the State, except private ponds as defined in subsection 51.

36. Jacklight. "Jacklight" means any artificial light used while hunting, except lights used and permitted under rules regarding raccoons under the authority of section 10104, subsection 1.

37. Landlocked salmon. "Landlocked salmon" means the subspecies *Salmo salar* Sebago that does not customarily migrate from inland waters to the ocean as part of its life cycle.

38. Merrymeeting Bay. "Merrymeeting Bay" means the waters of the Kennebec River bounded as follows: from the high-tension wires at Chop's Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset and Eastern Rivers and to the Richmond-Dresden Bridge on the Kennebec River, in the counties of Cumberland, Sagadahoc and Lincoln.

39. Migratory game bird. "Migratory game bird" means any of the following birds:

A. Anatidae, or waterfowl, including brant, wild ducks, geese and swans;

B. Columbidae, or pigeons, including doves and wild pigeons;

C. Gruidae, or cranes, including little brown, sandhill and whooping cranes;

D. Limicolae, or shorebirds, including avocets, curlews, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs; and

E. Rallidae, or rails, including coots, gallinules and sora or other rails.

40. Migratory waterfowl. "Migratory waterfowl" means anatidae, or waterfowl, including brant, wild ducks, geese and swans.

41. Motor vehicle. "Motor vehicle" means any motor-driven vehicle, except motorboats.

42. Muzzle-loading firearm. "Muzzle-loading firearm" means a rifled or smooth-bored firearm that is:

A. Forty caliber or greater;

B. Capable of firing only a single charge;

C. Loaded through the muzzle with powder and a ball or bullet; and

D. Ignited by a percussion cap or priming charge of a flint, match or wheel lock mechanism.

43. Nonresident. "Nonresident" means a person who does not fall within the definition of resident in subsection 53.

44. Open firearm season on deer. "Open firearm season on deer" means the time during which it is lawful to hunt deer with a firearm, including the special muzzle-loading season as described in section 11404.

45. Open season. "Open season" means the time during which it is lawful to hunt, trap or possess wild animals and wild birds and to fish for or possess any fish, as specified and limited by law or rule.

46. Organization. "Organization" means a corporation, partnership or unincorporated association.

47. Paved way. "Paved way" means a public road treated with bituminous or concrete material.

48. Person. "Person" means a human being or an organization.

49. Premises. "Premises" includes lands, private ways and any buildings and structures located on the lands or private ways.

50. Primitive camping area. "Primitive camping area" means a camping location that does not have access to a water supply that is approved by the Department of Human Services.

51. Private pond. "Private pond" means an artificially constructed pond impounded within the limits of the riparian owner, even though the water is not supplied directly from a brook, stream or river. "Private pond" does not include a natural pond or lake having a surface area of more than 10 acres.

52. Raptor. "Raptor" means a bird of the order Strigiformes and of the families Accipitridae and Falconidae commonly called buteos, accipiters, falcons and owls.

53. Resident. "Resident" means a citizen of the United States who has been domiciled in this State continuously during the 3 months next prior to the date on which the person applies for any license or permit under this Part, or an alien who has been so domiciled for one year. A person may not be considered a resident if the person has not:

A. If registered to vote, registered in this State;

B. If licensed to drive a motor vehicle, made application for a motor vehicle operator's license issued by the State;

C. If owning a motor vehicle located within the State, registered each such vehicle in the State; and

D. Complied with the state income tax laws.

A person who is a full-time student at a college or university in the State, who has resided in the State continuously for 3 months and has satisfied the requirements of paragraphs A to D is rebuttably presumed to have been domiciled in the State during that period.

54. Salmon. The word "salmon" standing alone without other identification means "landlocked salmon."

55. Seine. "Seine" means an ordinary commercial-type minnow seine, not exceeding 1,200 square feet, used vertically to enclose baitfish when its ends are brought together or drawn ashore.

56. Set line. "Set line" means a line extending into the water and rigged to catch fish that has one end secured to the shore or to a fixed or buoyant object and that is not personally attended.

57. Single-baited hook. "Single-baited hook" means a single baited apparatus designed to catch only one fish at a time.

58. Snagging. "Snagging" means to fish by manipulating a hook or hooks in such a manner as to pierce or snag the fish in a part of the body other than the mouth.

59. Sporting dogs. "Sporting dogs" means sporting dogs as defined by the American Kennel Club, including pointers, retrievers, setters, spaniels, Vizslas, Weimaraners and wirehaired pointing griffons.

60. Sunrise. "Sunrise" means the time computed and established for sunrise for Augusta, Maine, by the Nautical Almanac Office of the United States Naval Observatory, converted to the legal standard of time in force in this State on that day.

61. Sunset. "Sunset" means the time computed and established for sunset for Augusta, Maine, by the Nautical Almanac Office of the United States Naval Observatory, converted to the legal standard of time in force in this State on that day.

62. Threatened species. "Threatened species" means a species of fish or wildlife that has been determined by the commissioner as likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 12803, subsection 3.

63. Trap, the noun. "Trap" means a device that is designed primarily to catch or hold wild animals, including, but not limited to, a foothold trap, a killer-type trap, a cage-type trap or a snare.

64. Trap, the verb. To "trap" means to set, place or tend a trap within the fields, forests or waters of the State, to kill an animal that is caught in a trap or to aid or assist another person in setting or placing a trap, tending a trap or killing an animal that is caught in a trap.

65. Trap net. "Trap net" means a funnel-shaped net designed to intercept and retain fish in a confined space.

66. Tributary. "Tributary" means a brook, stream or river flowing directly or indirectly into a lake, pond or another brook, stream or river. "Tributary" does not include a lake or great pond. The tributary to a great pond is not considered a tributary to the outlet of that great pond.

67. Troll. "Troll" means to fish by trailing a line rigged to catch fish behind a watercraft being propelled by mechanical, wind or manual power.

68. Weir. "Weir" means a device placed in the inland waters of a river, stream or brook that is designed to entrap fish and that exceeds more than 1/3 of the wetted width of the channel.

69. Wild animal. "Wild animal" means a species of mammal, wild by nature, whether or not bred or reared in captivity, as distinguished from the common domestic animals, and includes any physical part of that species of animal. Whenever the name of a wild animal, such as "deer" or "bear," is used, it means the named wild animal or any of its physical parts.

70. Wild bird. "Wild bird" means a species of bird wild by nature, whether or not bred or reared in captivity, as distinguished from common domestic birds, and includes any physical part of that species of bird. Whenever the name of a wild bird, such as "pheasant" or "eagle," is used, it means the named wild bird or any of its physical parts.

71. Wildlife. "Wildlife" means any species of the animal kingdom, except fish, that is wild by nature, whether or not bred or reared in captivity, and includes any part, egg or offspring of the animal, or the dead body or parts of the animal. "Wildlife" includes wild animals and wild birds.

72. Wildlife exhibit. "Wildlife exhibit" means a place where wildlife is kept in captivity, either in an enclosure or by tether, upon any street or highway or upon land, public or private, for the evident purpose of exhibition or attracting trade. The term "wildlife exhibit" does not include the showing of an animal in connection with a theatrical exhibition, circus or agricultural fair.

73. Wildlife management. "Wildlife management" means the art or science of producing wild animals and birds and of improving wildlife conditions in the State. It may specifically include:

A. Regulation of hunting and trapping;

- B. Environmental controls, such as control of water, food, cover, special features and animal diseases;
- C. Research or investigations to provide a basis for sound management in the State;
- D. Manipulation of hunting pressure;
- E. Establishment of game lands, such as parks, forests, refuges and game management areas;
- F. Predator control;
- G. Artificial replenishment, such as game farming and restocking; and
- H. Introduction of exotic species of wild animals or birds where needed.

74. Wildlife management area. "Wildlife management area" means a tract of land or body of water owned or leased by the department for the purposes of wildlife management as defined in subsection 73 or created by an act of the Legislature with the landowner's permission, and subject to the commissioner's authority under section 12701.

75. Wolf. "Wolf" means the Gray Wolf (Canis lupus).

SUBPART 2
DEPARTMENT ORGANIZATION
CHAPTER 903
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
SUBCHAPTER 1
DEPARTMENT ESTABLISHED

§10051. Department established

The Department of Inland Fisheries and Wildlife is established to preserve, protect and enhance the inland fisheries and wildlife resources of the State; to encourage the wise use of these resources; to ensure coordinated planning for the future use and preservation of these resources; and to provide for effective management of these resources.

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the Bureau of Administrative Services, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides, the Junior Maine Guides and Trip Leaders' Curriculum Board and whatever state agencies that are designated. The

department is under the control and supervision of the commissioner.

§10052. Bureau of Administrative Services

The Bureau of Administrative Services is established within the Department of Inland Fisheries and Wildlife. The bureau is equal in organizational level and status with other major organizational units within the department or its successors. The bureau is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau include, but are not limited to:

1. Financial accounting. The financial accounting of all department revenues and expenditures, including long-range financial planning and the preparation of annual and biennial budgets;

2. Personnel activities. The administration of all personnel activities;

3. Licensing and registration. The administration and issuance of department licenses, stamps and permits and the registration of snowmobiles, watercraft and all-terrain vehicles;

4. Engineering. The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document;

5. Land acquisition. The acquisition and development of land for the protection, preservation and enhancement of the inland fisheries and wildlife resources; and

6. Equipment inventory. The maintenance of a current inventory of all department-owned or department-managed property.

§10053. Bureau of Resource Management

The Bureau of Resource Management is established within the Department of Inland Fisheries and Wildlife. The bureau is equal in organizational level and status with other major organizational units within the department or its successors. The bureau is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau include, but are not limited to:

1. Wildlife management. The management of the wildlife resources in the State for their preservation, protection, enhancement and use;

2. Fisheries management. The management of the inland fisheries resources in the public waters of the State for their preservation, protection, enhancement and use;

3. Propagation of fish. The propagation of fish for the effective management of inland fisheries resources in public waters of the State;

4. Habitat management. The management of habitat for the protection, preservation, enhancement and use of inland fisheries and wildlife resources;

5. Wildlife sanctuaries; wildlife management areas. The management of wildlife sanctuaries and wildlife management areas for the State as designated in chapter 925;

6. Data collection. The collection of data for the effective management of the inland fisheries and wildlife resources;

7. Research. Research activities for the effective management of the inland fisheries and wildlife resources;

8. Animal damage control. The coordination of animal damage control functions throughout the State, including supplemental assistance for the control of coyotes and other nuisance wildlife that exceeds normal funding and staffing levels within the department; and

9. Rules. The development of rules governing the effective management of the inland fisheries and wildlife resources of the State.

§10054. Bureau of Warden Service

The Bureau of Warden Service is established within the Department of Inland Fisheries and Wildlife. It is equal in organizational level and status with other major organizational units within the department or its successors. The bureau is administered by a director who is immediately responsible to the deputy commissioner. The director is the Game Warden Colonel and is employed pursuant to section 10103, subsection 3 and Title 5, chapter 59, which are applicable to this position. The director possesses full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau include, but are not limited to:

1. General enforcement. Enforcement of laws or rules as designated by this Part, or as specified;

2. Wildlife and fisheries enforcement. Enforcement of laws and department rules pertaining to the management and protection of the inland fisheries and wildlife resources as further designated by section 10353;

3. Snowmobile, watercraft and all-terrain vehicle enforcement. Enforcement of laws and department rules pertaining to the registrations and operation of snowmobiles, watercraft and all-terrain vehicles;

4. Search and rescue. The coordination and implementation of all search and rescue operations as specified under section 10105, subsection 4;

5. Safety. Assistance with programs for hunter safety and for the safe operation of snowmobiles, watercraft and all-terrain vehicles;

6. Data collection. The collection of data as needed for the management and protection of the inland fisheries and wildlife resources; and

7. Other. Such areas as specified in state law.

§10055. Division of Planning

The Division of Planning is established within the Department of Inland Fisheries and Wildlife and is responsible for developing both short-term and long-term plans for the preservation, protection, enhancement and use of inland fisheries and wildlife resources. The division shall undertake activities as directed.

§10056. Division of Public Information and Education

The Division of Public Information and Education is established within the Department of Inland Fisheries and Wildlife and is responsible for the administration of programs to increase the public's knowledge and understanding of the inland fisheries and wildlife resources and the management of these resources, including the administration of education programs for hunter safety and for the safe operation of snowmobiles, watercraft and all-terrain vehicles. The division's responsibilities include public education, promotion of the inland fisheries and wildlife resources and the dissemination of information.

SUBCHAPTER 2

COMMISSIONER; POWERS AND DUTIES

§10101. Appointment

The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Legisla-

ture. The commissioner serves at the pleasure of the Governor. Any candidate for the office of commissioner must have a record of demonstrated support for, and an understanding of, the basics of modern wildlife and fisheries management and have experience in hunting, fishing or trapping.

§10102. Office

1. Facilities. The commissioner is entitled to have an office at the seat of government and adequate facilities for the transaction of the business of the department.

2. Traveling expenses. The commissioner is entitled to receive all necessary traveling expenses.

§10103. Duties

In addition to other duties set out in this Part, the commissioner has the following duties.

1. Appointment of deputy. The commissioner shall appoint, to serve at the commissioner's pleasure, the Deputy Commissioner of Inland Fisheries and Wildlife, who must be qualified by training and experience in fisheries and wildlife management or conservation law enforcement. Under the commissioner's direction, the deputy commissioner assists in the administration of the department. The deputy commissioner serves as the commissioner if the commissioner is disabled or absent or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent.

2. Administration and enforcement. Except as provided by statute, the commissioner has general supervision of the administration and enforcement of the inland fisheries and wildlife laws and has the responsibility for the management of all inland fish and wildlife in the State. The commissioner has responsibility for investigations carried out on behalf of the State in matters related to the status and needs of any inland fisheries and wildlife species and is the representative of the State in providing information associated with the status and needs of these natural resources to municipalities, political subdivisions of the State and the Federal Government.

3. Employment of personnel. The commissioner shall employ, subject to the Civil Service Law, such employees as are necessary to carry out the duties of the department, except that persons in the following positions are appointed by and serve at the pleasure of the commissioner: deputy commissioner; Game Warden Colonel; and Assistant to the Commissioner for Public Information.

The Game Warden Colonel is appointed from among the game wardens of the department. In the event that the Game Warden Colonel is not reappointed, the Game Warden Colonel has the right to be restored to the classified position from which the Game Warden Colonel was promoted or to a position equivalent in salary grade in an agency, without impairment of personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled the Game Warden Colonel. If service in that unclassified supervisory position is terminated for cause, the right to be restored to that position must be determined by the State Civil Service Appeals Board.

4. Report to Governor. The commissioner shall make a report to the Governor on or before the 31st day of December of each year for the year ending the previous June 30th.

5. Code of operating procedure of warden service. The commissioner shall prepare a written code covering the operating procedure of the warden service that is consistent with the Civil Service Law and contractual agreements.

6. Administration of department. The commissioner shall adopt written policies establishing procedures to control the use of department equipment and vehicles. The commissioner shall review and control all administrative expenses, including reimbursement of moving expenses.

7. Copies of laws for town clerks or agents. The commissioner shall keep on hand at all times sufficient copies of abstracts of the inland fisheries and wildlife laws to furnish to all town clerks or agents authorized to issue licenses, so that they have copies available to issue with every license.

8. Biennial revision of fish and wildlife laws. As soon as practicable after the adjournment of the Legislature, the Revisor of Statutes, with the assistance of the commissioner, shall issue a revision of all the public laws relating to inland fisheries and wildlife. The revision must be printed in a pamphlet of the same size pages as the Maine Revised Statutes Annotated, and its printing and distribution must be the same as that of the biennial laws, except that the commissioner may issue as many extra copies of this Part in a pamphlet of whatever size seems best to inform the people about the fish and wildlife laws.

9. Availability of financial statement. The commissioner shall make the annual financial statement for the department available for public inspection within 180 days after the close of the fiscal year that is the subject of the report.

10. Water level danger zones. The commissioner may establish, in accordance with section 10104, subsection 1, water level danger zones. These zones are areas of rivers and streams below water impoundment that are subject to rapidly changing water levels. The commissioner may adopt rules to protect individuals using those areas for hunting, fishing, trapping and boating purposes. The commissioner may not regulate the flow of water under this section.

11. Report to Legislature. The commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. This report must identify all specific extended responsibility services provided by the department to individuals who do not pay a particular fee to the department for the provision of that service, including all search and rescue activities conducted by the department. This report must include an estimate of the total cost of providing the identified extended responsibility services. The report must be submitted on or before January 1st of each year. Upon receipt of the report, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall give separate consideration to funding the department's estimated cost of providing the identified extended responsibility services.

12. Criminal history record information. The commissioner shall collect and maintain criminal history record information pertinent to violations of this Part. The commissioner may collect and maintain other records and information pertinent to other functions of the department, including the enforcement of civil violations.

§10104. Rule-making power

In addition to other powers granted in this Part, the commissioner has the following powers.

1. Rules. The commissioner may, with the advice and consent of the advisory council and in conformity with Title 5, Part 18, and except as otherwise provided, adopt, amend and repeal reasonable rules, including emergency rules, necessary for the proper administration, implementation, enforcement and interpretation of any provision of law that the commissioner is charged with the duty of administering. These rules duly adopted have the full force and effect of law and are effective upon filing with the Secretary of State, unless a later date is required by statute or specified in the rule.

2. Filing of rules. The commissioner may file certified copies of all rules adopted by the commissioner and any and all amendments to the rules with the clerks of the District Court and Superior Court. These certified copies are considered official publications of the State for all purposes, including, but not limited to, the Maine Rules of Civil Procedure, Rule 44(a)(1) and the Maine Rules of Evidence, Rule 902 (5), and judicial notice must be taken accordingly. A facsimile of the signature of the commissioner imprinted by or at the commissioner's discretion upon any such certificate of true copy has the same validity as the commissioner's written signature.

§10105. Other powers

1. Authority to issue permits. Whenever the commissioner determines it necessary for the accomplishment of the commissioner's statutory duties, the commissioner may issue permits authorizing persons to assist the commissioner in the taking and destruction of any wildlife.

A person may not engage in an activity for which a permit may be issued under this subsection and for which that person does not have a valid permit. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Commissioner's authority to terminate season. The commissioner may terminate open season on coyote hunting at any time in any area if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or unlawful hunting activity.

3. Coyote control program. Pursuant to section 10053, subsection 8, the commissioner shall maintain a coyote control program as follows.

A. The commissioner may employ qualified persons to serve as agents of the department for purposes of coyote control. These agents must be trained by the department in animal damage control techniques and must be utilized by the department to perform coyote control duties in areas where predation by coyotes is posing a threat to deer or other wildlife. Each agent shall execute a cooperative agreement with the department specifying the conditions and limitations of the agent's responsibilities as an agent, including any terms for reimbursement of expenses or payment of wages.

B. Agents must be trained in the use of snares and must be deployed in the unorganized townships to control coyotes during the winter months. All snaring must be carried out under the direction of department officials and with the

knowledge of the local game warden. All areas of snaring activity must be adequately posted.

C. Agents may be utilized for the benefit of agricultural interests as long as the department is reimbursed annually for the cost of those efforts by the Department of Agriculture, Food and Rural Resources from funds specifically appropriated or otherwise made available to the Department of Agriculture, Food and Rural Resources for that purpose.

4. Search and rescue. Whenever the commissioner receives notification that any person has gone into the woodlands or onto the inland waters of the State on a hunting, fishing or other trip and has become lost, stranded or drowned, the commissioner shall exercise the authority to take reasonable steps to ensure the safe and timely recovery of that person; except in cases involving downed or lost aircraft covered by Title 6, section 303.

A. The commissioner may summon any person in the State to assist in search and rescue attempts. Each person summoned must be paid at a rate set by the commissioner with the approval of the Governor and must be provided with subsistence while engaged in these activities.

B. The commissioner may enter into written agreements with other agencies or corporations, including commercial recreational areas, allowing partial search and rescue responsibility within specified areas.

C. The commissioner may terminate a search and rescue operation by members of the department when, in the commissioner's opinion, all reasonable efforts have been exhausted.

D. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or

(2) If a person knowingly provided false information that leads to a search and rescue operation, from the person who provided that false information.

Any person who has knowledge that another person is lost, stranded or drowned in the woodlands or inland waters of the State shall notify the Bureau of Warden Service of the department.

5. Boundary waters with New Hampshire and Canada. The commissioner may prescribe bag limits, size limits, open or closed seasons and methods of taking fish from the inland boundary waters between

the states of Maine and New Hampshire and provinces of Canada. These rules must be mutually agreed upon by the commissioners of Maine and New Hampshire and the fishery authorities of Canada and approved by the Inland Fisheries and Wildlife Advisory Council.

6. Establishing line of demarcation. The commissioner, through an agent designated by the commissioner, may establish a line of demarcation between a lake or pond and its outlet or tributaries in areas where the commissioner determines it necessary.

7. Sale of arms and ammunition. The commissioner may sell all property held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife. A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State, unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand. The commissioner shall transmit all money received by the sales to the Treasurer of State to be credited to the department.

8. Employee discipline. The commissioner may dismiss, suspend or otherwise discipline any department employee for cause. This right is subject to the right of appeal and arbitration of grievances as set forth in statute.

9. Possession and disposal of fish and wildlife. The commissioner may take possession of sick, injured or dead fish and wildlife that is not the property of another person. For any fish and wildlife possessed by the commissioner under this subsection, the commissioner may:

A. For sick or injured fish or wildlife, destroy that fish or wildlife when necessary in a manner consistent with the provisions of Title 17, section 1043; and

B. For dead fish or wildlife, dispose of that fish or wildlife in any manner considered appropriate by the commissioner.

This subsection does not apply to fish or wildlife seized by the commissioner under section 10502.

10. Taking and importing wildlife. The commissioner may take fish or wildlife for scientific purposes and may bring fish and wildlife into the State or authorize others to do so.

11. Take or import animals and birds. The commissioner may take or import wild animals or wild birds of any kind, dead or alive, for the purposes of

inspection, cultivation, propagation, distribution or for scientific or other purposes considered by the commissioner to be of interest to the game industry of this State.

12. Purchase or sale of wildlife for use as evidence. An agent of the commissioner may buy or sell wildlife for use as evidence in prosecution of a violation of this Part.

§10106. Fish and wildlife restoration

1. Commissioner's authority. The State assents to the Federal Aid in Wildlife Restoration Act, Public Law, September 2, 1937, chapter 899, as amended, and the Federal Aid in Fish Restoration Act, Public Law, August 9, 1950, chapter 658, as amended. The commissioner is authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife and fish restoration projects, as defined in those Acts of Congress, in compliance with those Acts and with rules and regulations promulgated by the United States Secretaries of Agriculture and Interior under those Acts.

2. Control of distribution and conservation of hares and rabbits. The commissioner may at any time take and transport live hares or rabbits by purchasing them from local trappers whenever the commissioner determines it necessary for the proper distribution and conservation of the hares and rabbits.

§10107. Deer wintering areas

1. Identification of deer wintering areas. The commissioner shall, by rule, establish criteria for the identification of deer wintering areas in the State. The criteria must include:

- A. Observation by department personnel;
- B. Deer tracks;
- C. Evidence of current or past browsing;
- D. Deer pellet depositions; or
- E. Bedding sites.

2. Notification. Whenever evidence indicates, according to criteria established by the commissioner, the existence of a deer wintering area in any municipality or plantation, the commissioner shall notify the officials of the municipality or plantation and the owner or owners of record of the property on which the area is located of the existence of the deer wintering area and shall provide information to those persons as to actions that may be taken to protect the deer in that area.

§10108. Programs

1. Training in firearm safety. The commissioner shall establish a program for training individuals in the safe handling of firearms and for this purpose may cooperate with any public or private association or organization having as one of its objectives the promotion of safety in firearms handling.

In establishing the program under this subsection, the commissioner shall:

A. Prescribe the qualifications of instructors. Each instructor authorized by the commissioner to conduct training under the program must be covered by liability insurance protecting that person from liability for damages during the time when instruction is being given. The cost of this insurance must be borne by the State and must be a charge against the funds credited to the department;

B. Prescribe the type and course of instruction and the time and place of examinations; and

C. Issue a certificate of competency to individuals who successfully complete the examination.

2. Promotion of hunting, fishing and camping. The commissioner may implement a program designed to promote fisheries and wildlife resources and attract hunters and anglers to the State. As part of this program, the commissioner may reduce the price of certain types of licenses for specified periods of time to promote license sales for hunting and fishing in the State. This program may include coordination of activities between the public and private sectors and utilization of promotional missions, exhibits, brochures, technical assistance and expertise as necessary to develop and promote hunting, fishing and camping activities within the State. The commissioner shall coordinate this program with the activities of the Department of Economic and Community Development. Any purchases made as a result of that coordination must be by competitive bid.

3. Supersport certificate. A person may be designated as a supersport by obtaining a supersport certificate from the commissioner or the commissioner's agent for a fee of \$15.

4. Landowner relations program. The commissioner shall develop and implement a program to improve landowner relations. The program must foster public use of private land for hunting and fishing and promote high standards of courtesy, respect and responsibility by hunters and anglers for private lands and prevent abuse of private lands by hunters and anglers. The program must have the following 2 components:

A. A program that supports landowners, called the Support Landowners Program. Twelve dollars of each \$15 collected under subsection 3 is dedicated to the Support Landowners Program. The Support Landowners Program may:

- (1) Offer a toll-free number for landowner concerns;
- (2) From among existing staff, appoint a landowner relations coordinator at the Augusta office of the department and regional landowner relations coordinators at the regional offices. Regional landowner relations coordinators may be appointed only from the department's recreational safety coordinators and volunteers;
- (3) Provide linkage with local conservation organizations, volunteer groups and advisory groups;
- (4) Enhance enforcement of trespass, dumping and property damage violations;
- (5) Provide educational materials and signs;
- (6) Coordinate with other related landowner relations activities, including Landowner Recognition Day; and
- (7) Encourage landowners who allow access to their property only with permission to conspicuously post signs on the property indicating the name and address of the owner or other person with authority to grant permission; and

B. A program called the Sport Hunter Program. The Sport Hunter Program is established to combat disrespect and misconduct and to improve the hunter's image through landowner relations, coordination with hunter safety programs and conservation ethics. Three dollars of each \$15 collected under subsection 3 is dedicated to the Sport Hunter Program.

The Support Landowners Program and the Sport Hunter Program must operate within the department and must be implemented no later than January 1, 1996.

5. "Hooked on Fishing Not on Drugs" program. The "Hooked on Fishing Not on Drugs" program is established in the department to encourage youth fishing activities in the State. The commissioner may accept money, goods or services donated to the department for the "Hooked on Fishing Not on Drugs" program. Money, goods and services accepted

by the commissioner under this subsection may be used only for those program activities.

6. Archery hunting education program. The commissioner shall establish a program for training individuals in safe and responsible archery hunting skills and behavior. This program includes instruction in fisheries and wildlife laws, rights of landowners and hunters and appropriate principles of wildlife management. The commissioner may charge an enrollment fee of up to \$10 per person to help defray the costs of this program. The commissioner may cooperate with any public or private association dedicated to responsible and safe archery hunting to establish this program.

In establishing the program, the commissioner shall:

- A. Prescribe the qualifications of instructors;
- B. Provide liability insurance for each instructor authorized by the commissioner to conduct training under the program protecting that person from liability for damages during the time when instruction is being given. The cost of this insurance must be borne by the State and charged against funds credited to the department;
- C. Prescribe the type and length of instruction and the time and place of examinations; and
- D. Issue a certificate of competency to individuals who successfully complete the examination.

7. Trapper education program established. The commissioner shall establish a program for training individuals in safe and responsible trapping skills and behavior. This program must include instruction in the applicable laws and rights and in the appropriate principles of wildlife management. The commissioner may charge an enrollment fee of up to \$10 per person to help defray the costs of this program. For the purpose of establishing the program, the commissioner may cooperate with any public or private association having similar goals.

In establishing the program, the commissioner shall:

- A. Prescribe the qualifications of instructors;
- B. Provide for insurance. Each instructor authorized by the commissioner to conduct training under the program must be covered by liability insurance protecting that person from liability for damages during the time when instruction is being given. The cost of this insurance must be borne by the State and must be a charge against the funds credited to the department;
- C. Prescribe the type and length of instruction and the time and place of examinations; and

D. Issue a certificate of competency to individuals who successfully complete the examination.

8. Hunters for the Hungry Program. The Hunters for the Hungry Program, referred to in this subsection as the "program," is established to allow the department and persons who are lawfully in the possession of wild game meat to donate that wild game meat for distribution to needy persons through the food assistance programs of the Department of Agriculture, Food and Rural Resources.

A. The department shall develop and implement this program in cooperation with the Department of Agriculture, Food and Rural Resources. In developing the program, the department shall investigate, in cooperation with the Department of Agriculture, Food and Rural Resources, the costs and benefits of establishing a toll-free telephone line for facilitating the donation of meat.

B. The department may adopt rules to implement the program. If rules are determined necessary, the department shall develop those rules in cooperation with the Department of Agriculture, Food and Rural Resources. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted under this subsection may include, but are not limited to:

- (1) Procedures for donating wild game meat;
- (2) Provisions for a quality control program;
- (3) Procedures for distributing donated wild game meat through the food assistance programs administered by the Department of Agriculture, Food and Rural Resources;
- (4) Methods for supporting private sporting groups throughout the State with program education and promotion efforts; and
- (5) Limiting the distribution of wild game meat to certain types of facilities.

C. A person who donates lawfully obtained wild game meat that is apparently fit for human consumption to the program and a charitable, non-profit or other organization authorized by the department to receive and distribute meat donated under the program are immune from civil liability arising from injury or death due to the condition of the donated food, unless the injury or death is a direct result of the intentional misconduct of the donor or the organization.

9. Pheasant program. The commissioner may enter into an agreement with a qualified rod and gun club or qualified hunting-oriented organization to allow the club or organization to purchase and raise pheasants. An agreement entered into pursuant to this subsection may provide for the use of department facilities for raising pheasants by a qualified rod and gun club or qualified hunting-oriented organization. For purposes of this subsection, "qualified rod and gun club or qualified hunting-oriented organization" means a rod and gun club or a hunting-oriented organization that has demonstrated involvement in raising and releasing pheasants in the year prior to entering into an agreement with the commissioner to purchase and raise pheasants.

The following provisions must be observed.

A. The department is not authorized to purchase or raise pheasants.

B. All pheasants purchased and raised under an agreement with the commissioner pursuant to this subsection must be released under the direction of department officials in areas open to hunting for the general public.

§10109. Acquisition and disposal of land

1. Acquisition of land; wildlife management and public access. The commissioner may acquire property pursuant to this subsection for fish hatchery or fish feeding stations or wildlife management areas or public access sites.

A. The commissioner may acquire in the name of the State, by gift, bequest or otherwise, real and personal property for the location, construction and convenient operation of a fish hatchery or fish feeding station or a wildlife management area or public access sites to inland or coastal waters. When acquiring land or interest in land for a wildlife management area or for a public access site, the commissioner shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the commissioner shall describe the acquisition in the annual report submitted pursuant to section 10103, subsection 11 and the justification for that acquisition.

B. The commissioner may purchase, lease or take and hold, for and in behalf of the State as for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating fish hatcheries or fish feeding stations or wildlife management areas or public access sites to inland or coastal waters.

C. When the commissioner finds that a public need requires the taking of any land or rights for the purposes set out in this subsection, the commissioner shall cause the land or rights to be surveyed, located and described so that the land or rights can be located.

D. A plan of the land or rights must be filed and recorded in the registry of deeds where the land or rights are located.

E. The filing of the plan and description vests the title to the land and right in the State or its grantees, to be held at the pleasure of the State.

2. Acquisition of land; state game farms. The commissioner may purchase suitable lands and erect buildings on those lands within this State necessary for the operation of state game farms for the propagation of wild animals and wild birds for restocking the woods and forests of the State.

3. Compensation to landowners. The owners of property taken under this section must be compensated for that taking.

A. The owners of property, either real or personal, taken by the commissioner under this section, are entitled to damages equal to the reasonable value of the property, as is provided when land is taken for highway purposes under Title 23, chapter 3.

B. In the event of a disagreement over the value of property taken under this section, the reasonable value must be determined by the county commissioners of the county in which the land is situated, upon the written application of any interested party.

C. If any party in interest is aggrieved by the decision of the county commissioners under paragraph B rendered in conformity with this section, an appeal may be made to the Superior Court of the county in the same manner as is provided when land is taken by the State for highway purposes.

4. Unneeded property. The Governor, on recommendation of the commissioner, may sell and convey on behalf of the State the interests of the State in property taken or acquired by purchase under this Part and determined no longer necessary for the purposes of this Part. The commissioner, with the approval of the Governor, may lease these same properties. The proceeds from these sales or leases must be credited to the funds of the department.

SUBCHAPTER 3

ADVISORY COUNCIL, BOARDS AND COMMITTEES

§10151. Inland Fisheries and Wildlife Advisory Council

1. Appointment. The Inland Fisheries and Wildlife Advisory Council, established by Title 5, section 12004-G, subsection 20 and referred to in this Part as the "advisory council," consists of 10 members representing the 16 counties of the State in the following manner: one member representing Androscoggin County, Kennebec County and Sagadahoc County; one member representing Aroostook County; one member representing Cumberland County; one member representing Franklin County and Oxford County; one member representing Hancock County; one member representing Knox County, Lincoln County and Waldo County; one member representing Penobscot County; one member representing Piscataquis County and Somerset County; one member representing Washington County; and one member representing York County. Members of the advisory council are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Legislature. The commissioner is a nonvoting, ex officio member of the advisory council, but may vote to break a tie.

An employee of the department may not serve as a member of the advisory council prior to the expiration of one year from that employee's last day of employment with the department. A Legislator may not serve as a member of the advisory council. A former Legislator who was a member of the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters may not serve as a member of the advisory council prior to the expiration of one year from that former Legislator's last day of membership on that committee.

2. Length of terms. Appointments are for a term of 3 years and until successors are appointed and qualified. A person may not serve more than 2 consecutive 3-year terms. On the death, resignation or removal from office of any person appointed to the advisory council, the Governor shall appoint a member to serve for the unexpired term.

3. Expenses. The members of the advisory council are entitled to compensation as provided in Title 5, chapter 379.

4. Duties. The advisory council shall perform the following duties.

A. The advisory council shall render to the commissioner information and advice concerning the administration of the department and carry out other duties specifically delegated by this Part.

B. The advisory council shall hold regular meetings with the commissioner or the commissioner's deputy in December and May of each year and may hold special meetings at such other times and places as are advisable.

5. Meetings. All regular and special meetings of the advisory council must be public meetings and must be held in a public meeting place convenient for the public. Public comment must be accepted at regular and special meetings of the advisory council. Comments may be restricted to subjects before the advisory council at the meeting and consistent with any applicable requirements and limitations of the Maine Administrative Procedure Act. Public notice of all regular and special advisory council meetings must be published in a daily newspaper of general circulation in the geographic area where the meeting is scheduled at least 7 days and not more than 21 days prior to the meeting. That notice must include an agenda or statement of purpose of the meeting. That notice may be combined with any other notice of the meeting required by law.

6. Officers. At the meeting held in May of each year, the advisory council may elect one member as chair and one member as vice-chair.

§10152. Disabled hunter, trapper and angler advisory committee

The commissioner shall establish a disabled hunter, trapper and angler advisory committee referred to in this section as the "advisory committee," composed of 4 disabled persons, a licensed physician, a representative of state agencies that work on disability issues, 2 statewide organizations representing hunters, trappers or anglers and one interested person. The purpose of the advisory committee is to advise the commissioner on applications for a special permit under section 10853, subsection 11 and to provide recommendations to the commissioner on ways to promote and enhance access to hunting, fishing and trapping opportunities in this State for disabled persons. The commissioner shall meet with the advisory committee at least twice a year, once during the month of January, February or March and once during the month of July, August or September, to review applications for special permits to accommodate permanent physical disabilities provided for in section 10853, subsection 11 but may meet more often as the commissioner determines necessary. The commissioner may, within existing budgeted resources, reimburse advisory committee members for

mileage or other expenses related to attending meetings of the advisory committee.

§10153. Advisory Board for the Licensing of Guides

1. Members. The Advisory Board for the Licensing of Guides, established by Title 5, section 12004-I, subsection 23 and referred to in this section as "the board," consists of the following 8 members:

A. One subordinate officer of the department designated by the commissioner;

B. Two wardens of the department;

C. Four representatives of the public, with no more than 3 holding a license under chapter 927, to be appointed by the Governor for a term of 3 years to reflect a wide diversity of guiding experience. At least 2 members must be chosen for their expertise in outdoor recreation. The public members must be compensated as provided in Title 5, chapter 379; and

D. One marine patrol officer of the Department of Marine Resources.

2. Duties. The board has the following duties:

A. To provide advice and consent regarding rules proposed by the commissioner;

B. At the request of the commissioner, to conduct oral examinations of applicants for guide licenses;

C. To advise the commissioner on granting and revoking guide licenses; and

D. At the board's discretion, to designate examiners for the purpose of conducting oral examinations pursuant to section 12855, subsection 6. Examiners must be selected from active or retired members of the Bureau of Warden Service, current or former board members, active or retired members of the marine patrol or currently licensed Maine guides. Designated examiners are entitled to compensation under the same provisions as the board.

3. Quorum. Five members of the board constitute a quorum.

§10154. Junior Maine Guides and Trip Leaders Curriculum Advisory Board

1. Board established. The commissioner shall appoint a board of 5 members to be known as the "Junior Maine Guides and Trip Leaders Curriculum Advisory Board" and referred to in this section as "the

board," as established by Title 5, section 12004-I, subsection 24.

2. Membership. The board consists of one member from the department, one member from the Department of Human Services and 3 members of the public, one of whom must be a Maine camp director. Appointments to the board are for 3 years or until successors are appointed.

3. Duties. The board has the duty to advise the commissioner on the adoption of a trip leader safety course curriculum and on the adoption of rules for the administration of this section and sections 12859 and 12860.

4. Compensation. The public members are entitled to compensation as provided in Title 5, chapter 379.

§10155. Advisory Board for the Licensing of Taxidermists

The Advisory Board for the Licensing of Taxidermists is established by Title 5, section 12004-I, subsection 23-A and referred to in this section as "the board."

1. Membership. Members of the board must be residents of the State. The board consists of the following 5 members:

A. Two employees of the department, appointed by the commissioner;

B. Two licensed taxidermists with expertise in the art of taxidermy, appointed by the Governor; and

C. One member of the general public with no affiliation to the art of taxidermy, appointed by the Governor.

2. Term. The term of office for members of the board is 3 years, except that the terms must be staggered to the extent possible. Appointments for terms of less than 3 years may be made in order to stagger the terms. Upon expiration of a member's term, that member shall serve until a qualified successor is appointed. The successor's term is 3 years from the date of the expiration, regardless of the date of appointment. A vacancy in the office of a member is filled by the appointing authority for that position for the unexpired term. The department members may be removed by the commissioner for cause. All other members may be removed by the Governor for cause.

3. Staff assistance. The department shall provide staff assistance as necessary.

4. Duties. The board shall advise the commissioner regarding implementation of sections 10909,

12952, 12953 and this section and any related rules and shall assist in the development and conduct of examinations.

5. Quorum. Three members of the board constitute a quorum for the transaction of business.

6. Compensation. All members of the board except state employees, are entitled to receive compensation as provided in Title 5, chapter 379.

§10156. Advisory Board for the Licensing of Whitewater Guides

1. Members. The Advisory Board for the Licensing of Whitewater Guides, referred to in this section as the "board" and established by Title 5, section 12004-I, subsection 23-B, consists of the following 10 members:

A. The commissioner or an employee of the department who is the commissioner's designee;

B. One warden or retired warden of the department, appointed by the commissioner; and

C. Eight persons representing the public who are licensed whitewater guides, appointed by the Governor for staggered terms of 3 years. In making appointments under this paragraph, the Governor shall ensure that those appointments establish and maintain a wide diversity of whitewater guide experience on the State's rapidly flowing rivers. The Governor may not appoint a person who holds a commercial whitewater outfitter's license. At least 5 persons appointed under this paragraph must have expertise in whitewater rafting on both the Kennebec River and the West Branch of the Penobscot River, including the cribworks.

2. Compensation. Members who are not employed by the department are entitled to compensation as provided in Title 5, chapter 379.

3. Duties. The board has the following duties:

A. To provide advice regarding rules proposed by the commissioner;

B. At the request of the commissioner, to conduct an examination of applicants for the whitewater guide's license as provided in section 12909, except that oral examinations are conducted by 2 members; and

C. To advise the commissioner on granting and revoking whitewater guide's licenses.

4. Quorum. Five members of the board constitute a quorum.

SUBCHAPTER 4**FINANCES****§10201. Power to raise revenue**

1. Sale of publications. If the commissioner determines it advisable for the more effective dissemination of factual information, information of public interest or information tending to promote better public relations, the commissioner may fix the price, if any, of certain publications and materials of the department and sell and deliver them. Publications and materials included within this authority are all publications, articles, biological and statistical data, professional and technical service reports by departmental personnel and other materials in the department's possession and pertaining to the department, except publications of the laws in whatever form. These publications may not carry any advertising of a political nature, but may carry commercial advertising. The commissioner shall accept commercial advertising in the department's general circulation magazine entitled "Maine Fish and Wildlife" and any successor or similar publication developed by the department.

The commissioner may sell or lease video tapes, photographs or negatives owned by the department and may fix the price, if any, giving consideration to their fair market value.

2. Sale of advertising in abstracts of fish and wildlife laws. The commissioner may sell advertising, except advertising of a political nature, in abstracts of laws published by the department pursuant to section 10103, subsection 7. All revenue derived from the sale of advertising in these publications must be used to offset the cost of printing these publications.

3. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products such as T-shirts, aprons, coffee mugs and greeting cards when the express purpose is to accommodate public demand and generate supplemental funds. These funds may not be used for any costs associated with a quarterly magazine produced by the department.

A. The commissioner may create dedicated accounts to deposit money received from the sale of general merchandise pursuant to this subsection and may accept money, goods and services donated to the department to support specific programs carried out by the department. Any money donated to the department in support of a specific program must be deposited into a dedicated account for the purpose of funding activities carried out by that program.

B. Funds received by the commissioner from the sale of general merchandise products pursuant to

this subsection must be deposited in a dedicated account to be used only for the purposes described in section 10108, subsection 2.

4. Promotion and education on lead sinkers and lures. The commissioner may accept money, goods or services donated to the department for the purpose of educating the public on ways to minimize the threat to loons and other bird species from discarded or lost lead sinkers and lures. Any money, goods or services accepted by the commissioner under this subsection may be used only for those purposes.

5. Design of migratory waterfowl permit; sale of prints. The design of migratory waterfowl permits pursuant to section 11157 and sale of prints must be as follows.

A. The commissioner may provide for the reproduction, sale, licensing, distribution and other disposal of any art created in conjunction with the permit and shall establish by rule the procedures governing the design of the permit and reproduction, sale, licensing, distribution and other disposal of any art created in conjunction with the permit.

B. The design of the permit and any art created in conjunction with it may be selected through an art contest.

§10202. Department funds

1. Appropriation. The amount of funds appropriated to the department in each fiscal year may not be less than the dollar amount collected, received or recovered by the department from license and permit fees, fines, penalties and all other money received by the department, except for any funds received from the Federal Government and money relating to the following:

A. The department's account for the acquisition of waterfowl habitat set forth in section 10206, subsection 4;

B. Whitewater rafting;

C. The Maine Endangered and Nongame Wildlife Fund established in section 10253;

D. The watercraft fund of the Department of Marine Resources;

E. The Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands;

F. The ATV Recreational Management Fund of the Department of Conservation; and

G. Boating access sites.

2. Additional funding. The appropriation of certain additional funds are governed by the following.

A. Appropriations to the Department-wide Inland Fisheries and Wildlife program in the department for costs that are associated with search and rescue may not be considered amounts appropriated to the department under the Constitution of Maine, Article IX, Section 22. The liability of the General Fund for search and rescue costs is limited to the amount appropriated.

B. General Fund appropriations to the Fiscal Stability Program under subsection 9 may not be considered to be amounts appropriated to the department under the Constitution of Maine, Article IX, Section 22.

3. Revenues. Actual revenues received in excess of that estimated and allocated by the Legislature may not be expended without allocation by the Legislature, except that excess federal revenues received are subject to the expenditure provisions of Title 5, section 1669.

4. Unencumbered balances. Any unencumbered allocated balances, including existing balances, must be carried forward into the next fiscal year and may not be expended without allocation by the Legislature, except as provided in this section. Unencumbered balances in the boating access sites account are nonlapsing and must be carried forward to be used for the same purpose.

5. Nonlapsing appropriations. General Fund appropriations to the department may not lapse but must be carried forward in a separate General Fund program to be used by the department for the purposes described in section 10801, subsection 5. The department, pursuant to the Constitution of Maine, Article IX, Section 22, shall seek legislatively authorized transfers from this program to meet the various costs associated with the department's other programs.

6. Savings fund; offset against future fee increases. A savings fund, referred to in this subsection as the "fund," is established in the department. Appropriations to the fund are considered funds appropriated to the department under the meaning of the Constitution of Maine, Article IX, Section 22. Money appropriated to the fund does not lapse but must be carried forward and may be used by the department only to offset license fee increases if the use of that money for that purpose is approved by the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters.

7. Cash reserve. The department shall maintain as practical a cash reserve for the purpose of ensuring an adequate cash flow.

8. Snowmobile enforcement expenditures not to diminish. In every fiscal year, the department shall budget from appropriations to the enforcement operations program an amount for snowmobile enforcement activities that is not less than the average General Fund expenditures from that program for those purposes over the previous 2 fiscal years. Expenditures from the Snowmobile Enforcement Fund, established in section 10258, may not be included in calculating average expenditures.

9. Fiscal Stability Program. The Fiscal Stability Program is established to ensure that the general public and hunters and anglers share the cost of the fish and wildlife conservation programs of the department. To achieve this goal, beginning with the 2004-2005 biennial budget and for each biennial budget thereafter, the biennial budget submitted by the executive branch must include a General Fund appropriation of 18% of the department's requested biennial budget.

10. Review of budget. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall review that part of the current services budget bill and any supplemental budget bills pertaining to the department in accordance with Title 5, section 522-A.

11. Review of license and permit fees, fines and penalties. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall review license and permit fees, fines, penalties and all other money received by the department and shall submit a written report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on or before March 1st of each year.

12. Monthly report. By the 15th day of each month, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. When the Legislature is in session, the department shall submit its report at a meeting of the committee. When the Legislature is not in session, the department shall mail the report to each member of the committee with a copy to the Executive Director of the Legislative Council. The report must identify for the immediately preceding month:

A. Revenues of the department;

B. Expenditures of the department; and

C. The difference between the projected revenues and expenditures of the department and the actual revenues and expenditures.

13. Equipment. The department shall notify the joint standing committee of the Legislature having

jurisdiction over inland fisheries and wildlife matters of any heavy equipment purchase prior to that purchase, including the name of the item and expected cost. This same information must be supplied prior to the purchase of any vehicle. In addition, the department shall develop and implement a formal replacement schedule for the department's radio communication system. This plan must be reviewed by the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters.

14. Bond issue. The department shall submit to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters plans for a bond issue prior to submission of the bond issue to the full Legislature.

§10203. Collection and disposition of money

1. General. The following money must be paid to the Treasurer of State as undedicated revenue to the General Fund:

A. All fees, fines, penalties, officers' costs and all other money received, collected or recovered by the court or the department under any provisions of this Part except section 10206, subsections 1 and 3; section 10259; section 10353, subsection 3; section 11157; chapter 925, subchapter 3; and chapter 929;

B. Any fees, fines and penalties recovered by the court from any prosecution by wardens pursuant to their acting, under section 10353, subsection 3, with the same powers and duties as sheriffs; and

C. Money received from sale, lease or rental of department-owned property.

2. Counties not to pay unpaid officers' fees. Officers' fees taxed against a respondent, if any, under this Part that are not paid by or recovered from the respondent may not be assumed or paid by the county where the offense was committed.

3. License and permit fees. License and permit fees must be collected and expended in accordance with section 10801.

4. Watercraft. Money relating to watercraft laws and rules must be collected and expended in accordance with section 10206, subsection 3.

5. Snowmobiles. Money relating to snowmobile laws and rules must be collected and expended in accordance with section 1893, subsection 3 and section 10206, subsection 2.

6. Failure to pay fine or fee. A person who receives money for any fine, or part thereof, for a violation of this Part, or any fee for a license or permit issued under the authority of this Part, may not neglect for more than 30 days to pay the money over as provided in this section.

A person who violates this section commits a Class E crime.

§10204. Administrative costs recovered; federal and dedicated money

The department is entitled to reimbursement for administrative costs associated with activities of the department performed in support of federal and other special revenue accounts from those accounts.

§10205. Funding of new programs

Any new program or service involving a mandated responsibility to the department must include provisions that specify that full funding for the new program or service is collected from those individuals who receive the service from the department.

§10206. Disposition of specific revenues

1. All-terrain vehicle revenues. Revenues received under the provisions of this Part relating to ATVs, including chapter 939, must be disbursed and used as follows.

A. After administrative costs, revenues received under the provisions of this Part relating to ATVs, including chapter 939, are credited as undedicated revenue to the General Fund except that 50% of those revenues is credited to the ATV Recreational Management Fund of the Department of Conservation. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those administrative costs must be verified by the Department of Conservation and the Department of Administrative and Financial Services.

B. The department shall use a portion of the revenue dedicated to the ATV Recreational Management Fund for an ATV law enforcement grant-in-aid program to assist law enforcement agencies other than the Bureau of Warden Service.

2. Snowmobile revenues. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. The department's administrative costs must be verified by the Department of Conservation

and the Department of Administrative and Financial Services.

A. The snowmobile registration fee for residents collected under chapter 937 is credited as follows:

(1) Twenty-two percent is credited to the General Fund as undedicated revenue;

(2) Fifty-two percent is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands; and

(3) Twenty-six percent is annually distributed to the municipality of the owner's residence as shown on the owner's registration certificate, except that in unorganized territory, 26% is annually distributed to the county of the owner's residence as shown on the owner's registration certificate and credited to the unorganized territory fund of that county established in Title 30-A, section 7502.

B. The snowmobile registration fee for nonresidents collected under chapter 937 is credited as follows.

(1) Eighteen percent is credited to the General Fund as undedicated revenue.

(2) Seven percent is credited to the Snowmobile Enforcement Fund established under section 10258.

(3) The remainder is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.

C. All money received under the provisions of this Part relating to snowmobiles, including chapter 937, other than snowmobile registration fees credited pursuant to paragraphs A and B, including dealer license fees, is credited to the General Fund as undedicated revenue.

D. The annual fee for each snowmobile dealer number plate issued pursuant to section 13109 is credited as follows:

(1) Thirty percent is credited to the General Fund as undedicated revenue; and

(2) Seventy percent is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.

E. All money received under the provisions of this Part relating to snowmobiles, including chapter 937, other than that credited pursuant to paragraphs A to D, including snowmobile dealer license fees, is credited to the General Fund as undedicated revenue.

3. Watercraft revenues. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, are disposed of as follows.

A. All fees collected for certificates, licenses and permits by the commissioner are paid daily to the Treasurer of State and accrue as undedicated revenue to the General Fund and as dedicated revenue to the Department of Marine Resources in accordance with paragraph C.

B. Each county shall pay all fines, forfeitures and penalties collected for violations of the provisions of this Part relating to watercraft, including chapter 935, and all officers' costs collected for either coastal wardens or game wardens to the Treasurer of State, monthly, and that money accrues as undedicated revenue to the General Fund. All fines, forfeitures and penalties collected as a result of the efforts of municipal law enforcement officers or harbor masters enforcing the provisions of this Part relating to watercraft, including chapter 935, in their respective jurisdictions are paid to that municipality for the local enforcement efforts. The department shall record as dedicated revenue to the Department of Marine Resources that portion of fines, forfeitures and penalties allocable to the Department of Marine Resources in accordance with paragraph C.

C. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, including fines, fees and other available money, must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing and Registration. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Administrative and Financial Services, Bureau of the Budget.

4. Migratory waterfowl revenues. All revenues derived from the sale of permits and art in conjunction with the permits under section 10201, subsection 5 and section 11157 must be deposited into a special account within the department, and that account must be used for acquisition of waterfowl habitat and waterfowl management activities.

5. Alewife, sucker and yellow perch permit revenues. All fees collected under section 12506 accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$42 accrues to the General Fund for each eel pot or eel weir permit issued under section 12506.

6. Lake and river protection sticker revenues. All fees collected by the commissioner from the sale of stickers under section 13058, subsection 3 must be paid daily to the Treasurer of State. Notwithstanding subsection 3, the Treasurer of State shall credit funds received under this subsection as follows:

A. Sixty percent of the revenues must be credited to the Invasive Aquatic Plant and Nuisance Species Fund established in the Department of Environmental Protection under Title 38, section 1863; and

B. Forty percent of the revenues must be credited to the Lake and River Protection Fund established in the department under section 10257.

7. Resident lifetime license revenues. Revenue from the sale of lifetime licenses under section 10851 is dedicated revenue and must be deposited in the Lifetime License Fund established in subchapter 5. The department may establish payment procedures for licenses under section 10851; a license may not be issued until full payment is received.

8. Moose hunting permit revenues. All revenues derived from the sale of moose hunting permits under section 11154, subsection 11, including all bidding fees, must be deposited into a special nonlapsing account within the department, and that account must be used to pay the costs of administering the process of issuing permits and to fund youth conservation education programs.

9. Certain revenues; moose hunting research and management. Up to \$25,000 may be provided from the revenues generated by application and permit fees to carry out the department's documented moose research.

10. Pheasant hunting permit revenues. Revenues generated from the sale of pheasant hunting permits must be deposited into a separate account within the department, to be known as the Pheasant Fund and referred to in this subsection as the "fund." The fund is nonlapsing. The fund may be used only

for costs directly related to the administration of the pheasant program, including grants to a qualified rod and gun club or qualified hunting-oriented organization to help defray the costs of purchasing and raising pheasants in accordance with an agreement with the commissioner entered into in accordance with section 10108, subsection 9.

SUBCHAPTER 5

SPECIAL FUNDS

§10251. Lifetime License Fund; establishment; management

1. Fund established. The Lifetime License Fund, referred to in this section as the "fund," is established in the department to accept all revenue derived from the sale of lifetime hunting and fishing licenses under section 10851. The Treasurer of State shall administer the fund and shall invest the fund, subject to the limitations of this section, for growth and income in a manner consistent with the Treasurer of State's fiduciary responsibilities. Money in the fund may not be expended for any purpose except as provided in this section.

2. Treasurer of State. The Treasurer of State shall contract with investment firms as necessary to manage the fund; may agree to the payment of reasonable management fees to those firms, using money in the fund; and may direct those firms to purchase or sell investment opportunities as necessary to prudently manage the fund. The Treasurer of State annually may reimburse the State for costs incurred to oversee the fund from earnings of the fund.

3. Commissioner. The commissioner may accept donations to the fund but may not use any principal or earnings of the fund except upon the approval of the Treasurer of State and for the purposes set forth in this section.

4. Uses of fund. Prior to July 1, 2010, the Treasurer of State continuously shall reinvest all earnings of the fund and may not authorize any payments from the fund or use any earnings of the fund, except those necessary to pay the costs of administering the fund. On July 1, 2010, and on July 1st of each year thereafter, the Treasurer of State shall transfer to the department an amount equal to 5% of the fund principal. Additional interest earned by the fund, if any, must be reinvested. All funds received from the department under section 10851 and this section are subject to allocation by the Legislature.

5. Report. The Treasurer of State shall report quarterly to the commissioner and to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on the status of the fund, including the sources and amount of revenue

deposited into the fund, interest earnings and payments from the fund.

§10252. Fish hatchery maintenance fund

The fish hatchery maintenance fund, referred to in this section as the "fund," is established in the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding engineering designs for the Embden Hatchery, a statewide assessment of all other hatchery facilities and maintenance, repair and capital improvements at fish hatcheries and feeding stations owned by the State and the per diem and related expenses of 4 meetings of the Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Fish in Maine in fiscal year 2001-02 and 4 meetings of the commission in fiscal year 2002-03. The fund may not be used to fund personnel services costs or general operating costs of a fish hatchery. The commissioner may accept and deposit into the fund any monetary gifts, donations or other contributions from public or private sources and must use that money for the purposes specified in this section.

§10253. Maine Endangered and Nongame Wildlife Fund

1. Fund established. The Maine Endangered and Nongame Wildlife Fund, referred to in this section as the "fund," is established. The fund receives money deposited by the Treasurer of State pursuant to section 10255 and Title 36, section 5284, revenues generated in accordance with this section and any money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used for the management of nongame wildlife and for necessary administrative and personnel costs associated with the management of nongame wildlife and may not be deposited in the General Fund or any other fund, except as specifically provided by law.

2. Report and allocation. The commissioner shall include a report on the fund as part of the report submitted to the Governor pursuant to section 10103. This report must also be submitted to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters. The commissioner shall submit a budget for each biennium in accordance with Title 5, sections 1663 to 1666. The State Controller shall authorize expenditures from the fund as allocated by the Legislature.

3. Grants. Any person, organization or agency of the State may apply to the department for a grant to undertake research and nongame wildlife management activities. The department may award grants out of the fund. For the purposes of this section, "nongame wildlife" includes all unconfined terrestrial, freshwater

and saltwater species that are not ordinarily collected, captured or killed for sport or profit.

4. Fundraising. The commissioner or the commissioner's authorized agent may provide for the creation, reproduction, sale, licensing, distribution and other disposal of any art or products for the purpose of generating revenues for the management of the State's nongame wildlife. All money generated from the sale of these items must be deposited in the fund.

5. WE CARE support program. The Wildlife Enthusiast's Conservation Appreciation, Recreation and Enjoyment, or "WE CARE," support program is established to encourage voluntary support for the programs and services provided by the department. The fee for participating in this program is \$19. All money generated pursuant to this subsection must be deposited in the fund.

§10254. Maine Wildlife Park Fund

1. Fund established. The Maine Wildlife Park Fund, referred to in this section as the "fund," is established. The fund receives all funds collected by the department from the operation of the Maine Wildlife Park, including gate fees, the proceeds of any sales at the Maine Wildlife Park and any donations, grants or other funds presented to the department for the benefit of the Maine Wildlife Park. All money deposited in the fund and the earnings on the money remain in the fund to be used for the management and maintenance of the Maine Wildlife Park. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to the next fiscal year to be used for the same purposes.

2. Report. By February 1st of each year, the commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The report must detail the amount of money collected in the fund over the course of the prior year and the expense of managing and maintaining the Maine Wildlife Park. The commissioner shall make recommendations concerning how the fund may be increased or expenses reduced or both so that the Maine Wildlife Park becomes increasingly financially self-sustaining.

§10255. Maine Environmental Trust Fund

1. Fund established. The Maine Environmental Trust Fund, referred to in this section as the "fund," is established as a nonlapsing fund administered by the commissioner for the purposes of improving state parks and historic sites by supporting the Maine State Parks Fund established in section 1825, subsection 2 and managing nongame wildlife by supporting the Maine Endangered and Nongame Wildlife Fund

established in section 10253, subsection 1. Money deposited with the Treasurer of State to the credit of the fund may be invested as provided by law. Income from these investments must be credited to the fund.

2. Fund sources. The fund receives money deposited by the Treasurer of State pursuant to Title 29-A, section 455 and any other gift, grant or other source of revenue deposited for that use.

3. Distribution from fund. Money distributed from the fund may be used for marketing the plates and for the production and marketing of goods using the environmental plate design. After the Treasurer of State has reimbursed the Secretary of State for costs of producing and issuing environmental registration plates in accordance with Title 29-A, section 455, the Treasurer of State shall, at the end of each quarter in the fiscal year, distribute the balance in the fund as follows:

A. Sixty percent of the balance must be deposited in the Maine State Parks Fund established in section 1825, subsection 2; and

B. Forty percent of the balance must be deposited in the Maine Endangered and Nongame Wildlife Fund established in section 10253.

4. Budget. The commissioner shall submit a budget for each biennium pursuant to Title 5, sections 1663 and 1666.

§10256. Land Management Fund

The Land Management Fund is established within the department. The fund is authorized to receive revenue from the sale of timber, lease of lands, gifts and other revenues associated with the use of department-owned land. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

§10257. Lake and River Protection Fund

1. Fund established. The Lake and River Protection Fund, referred to in this section as the "fund," is established within the department as a nonlapsing fund. The fund must be administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under section 13058, subsection 3 and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used for enforcing laws pertaining to invasive aquatic plants, inspecting watercraft for invasive aquatic plant materials, educational and informational efforts targeted at invasive aquatic plant prevention, eradication and management activities and the

production and distribution of lake and river protection stickers required under section 13058, subsection 3.

§10258. Snowmobile Enforcement Fund

1. Fund established. The Snowmobile Enforcement Fund, referred to in this section as the "fund," is established in the department's Bureau of Warden Service. All funds credited to the fund are available for use by the Game Warden Colonel of the Bureau of Warden Service only for the purposes established in this section. Money in the fund may be used only to supplement other funds appropriated to the enforcement operations program. Money in the fund at the end of each fiscal year does not lapse and must be carried forward to the next fiscal year.

2. Fund uses. The Game Warden Colonel may use money in the fund only for the following purposes:

A. Regular or overtime personnel services costs of the warden service related to enforcement of snowmobile laws;

B. Safety or other education programs conducted by the department or authorized by the department that are related to the operation of snowmobiles; or

C. Purposes, including the purchase of equipment or machinery, determined by the Game Warden Colonel as necessary for effective snowmobile safety and enforcement activities.

§10259. Whitewater Rafting Fund

1. Fund established. The Whitewater Rafting Fund, referred to in this section as the "fund," is established to be used by the department, the Department of Conservation, Bureau of Parks and Lands and the affected counties and municipalities to fund activities related to river recreation with primary emphasis on those activities that relate to whitewater trips.

2. Funding. All fees and surcharges collected under chapter 929 must be credited to the fund, except for license fees collected in accordance with sections 12907 and 12909.

3. Budget. The expenditures from the fund are subject to legislative approval in the same manner as the General Fund budgets of the department and the Department of Conservation, Bureau of Parks and Lands are approved. The department and the Department of Conservation, Bureau of Parks and Lands shall report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on its planned expenditures for the next fiscal year, its actual

and planned expenditures for the current fiscal year and its final expenditures for the last fiscal year.

4. Use of fund. The fund must be used according to this subsection.

A. The money deposited in the fund must be credited as follows.

(1) Sixty-five percent of each fee or surcharge must be credited to the department.

(2) Twenty-five percent of each fee or surcharge must be credited to the Department of Conservation, Bureau of Parks and Lands.

(3) Ten percent of each fee or surcharge must be credited to the county in which the river is located for distribution among the affected municipalities and for use in the affected unorganized townships.

B. All money from the fund must be expended solely for purposes related to river recreation, with primary emphasis on those activities that relate to whitewater trips, including, but not limited to, administration, regulation, safety education, enforcement, mitigation of environmental and safety problems and mitigation of any adverse effect on competing use of the river. The fund may not be used to pay the cost of administering the whitewater outfitters' license program or the guide license program.

C. Any amount of the fund that is not expended at the end of a fiscal year does not lapse but must be carried forward.

D. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section. Those costs must be verified by the Department of Administrative and Financial Services.

SUBCHAPTER 6

MAINE OUTDOOR HERITAGE FUND

§10301. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Acquisition. "Acquisition" means fee ownership, easement, lease, right-of-way and other less-than-fee interests in land.

2. Board. "Board" means the Maine Outdoor Heritage Fund Board.

3. Coordinator of the Natural Areas Program. "Coordinator of the Natural Areas Program" means the person appointed by the Commissioner of Conservation to be responsible for coordinating the Natural Areas Program.

4. Fund. "Fund" means the Maine Outdoor Heritage Fund.

5. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Maine Outdoor Heritage Fund for the purpose of this subchapter, including, but not limited to, private contributions of cash or securities, money from municipal or other public agencies, money from a federal matching program, in-kind contributions or any combination thereof.

6. Natural resources agencies. "Natural resources agencies" means state agencies, bureaus, boards, commissions or other instrumentalities having jurisdiction over the protection of the State's natural resources.

7. Public-private partnership. "Public-private partnership" means any partnership between federal agencies, state agencies or individuals or any combination of federal agencies, state agencies or individuals, including corporations and private persons or organizations, where at least 1/3 of the funding is contributed by a nongovernmental organization or individual.

8. Wildlife. "Wildlife" means wild organisms, including vertebrate, invertebrate and plant species.

§10302. Fund established

There is established the Maine Outdoor Heritage Fund. The fund consists of revenues received pursuant to Title 8, section 387 and any funds received as contributions from private and public sources. The fund, to be accounted within the department, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

§10303. Purpose of fund

The fund is for the sole purpose of maintaining, improving and expanding state and local natural resource conservation programs and associated compatible public uses in accordance with the strategic plan provided for by section 10308, subsection 5, paragraph A.

§10304. Relation to other funding

The fund supplements sources and levels of funding appropriated and allocated by the Legislature to natural resources agencies. It is the intent of the Legislature that a grant received from the fund not be considered a substitute for funds previously appropriated or allocated to a natural resources agency.

§10305. Fund availability

The fund must be available to natural resources agencies in accordance with section 10307. Natural resources agencies may contract with nongovernmental organizations and individuals for the purpose of carrying out projects funded by the fund.

§10306. Fund administration

The Maine Outdoor Heritage Fund Board shall administer the fund.

§10307. Expenditures from fund; distribution

The board shall make grants, applications for which must be reviewed in accordance with section 10309, to natural resources agencies for projects found consistent with the criteria and the strategic plan adopted by the board pursuant to section 10308, subsection 5, paragraph A. Except as otherwise provided in this subchapter, the board shall distribute annually available grant money as follows:

1. Fisheries and wildlife; habitat conservation. Thirty-five percent of the money in the fund for fisheries and wildlife and habitat conservation projects;

2. Public lands and access; outdoor recreation sites and facilities. Thirty-five percent of the money in the fund for acquisition and management of public lands, parks, wildlife conservation areas and public access and outdoor recreation sites and facilities;

3. Endangered and threatened species. Fifteen percent of the money in the fund for endangered and threatened species conservation projects; and

4. Natural resources law enforcement. Fifteen percent of the money in the fund for natural resources law enforcement.

The board is authorized to carry forward money in any of the percentage categories of this section into a successive year in the same category in the event that this carry-over better serves the strategic plan or that no grant applications in a particular year adhere to the strategic plan for a particular percentage category.

§10308. Maine Outdoor Heritage Fund Board

The Maine Outdoor Heritage Fund Board is established within the department and shall carry out its duties in accordance with this section.

1. Members. The board consists of 7 members. The commissioner, the Commissioner of Conservation and the Coordinator of the Natural Areas Program are permanent members and their designees may represent them at board meetings. The Governor shall appoint the remaining 4 citizen members subject to the review of the joint standing committee of the Legislature having jurisdiction over natural resources matters and confirmation by the Senate. One of these members must be a representative of a state sportsmen's organization, one must be a representative of a state wildlife conservation organization and one must work in a field related to natural resources.

2. Terms. The Governor shall appoint citizen members to staggered 4-year terms. Appointed citizens may not serve more than 2 consecutive 4-year terms.

3. Chair. The Governor shall appoint a citizen member of the board to serve as chair. The chair may not serve more than 2 consecutive 4-year terms.

4. Board meetings, rules and administration. The board shall conduct its meetings as follows.

A. The board shall meet at least 3 times a year at the call of the chair.

B. The board, acting in accordance with the Maine Administrative Procedure Act, may adopt any rules necessary for the conduct of its business. The board shall adopt by rule a schedule for submission and action on grant proposals submitted pursuant to subsection 5, paragraph B.

C. Appointed citizen members are entitled to compensation equal to legislative per diem and travel expenses under Title 5, section 12004-G, subsection 29-B while engaged in board activities.

D. A quorum of the board for the transaction of business is 4 members.

E. Board members are governed by the conflict of interest provisions in Title 5, section 18.

5. Board functions. The board has the following functions.

A. The board, in accordance with the rule-making provisions of the Maine Administrative Procedure Act and in consultation with natural resources agencies, shall adopt a strategic plan for each of the funding categories listed in section 10307. The board may cooperate with other state or federal agencies in developing the plan or carrying out other functions under this subchapter. The strategic plan must identify the priority areas for funding for 6 years using the

criteria listed in section 10309. The board may amend the strategic plan.

B. The board shall review and award annually funding requests for specific projects from natural resources agencies. The board may award grants only to proposals that conform to the strategic plan adopted pursuant to paragraph A. Grant proposals that establish a public-private partnership are encouraged. Grant proposals must include a stated purpose, a time line, potential outcomes, a budget and an explanation of need.

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over energy matters, natural resources matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan.

D. Responsibility for administration of the board lies with the chair. The board shall hire an executive director. The executive director may hire an additional staff person, if the board determines it necessary. The executive director directs the daily operation of the board. Staff positions may be part-time. The executive director position is unclassified and the executive director serves at the pleasure of the board. The board shall prepare and adopt an annual budget to be included with the report required under paragraph C. The board may obtain the services of consultants as necessary to carry out its functions under this subchapter. The board may spend money to cover administrative costs. The board shall endeavor to keep the level of administrative expenses as low as practicable and include, in its annual report, discussion of efforts to minimize administrative expenses. State natural resources agencies shall provide staff support and assistance as determined necessary by the board.

§10309. Fund distribution criteria for strategic plan and grants

In developing the strategic plan provided for by section 10308, subsection 5, paragraph A and reviewing and awarding grant proposals submitted pursuant to section 10308, subsection 5, paragraph B, the board shall consider whether a project involves:

1. Fisheries and wildlife and habitat conservation. For the category of fisheries and wildlife and habitat conservation:

A. A species or species group adversely affected due to lack of management or habitat loss;

B. A species or species group that is adversely affected due to unusual vulnerability to man-made disturbances and requirements for a special or limited habitat type;

C. Measurable benefits vital to the future welfare of a species or species group; and

D. Available matching funds;

2. Acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities. For the category of acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities:

A. Public recreation opportunities of statewide or regional significance;

B. Fish or wildlife habitat of statewide or regional significance;

C. Habitat of a threatened or endangered species listed under state or federal law;

D. Rare or exemplary natural communities or ecosystems as determined by the State's Natural Areas Program database;

E. Lands or areas providing for public recreation opportunities of statewide or regional significance;

F. Rare or exemplary geological features;

G. Areas with proximity to lands dedicated to conservation purposes or public recreation or with access to lands or waters with significant natural resources values; and

H. Available matching funds;

3. Conservation of endangered and threatened species and their habitats. For the category of conservation of endangered and threatened species and their habitats:

A. A species or species group listed as endangered or threatened under state or federal law;

B. The habitat of one or more species or groups under paragraph A;

C. A species or species group not listed as threatened or endangered but, based on the best available scientific information, potentially warranting listing in the near future;

D. A species, group of species, natural community or ecosystem that has been documented as

being in decline or recognized as being at risk of extirpation from the State;

E. Any species, group of species, natural community or ecosystem thought in the best professional judgment of biologists to be in decline or in danger of extirpation from the State but whose status is undetermined; and

F. Available matching funds; and

4. Natural resources law enforcement. For the category of game wardens and other conservation law enforcement:

A. A species or species group adversely affected due to lack of management or habitat loss;

B. Public health or safety concerns of statewide or regional significance;

C. Environmental education for the public or law enforcement personnel;

D. Cross-training between natural resources state agencies; and

E. Available matching funds.

The criteria in this section are not listed in order of priority. A grant applicant must indicate in the proposal the subsection under which the board should evaluate the proposals.

SUBPART 3

LAW ENFORCEMENT AND GENERAL OFFENSES

CHAPTER 905

ENFORCEMENT OFFICERS

SUBCHAPTER 1

GAME WARDENS

§10351. Appointment of wardens

1. Qualifications. The commissioner shall appoint as game wardens persons who have qualified under the written code prepared by the commissioner and approved by the Director of Human Resources within the Department of Administrative and Financial Services.

2. Assistants. The commissioner may appoint, on a temporary basis, assistant game wardens.

§10352. Office

1. Conflicts. Wardens appointed under the authority of section 10351 may hold no other governmental office from which they receive compensation, except elected positions in municipal or county government.

2. Compensation. The compensation of the wardens appointed pursuant to section 10351, subsection 1 is determined under the Civil Service Law. Assistant game wardens appointed pursuant to section 10351, subsection 2 are not entitled to compensation.

§10353. Duties and powers

1. Duties. In addition to other duties set out in this Part, a game warden shall:

A. Enforce:

(1) This Part;

(2) All rules adopted by the commissioner; and

(3) The federal Migratory Bird Treaty Act, 16 United States Code, Chapter 7, subchapter II, section 703 as amended, and all rules and regulations promulgated in pursuance of that Act; and

B. Act as a state fire warden.

(1) A warden shall, when possible, while in and about the woods, caution all sportsmen of the danger from fires in the woods and, if possible, extinguish a fire left burning by anyone.

(2) A warden shall, when possible, give notice to all interested parties of a fire raging and beyond the warden's control in order that the fire may be controlled and extinguished.

2. Powers. In addition to other powers granted in this Part, a game warden may:

A. Arrest, summons and prosecute a violator of the following:

(1) This Part;

(2) Rules adopted by the commissioner; and

(3) The federal Migratory Bird Treaty Act, 16 United States Code, Chapter 7, subchapter II, section 703 and all rules and regulations promulgated in pursuance of that Act.

A game warden shall, without unnecessary delay, take any person so arrested before the District Court nearest the place of violation;

B. Serve criminal processes on offenders of the law and serve all processes pertaining to the enforcement of this Part;

C. Accept personal recognizances in accordance with the following procedures:

(1) A game warden making an arrest for any violation of this Part and Title 38, chapter 3, subchapter 1, former article 1-A, at a point more than 50 miles distant from the nearest District Court having jurisdiction, may accept the personal recognizance of the prisoner in an amount not to exceed \$1,000 for the prisoner's appearance before the nearest District Court on a specified date and a deposit in money to the amount of that recognizance; and

(2) The warden shall report forthwith all those recognizances and forward all those deposits to the court to which the recognizance is returnable.

Recognizances and deposits must be handled by the court in accordance with sections 10202 and 10203;

D. If the warden is in uniform and has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, stop a motor vehicle or watercraft for the purpose of:

(1) Arresting the operator for a criminal violation;

(2) Issuing the appropriate written process for a criminal or civil violation or a traffic infraction; or

(3) Questioning the operator or occupants;

E. In order to protect fish and wildlife:

(1) If the warden is in uniform, stop a person for the purpose of determining compliance with license, permit, equipment or other requirements or restrictions if the person, at the time of the stop, is:

(a) Engaged in hunting, fishing or trapping; and

(b) Not in or on a motor vehicle; and

(2) Pursuant to policy established by the commissioner, establish checkpoints to stop

any type of vehicle and conduct checks to gather statistics concerning hunting, fishing and trapping and to determine compliance with fish and wildlife laws;

F. Stop any watercraft to inspect the craft, its equipment and its documents or certificates; board a watercraft when necessary to enforce chapter 935 or any other provision of this Part regarding watercraft; and order any watercraft ashore to correct a violation or to protect the safety of its occupants, if in the opinion of the warden their safety is in jeopardy;

G. Stop and examine any all-terrain vehicle to ascertain whether it is being operated in compliance with chapter 939 or any other provision of this Part regulating ATVs, demand and inspect the operator's certificate of registration and, when appropriate, demand and inspect evidence that the operator has satisfactorily completed a training course as required by section 13152;

H. Stop and examine any snowmobile to ascertain whether it is being operated in compliance with chapter 937 or any other provision of this Part regulating snowmobiles; demand and inspect the operator's certificate of registration; and examine the identification numbers of the snowmobile and any marks on it; and

I. Do anything otherwise prohibited by this Part if necessary to carry out the warden's duties and powers. This paragraph does not authorize a warden to stop any person, motor vehicle or watercraft except as specifically provided in this section.

3. Same duties and powers as sheriffs. In addition to specified duties and powers, a warden has the same duties and powers throughout the several counties of the State as sheriffs have in their respective counties, except that a warden's primary responsibility is enforcement of laws protecting fish and wildlife.

A. A warden has the same rights as sheriffs to require aid in executing the duties of their offices.

B. A warden is entitled to the same fees as sheriffs and their deputies for like services, except before the District Court. All the fees must be paid to the commissioner.

4. Agents of commissioner. A warden may act as an agent of the commissioner.

5. Assistance to federal agencies. The Bureau of Warden Service may provide assistance to federal agencies. The director of the Bureau of Warden Service may charge the various federal agencies for

these services. Revenues received from these agencies must be allocated for the purpose of funding the cost of providing the services.

SUBCHAPTER 2

OTHER ENFORCEMENT OFFICERS

§10401. Officials with full powers of game wardens

Sheriffs, deputy sheriffs, police officers, constables, marine patrol officers, Baxter Park rangers, wardens of the Penobscot Indian Nation within the Penobscot Indian Territory, as defined by Title 30, section 6205, subsection 2, wardens of the Passamaquoddy Tribe within the Passamaquoddy Indian Territory, as defined by Title 30, section 6205, subsection 1, and law enforcement personnel employed by the United States Department of the Interior have the powers of game wardens.

The commissioner shall grant the powers of game wardens outside the Penobscot Indian Territory to wardens of the Penobscot Indian Nation and game wardens outside the Passamaquoddy Indian Territory to wardens of the Passamaquoddy Tribe who have qualified under the written code prepared by the commissioner and approved by the Director of Human Resources within the Department of Administrative and Financial Services, as specified in section 10351. The commissioner may revoke these powers for good cause shown and shall provide a subsequent hearing on the revocation under Title 5, chapter 375, subchapter 4, if requested.

§10402. Officials with certain powers and duties of wardens

1. Watercraft laws. All harbor masters, except those harbor masters whose authority is restricted as described in Title 38, section 1, have the same powers and duties as game wardens to enforce chapter 935 and any other provision of this Part regulating watercraft.

2. Snowmobile laws. All law enforcement personnel of the State, including those of the Bureau of Forestry, and supervisors and rangers of the Department of Conservation, Bureau of Parks and Lands and the Allagash Wilderness Waterway have the same powers and duties as game wardens to enforce chapter 937 and any other provision of this Part regulating snowmobiles.

3. Airmobile laws. All law enforcement personnel of the State, including those of the Bureau of Forestry, have the same powers and duties as game wardens to enforce chapter 935, as it applies to airmobiles, and any other provision of this Part regulating airmobiles.

4. All-terrain vehicle laws. All law enforcement personnel of the State, including those of the Bureau of Forestry, have the powers and duties to enforce chapter 939 and any other provision of this Part regulating ATVs.

§10403. Enforcement of watercraft laws

Any municipal, county or state law enforcement officer or any harbor master appointed pursuant to section 13072 or Title 38, section 1 has the authority to enforce, in the respective jurisdictions, the watercraft laws in chapter 935 and the rules related to those laws.

§10404. New Hampshire officers

Whenever a violation of the marine resources laws or the inland fish and wildlife laws of the State of New Hampshire or the State of Maine is committed or attempted to be committed by any person or persons fishing in any waters or portion of any waters lying between New Hampshire and Maine, any warden or other person who is authorized to make arrests for violations of the marine resources laws and the inland fish and wildlife laws of New Hampshire may make arrests on any part of the waters between New Hampshire and Maine or the shores of those waters and to take the person or persons arrested for trial to the state in which the violation was committed and there to prosecute that person or persons according to the laws of that state.

CHAPTER 907

ENFORCEMENT PROCEDURES

SUBCHAPTER 1

FISH AND WILDLIFE CITATIONS

§10451. Fish and wildlife citation form

1. Form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the warden service.

2. Responsibility for issuance and disposition. Responsibility for issuance and disposition is as follows.

A. The commissioner is responsible for all fish and wildlife citation forms approved by the Chief Judge of the District Court prior to May 1, 1991. The Department of Public Safety is responsible for all Uniform Summons and Complaints issued to the warden service. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to individual wardens and for the proper disposition of those books.

3. Lawful complaint. If the citation provided for in this section or a Uniform Summons and Complaint is duly sworn to as required by law and otherwise legally sufficient in respect to the form of a complaint and charging an offense, it may be filed in a court having jurisdiction and constitutes a lawful complaint for the purpose of the commencement of any criminal prosecution or civil violation proceeding.

4. Lawful summons. A citation as provided for in this section or a Uniform Summons and Complaint, when served upon a person by a law enforcement officer, acts as a summons to appear in court or to otherwise respond in accordance with law on or before the date specified in the summons. Any person who fails to appear in court as directed by the summons or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or respond in accordance with law, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.

§10452. Refusal to sign

A person who refuses to sign a citation or Uniform Summons and Complaint after having been ordered to do so by a law enforcement officer commits a Class E crime.

§10453. Unlawful disposition of citations

It is unlawful and official misconduct for a warden or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in any applicable official policy or procedure of the Bureau of Warden Service.

SUBCHAPTER 2

EVIDENCE

§10501. Admissibility of department records and prima facie evidence

1. Certificate; admissible evidence. A certificate, signed by the commissioner or the commissioner's designee, stating what the records of the department show on any given matter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon the testimony of a law enforcement officer that the certificate and records were obtained by that officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony.

2. Certificate prima facie evidence person not holder of license, permit, registration or certificate of number. A certificate, signed by the commissioner or the commissioner's designee, stating that the records of the department do not show that a particular person on a stated date held a license, permit, registration or certificate of number issued under this Part is admissible in evidence in all courts of this State and is prima facie evidence that the particular person named in the certificate did not hold a license, permit, registration or certificate of number as specified in the certificate on the date specified in the certificate.

3. Certificate prima facie evidence of license, permit, registration or certificate of number revocation. A certificate, signed by the commissioner or the commissioner's designee, stating that the records of the department show that a particular person's license, permit, registration or certificate of number issued under this Part was revoked or suspended on a particular stated date is admissible in evidence in all courts of this State and is prima facie evidence that the particular person's license, permit, registration or certificate of number as specified in the certificate was revoked or suspended on the date stated.

4. Use of snowmobile accident reports. Accident reports made by investigating officers are for the purpose of statistical analysis and accident prevention and are not admissible in evidence in any trial, civil or criminal, arising out of an accident, but any investigating agency may disclose, upon the request of any person, the date, time and location of the accident and the names and addresses of drivers, owners, injured persons, witnesses and the investigating officer. The investigating agency may upon written request furnish a photocopy of any report at the expense of the person making the request.

5. Certificate of number for motorboat. If the operator of a motorboat requiring a certificate of number under section 13056, subsection 2 fails to produce a current certificate of number for the motorboat that person is operating within a reasonable time after demand of a law enforcement officer authorized to enforce the law, it is prima facie evidence that the motorboat is being operated without a current certificate of number.

6. Failure to produce license. A person's failure to produce a license within a reasonable time when requested by any authorized person is prima facie evidence that the person does not possess that license.

7. Possession of hunting equipment without license. The possession of any hunting equipment in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required hunting license duly issued to

that person, covering the period of time within which the hunting equipment is found in that person's possession, is prima facie evidence of hunting in violation of law, unless the person furnishes satisfactory evidence of the issuance of a hunting license.

8. Possession of fishing tackle without license.

The possession of any fishing tackle in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required fishing license duly issued to that person, covering the period of time within which the fishing tackle is found in that person's possession, is prima facie evidence of fishing in violation of law, unless the person furnishes satisfactory evidence of the issuance of a fishing license.

9. Possession of hunting equipment on Sunday. Possession of hunting equipment in the fields or forests or on the waters or ice in the State or in a motor vehicle being operated on an unpaved highway or road located in an unorganized township on Sunday is prima facie evidence of a violation of section 11205, unless:

A. The hunting equipment is carried, securely wrapped, in a complete cover;

B. The hunting equipment is fastened in a case; or

C. The hunting equipment is carried in at least 2 separate pieces in such a manner that it can not be fired, unless the separate pieces are joined together. For the purpose of this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece of the hunting equipment. Bows and arrows must be kept in a case or cover if broadheads or field points are kept attached to the arrows.

10. Possession of firearm on public paved way. Possession of a loaded firearm on a public paved way or within 10 feet of the edge of the pavement of a public paved way or within the right-of-way of any controlled access highway, except as otherwise provided in section 11208, subsection 1, is prima facie evidence of hunting.

11. Failure to give notice of snowmobile accident. Failure of a person who is required to give notice of a snowmobile accident under section 13106, subsection 22 to give that notice to the available law enforcement officer nearest to the place where the accident occurred is prima facie evidence that the accident was not reported.

§10502. Seizure of fish, wildlife and equipment

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, trans-

ported or found in possession of any person in violation of this Part, and all equipment, including firearms, possessed or used in violation of this Part are contraband and subject to seizure by any officer authorized to enforce this Part. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 10503.

2. Exemption from libel proceedings. The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

A. Unless reasonable doubt exists as to ownership, property having a value less than \$10;

B. Any firearm seized in connection with a violation of:

(1) Section 11206;

(2) Section 10902, subsection 6; or

(3) Section 10752, subsection 6, paragraph B and section 10902, subsection 4, paragraphs A and B;

C. Any fishing equipment that is contraband under this section and is seized in connection with a violation of section 10902, subsection 8; and

D. Any fish or wildlife that is contraband under this section and is seized in connection with any violation of this Part.

Property seized by the commissioner that is exempt from libel under this subsection must be retained by the commissioner pending disposition of criminal proceedings and is forfeited to the State upon conviction.

Property forfeited to the State under this section may be disposed of by the commissioner in any manner considered appropriate by the commissioner.

§10503. Forfeiture of seized fish, wildlife and equipment

Whenever a libel has been filed pursuant to section 10502:

1. Notice and hearing of libel. The judge shall fix a time for the hearing of the libel and issue a notice of the libel to all persons interested, citing them to appear at the time and place appointed and show cause why the fish, wildlife or equipment possessed should

not be declared forfeited. A true and attested copy of the libel and notice must be posted in 2 conspicuous places in the town or place where the fish, wildlife or equipment possessed was seized, or in such place or places as is ordered by the court, at least 10 days before the day on which the libel is returnable. Copies must be served on common carriers;

2. Disposal and sale of fish or wildlife. If the court finds that the fish or wildlife seized will be unsuitable for food or other use on the day on which the libel is returnable, the court shall order the officer making the seizure to dispose of the seized fish or wildlife. The officer disposing of the seized fish or wildlife shall, in case of sale, hold the proceeds of the sale subject to order of the court for decision as to the right of the claimant, if any appear, to the fish or wildlife. If the court finds the claimant, if any appear, is not entitled to the fish or wildlife, the officer making the seizure shall turn over to the court the proceeds of the sale, and the court shall forward the proceeds to the commissioner in the same manner as is provided by section 10203;

3. Declaration of forfeiture. If no claimant appears, the court shall, on proof of notice, declare the articles forfeited to the State;

4. Claim procedures. If a person appears and claims the articles, or any part of the articles, as having a right to the possession of them at the time when they were seized, that claimant shall file with the court a claim in writing stating specifically:

- A. The right so claimed;
- B. The foundation of the claim;
- C. The item so claimed;
- D. The time and place of the seizure;
- E. The name of the officer by whom the articles were seized;
- F. That the articles were not possessed in violation of this Part with the person's knowledge or consent; and
- G. That person's business and place of residence.

If a person makes a claim in accordance with this subsection, that claimant must be admitted as a party to the process, and the court shall proceed to determine the truth of the allegations in the claim and libel and may hear any pertinent evidence offered by the libellant or claimant;

5. Return of articles or proceeds to claimant. If the court is, upon the hearing, satisfied that the fish, wildlife or equipment possessed was not possessed in violation of this Part and that the claimant is entitled to

the custody of any part of the articles, the court shall give the claimant an order in writing, directed to the officer having the articles in custody, commanding delivery to the claimant of the articles or proceeds derived from the sale of the articles, to which the claimant is found to be entitled, within 48 hours after demand;

6. Judgment against claimant. If the court finds the claimant entitled to no part of the articles seized, the court shall render judgment against that claimant for the libellant for costs, to be taxed as in civil cases before the court, and issue execution thereon, and declare the articles forfeited to the State;

7. Appeal. The claimant may appeal and shall recognize with sureties as on appeals in civil causes from a judge;

8. Costs. The costs are:

- A. For the libel, 50¢;
- B. For entering the libel, 30¢;
- C. For trying the libel, \$1;
- D. For a notice, 50¢;
- E. For posting notices and return, \$1;
- F. For an order to restore or deliver, 25¢;
- G. For executing the order, 50¢; and
- H. Per mile for all necessary travel; 10¢ and

9. Forms. The department shall provide forms for all cases arising under this section.

§10504. Officer's report

In all cases, the officer making any seizure or sale of fish or wildlife shall, within 10 days after the seizure or sale, report all particulars of the seizure or sale and an itemized statement of the proceeds, expenses and fees and the disposition of the proceeds to the commissioner.

SUBCHAPTER 3

JUDICIAL ACTIONS

§10551. Prosecution by district attorney

Each district attorney shall prosecute all violations of this Part occurring within the district attorney's district when requested by the commissioner or a game warden or other law enforcement officer authorized to enforce these chapters.

§10552. Compulsory testimony and witness immunity

In any prosecution under this Part, any participant in a violation of this Part, when requested by the district attorney, commissioner or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating those chapters, but the evidence given may not be used against the person testifying in any prosecution for such a violation.

§10553. Jurisdiction

The District Court has concurrent jurisdiction with the Superior Court in all criminal prosecutions under this Part.

§10554. Court procedure

The provisions of Titles 14 and 15 relating to court procedure apply in all prosecutions under this Part.

§10555. Failure to appear

If a person from whom a game warden has accepted personal recognizance and a deposit in accordance with section 10353, subsection 2, paragraph C fails to appear in court on the day specified in the summons, either in person or by counsel, the court shall order the recognizance and deposit forfeited, and the clerk shall immediately notify the commissioner. The default and forfeiture is considered a conviction for purposes of revocation of licenses.

§10556. Clerks to notify commissioner

The clerks of the District Court and the clerks of the Superior Court shall notify the commissioner of the conviction of a person of a violation of this Part, the sentence of the court and any appeal taken from the sentence.

SUBCHAPTER 4**GENERAL PENALTIES AND SENTENCING****§10601. General penalty statement**

A person who violates a provision of this Part commits a Class E crime, except as otherwise provided in this Part.

§10602. Rule violations; general

Except as otherwise provided, a person who violates any provision of any rule of the commissioner adopted in accordance with this Part commits a Class E crime.

§10603. Crime of multiple civil violations

The violation of a prohibited act under this Part by a person who has 3 or more adjudications of having committed civil violations under this Part within the previous 5-year period is a Class E crime.

§10604. Conviction record of habitual violator

A certificate, signed by the commissioner or a person designated by the commissioner, setting forth the conviction record as maintained by the department of any person whose record brings that person within the definition of an habitual violator, as defined in section 10605, subsection 1, is admissible in evidence in all courts of the State for purposes of sentencing. That certificate is prima facie evidence that the person named in the certificate was duly convicted by the court in which that conviction was made of each offense set forth in the certificate. If the person named in the certificate denies any of the facts stated in the certificate, that person has the burden of proof.

§10605. Sentencing alternative; habitual violator

1. Habitual violator defined. For purposes of this section, "habitual violator" means a person whose record, as maintained by the department, shows that:

A. The person has been convicted of 3 or more prohibited acts under this Part within the previous 5-year period, except that, whenever more than one prohibited act is violated at the same time, multiple convictions are deemed to be one offense; or

B. The person has been convicted of 2 or more Class E crimes pursuant to section 10603 within the previous 5-year period.

2. Sentencing alternative for habitual violators. When an habitual violator is convicted of a crime in this Part the court shall impose a sentencing alternative involving not less than 3 days imprisonment, none of which may be suspended, and a fine of not less than \$500, none of which may be suspended.

§10606. License or permit violation

A person may not violate any restriction of a license or permit issued in accordance with this Part. Unless otherwise provided in this Part, each day a person violates a restriction of a license or permit issued in accordance with this Part, that person commits a Class E crime.

§10607. Rule violations; operation of motor vehicles on public water supply

Notwithstanding section 10602, a person who violates a rule regulating the operation of motor vehicles on public water supplies commits a civil

violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

CHAPTER 909

GENERAL OFFENSES

§10651. Failure to stop for law enforcement officer

1. Prohibition. A person may not:

A. Fail or refuse to stop a motor vehicle or other conveyance immediately upon request or signal of any officer in uniform whose duty it is to enforce this Part;

B. Fail to stop or move that person's watercraft upon being ordered or directed to do so by any law enforcement officer in uniform whose duty it is to enforce chapter 935;

C. Fail or refuse to stop any snowmobile on request or signal of any law enforcement officer in uniform whose duty it is to enforce chapter 937; or

D. Fail or refuse to stop any all-terrain vehicle on request or signal of any law enforcement officer in uniform whose duty it is to enforce chapter 939.

2. Penalty. A person who violates this section commits a Class E crime.

§10652. Abuse of another person's property while fishing, hunting or trapping

1. Prohibitions. Prohibitions on the abuse of another person's property while fishing, hunting or trapping are as follows.

A. A person may not, while fishing, hunting or trapping any wild animal or wild bird:

(1) Tear down or destroy any fence or wall on another person's land;

(2) Leave open any gate or bars on another person's land; or

(3) Trample or destroy any crop on another person's land.

A person, who while fishing, violates this paragraph commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

B. A person may not, while hunting any wild animal or wild bird:

(1) Damage or destroy a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand, unless the person has the permission of the landowner; or

(2) Except as provided in this paragraph, erect or use either a portable or permanent tree ladder or stand attached to a tree on the land of another person, unless:

(a) That person has obtained verbal or written authorization to erect and use a tree ladder or stand from the landowner or the landowner's representative; and

(b) The tree ladder or stand is plainly labeled with a 2-inch by 4-inch tag identifying the name and address of the person or persons authorized by the landowner to use the tree stand or ladder.

This subparagraph does not apply to a portable tree ladder or stand that is located on land within the jurisdiction of the Maine Land Use Regulation Commission and attended by the person who owns the ladder or stand.

A person may not possess any wild animal or wild bird taken by hunting or trapping in violation of this subsection, except as otherwise provided in this Part.

§10653. Nonfeasance

A person may not fail to perform any act, duty or obligation enjoined upon that person by this Part.

A person who violates this section commits a Class E crime.

§10654. Harassment of hunters, trappers and anglers

1. Interference with taking. A person may not intentionally or knowingly:

A. Interfere with the lawful hunting, fishing or trapping of a wild animal, wild bird or fish; or

B. Disturb or attempt to disturb a wild animal, wild bird or fish with the intent to interfere with the hunting, fishing or trapping of them.

2. Penalty. A person who violates subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Injunctions. The District Court or Superior Court may enjoin conduct that would be in violation of this section upon petition by a person affected or who reasonably may be affected by the conduct, upon a showing that the conduct is threatened or that it has occurred on particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

4. Property rights otherwise provided by law. This section may not be construed in any way to limit the ownership use, access or control of property rights otherwise provided by law.

§10655. Failure to notify

Except as otherwise provided through written agreement, a person may not, if that person has knowledge that a person is lost, stranded or drowned in the woodlands or inland waters of the State, fail to give notice of the lost, stranded or drowned person by quickest means to the Bureau of Warden Service.

A person who violates this section commits a Class E crime.

§10656. Defacement of notices

1. Prohibition on defacement of notices. A person may not intentionally or knowingly mutilate, deface or destroy any notice or rule of the commissioner posted in conformity with this Part.

2. Penalties. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

CHAPTER 911

HUNTING AND OPERATING UNDER THE INFLUENCE

§10701. Hunting under the influence; operating watercraft, snowmobile or ATV under the influence

1. Prohibition. A person may not hunt wild animals or wild birds or operate or attempt to operate a watercraft, snowmobile or ATV:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

B. For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

2. Possession of hunting equipment while intoxicated. The possession of hunting equipment in the fields or forests or on the waters or ice in the State by a person while under the influence of intoxicating liquor or drugs is prima facie evidence that the possessor is in violation of subsection 1.

3. Penalties. A person who violates this section commits a Class D crime. In determining an appropriate sentence, refusal to submit to a chemical test must in every case be an aggravating factor. In the following cases the following minimum penalties apply.

A. In the case of a person having no previous convictions of a violation of subsection 1 within the previous 6-year period, the fine may not be less than \$400. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete a blood-alcohol test under section 10702, subsection 1, the fine may not be less than \$500. A conviction under this paragraph must include a period of incarceration of not less than 48 hours, none of which may be suspended, when the person:

(1) Was tested as having a blood-alcohol level of 0.15% or more;

(2) Failed or refused to stop upon request or signal of an officer in uniform, pursuant to section 6953 or 10651, during the operation that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; or

(3) Failed to submit to a chemical test to determine that person's blood-alcohol level or drug concentration, requested by a law enforcement officer on the occasion that resulted in the conviction.

B. In the case of a person having one previous conviction of a violation of subsection 1 within the previous 6-year period, the fine may not be less than \$600. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 10702, subsection 1, the fine may not be less than \$800. A conviction under this paragraph must include a period of incarceration of not less than 7 days, none of which may be suspended.

C. In the case of a person having 2 or more previous convictions of violations of subsection 1 within the previous 6-year period, the fine may not be less than \$1,000. If that person was adjudicated within the previous 6-year period for

failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 10702, subsection 1, the fine may not be less than \$1,300. A conviction under this paragraph must include a period of incarceration of not less than 30 days, none of which may be suspended.

D. In addition to the penalties provided under paragraphs A to C, the court may order the defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Behavioral and Developmental Services, Office of Substance Abuse, as established in Title 5, chapter 521.

E. The penalties provided under paragraphs B, C and D may not be suspended by the court.

F. If the State pleads and proves that, while hunting or operating a snowmobile, all-terrain vehicle or watercraft in violation of this section, the defendant in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23, to another person or in fact caused the death of another person, the sentencing class for the offenses in subsection 1 is Class C crimes. The minimum penalties specified in this subsection apply, unless a longer minimum period otherwise applies.

Any alternatives defined in subsection 1 may be pleaded in the alternative. The State may, but is not required to, elect an alternative prior to submission to the fact finder.

For purposes of this subsection, a prior conviction has occurred within the 6-year period if the date of docket entry by the clerk of a judgment of conviction or adjudication is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.

In determining the appropriate sentence, the court shall consider the defendant's record of convictions for hunting under the influence or operating a snowmobile, all-terrain vehicle or watercraft while under the influence of intoxicating liquor or drugs and for failure to comply with the duty to submit. The court may rely upon oral representations based on records maintained by the courts, by the Department of Public Safety, State Bureau of Identification; by the Secretary of State, including telecommunications of records maintained by the Secretary of State; or by the department. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

References in this Title to this subsection are deemed to refer to the juvenile crime stated in Title 15, section 3103, subsection 1, paragraph E and to the disposition, including a suspension, for that juvenile crime as provided in Title 15, section 3314, subsection 3, except as otherwise provided or when the context clearly requires otherwise.

§10702. Chemical tests

1. Duty to submit. The following persons have a duty to submit to chemical testing.

A. A person who operates or attempts to operate a watercraft within this State has the duty to submit to a test to determine that person's blood-alcohol level by analysis of blood or breath if there is probable cause to believe that person has operated or attempted to operate a watercraft while under the influence of intoxicating liquor. The duty to submit to a blood-alcohol test includes the duty to complete either a blood or breath test. Tests and procedures applicable in determining whether a person is under the influence are governed by section 10703.

B. A person who hunts wild animals or wild birds or operates or attempts to operate a snowmobile or ATV within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood, breath or urine if there is probable cause to believe that the person is hunting wild animals or wild birds or operating or attempting to operate a snowmobile or ATV while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete either a blood, breath or urine test, or any combination of those tests. Tests and procedures for determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 10703.

2. Failure to comply with duty to submit. This subsection applies to a person refusing to submit to chemical testing.

A. A person may not refuse to submit to or fail to complete a blood-alcohol test when requested to do so by a law enforcement officer:

(1) Who has probable cause to believe that the person operated or attempted to operate a watercraft while under the influence of intoxicating liquor; or

(2) When the person was the operator of a watercraft involved in a watercraft accident that results in the death of any person, as provided in section 10703, subsection 11.

B. A person may not refuse to submit to or fail to complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person hunted while under the influence or operated or attempted to operate an ATV or a snowmobile while under the influence of intoxicating liquor or drugs.

3. Penalties. A person who violates this section commits a civil violation for which a forfeiture of up to \$500 may be adjudged.

§10703. Administering chemical tests; test results; evidence; reporting; immunity

1. Blood or breath test. If the law enforcement officer has probable cause to believe a person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, then the officer shall inform the person that a breath test will be administered, unless, in the determination of the officer, it is unreasonable for a breath test to be administered, in which case a blood test must be administered. When a blood test is required, the test may be administered by a physician of the accused's choice, at the request of the accused and if reasonably available. The law enforcement officer may determine which type of breath test, as described in subsection 5, will be administered.

2. Prerequisites to tests. Before any test is given, the law enforcement officer shall inform the person to be tested of the consequences of refusing to comply with the test. If the person fails to comply with the duty to submit to and complete the requested chemical tests at the direction of the law enforcement officer, that person is committing a civil violation for which the person may be required to pay a civil forfeiture of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to a chemical test is admissible in evidence against that person at any trial for hunting or operating under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

Test results may not be excluded as evidence in any proceeding before any administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

3. Results of test. Upon the request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests must be made available to

that person or that person's attorney by the law enforcement officer.

4. Blood-alcohol level. The following percentages by weight of alcohol in the defendant's blood have the following evidentiary effect.

A. If there was, at the time alleged, 0.05% or less by weight of alcohol in the blood of a defendant who was 21 years of age or older at the time of arrest, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If there was, at the time alleged, in excess of 0.05% but less than 0.08% by weight of alcohol in the blood of a defendant who was 21 years of age or older at the time of the arrest, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 10701, subsection 1, it is presumed that a person was under the influence of intoxicating liquor when that person has:

(1) For a person 21 years of age or older, a blood-alcohol level of 0.08% or more by weight; and

(2) For a person less than 21 years of age, any amount of alcohol in the blood.

D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.

5. Administration of tests. Persons conducting analyses of blood, breath or urine for the purpose of determining the blood-alcohol level or drug concentration must be certified for each purpose by the Department of Human Services under certification standards set by that department.

A. Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the blood-alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath or urine speci-

mens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the blood-alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

B. A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a chemical test. The sample specimen must be submitted to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting chemical tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample.

C. Only equipment approved by the Department of Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

D. As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe hunted wild birds or wild animals or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of

intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Human Services. The result of any such test must be accepted as prima facie evidence of the blood-alcohol level in any court.

E. Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

F. Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of blood-alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

G. Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

H. A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

6. Liability. A physician, physician's assistant, registered nurse, person certified by the Department of Human Services or hospital or other health care provider in the exercise of due care is not liable in damages or otherwise for any act done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

7. Evidence. The percentage by weight of alcohol in the defendant's blood at the time alleged and the concentration of drugs at the time alleged, as shown by the chemical analysis of the defendant's blood,

breath or urine or by any test authorized by subsection 5 is admissible in evidence.

A. When a person certified under subsection 5 conducts a chemical analysis of blood, breath or urine to determine blood-alcohol level or drug concentration, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration or percentage by weight of alcohol in the defendant's blood was, at the time the blood, breath or urine sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

B. A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the percentage by weight of alcohol in the defendant's blood was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

C. Transfer of sample specimens to and from a laboratory for purposes of analysis must be by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

D. The failure of a person to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1 is admissible in evidence on the issue of whether that person

was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a chemical test is not admitted into evidence, the court may inform the jury of the fact that a test result is not available.

E. If a test result is not available for a reason other than a person's failure to comply with the duty to submit to and complete a chemical test, the unavailability and the reason are admissible in evidence.

8. Statements by accused. Any statement by a defendant that the defendant was the operator of a watercraft, snowmobile or ATV that the defendant is accused of operating in violation of section 10701, subsection 1 is admissible if it was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the watercraft, snowmobile or ATV was operated by the defendant. Any statement by a defendant that the defendant was hunting wild animals or wild birds is admissible against a defendant accused of hunting wild animals or wild birds in violation of section 10701, subsection 1 if the statement was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the defendant was hunting wild animals or wild birds.

9. Payment for tests. Persons authorized to take specimens of blood at the direction of a law enforcement officer and persons authorized to perform chemical tests of specimens of blood or breath must be paid from the General Fund or from dedicated revenues of the department when a law enforcement officer of the department authorizes the chemical tests. The Department of Marine Resources shall pay for chemical tests authorized by marine patrol officers with funds available within that department.

10. Accidents and officer's duties. The law enforcement officer has the following duties.

A. After a person has been charged with hunting wild animals or wild birds or with operating or attempting to operate a watercraft, snowmobile

or ATV while under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 10701, subsection 1 or adjudications for failure to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1. As part of that investigation, the officer shall review the records maintained by the courts, the State Bureau of Identification, the Secretary of State, including telecommunications of records maintained by the Secretary of State, or the department.

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe hunted any wild animal or wild bird or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence that the person was under the influence of intoxicating liquor or drugs.

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that results in the death of any person must submit to and complete chemical tests to determine that person's blood-alcohol level or other chemical use by analysis of blood, breath or urine. A law enforcement officer may determine which types of tests will be administered. The results of tests taken pursuant to this subsection are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive blood-alcohol level.

12. Aid in enforcement among municipalities. Except as otherwise prohibited by municipal charter or ordinance, municipalities may, in the manner provided by Title 30-A, section 2674, enter into agreements regarding mutual aid in enforcing laws governing the hunting of wild animals or wild birds while under the influence of intoxicating liquor or drugs or the operation of a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

13. Reporting; immunity. Immunity from certain criminal and civil liabilities for the act of good faith reporting by certain health care professionals on accidents that the reporting person reasonably believes involved a person who was hunting or operating a snowmobile, ATV or watercraft while under the

influence of intoxicating liquor or drugs is set forth in Title 29-A, section 2405.

SUBPART 4

FISH AND WILDLIFE

CHAPTER 913

GENERAL LICENSE AND PERMIT PROVISIONS

SUBCHAPTER 1

LICENSES AND PERMITS; ELIGIBILITY, ISSUANCE AND REQUIREMENTS

§10751. Application and license specifications

1. Form. The commissioner shall furnish application blanks, licenses and permits in such form as the commissioner may designate. The department may charge a fee of up to \$10 to cover administrative costs for the issuance of miscellaneous licenses and permits for which a fee is not provided by law.

2. Identification number. The commissioner may require an identification number and any other pertinent information on any licenses or permits issued by the department as the commissioner determines necessary.

3. Statement of right to possess firearms. The department's applications for licenses and permits that authorize a person to hunt with a firearm must include the following statement signed by the applicant:

I CERTIFY THAT EITHER I AM NOT A CONVICTED FELON OR THAT I AM A CONVICTED FELON WITH A PERMIT TO CARRY A FIREARM. BY MAKING FALSE STATEMENTS ON THIS DOCUMENT, I REALIZE I AM COMMITTING A CLASS D CRIME PUNISHABLE UNDER MAINE LAW.

4. Stamps. Whenever a license or permit to hunt is in the form of a stamp, the licensee must affix the stamp to the licensee's hunting license and validate it by signing the licensee's name across the face of the stamp.

5. Preissue. A license or permit may be issued prior to the date upon which it goes into force.

6. Duplicates. A duplicate license or permit may be obtained by a person who has accidentally lost or destroyed a license or permit issued to that person under this chapter upon payment of a fee of \$2, all of which must be retained by the agent.

7. License must be signed. A license issued by the department must be signed by the licensee prior to use.

§10752. Eligibility

1. Residents. A resident is eligible for a resident license or permit under this Part.

2. Nonresidents. A nonresident is eligible for a nonresident license or permit under this Part.

3. Aliens. An alien is eligible for an alien license or permit under this Part.

4. Member of United States Armed Forces permanently stationed in State. The following persons are eligible for any trapping, fishing, hunting or combination fishing and hunting license or permit at the resident fee and have the same privileges as residents of this State in regard to trapping, hunting and fishing:

A. A person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of a person under paragraph A if the spouse and children permanently reside with that person.

A member of the Armed Forces of the United States stationed in the State who desires a trapping, hunting, fishing or combination license or permit shall present certification from the commander of the member's post, station or base, or from the commander's designated agent, that the person is permanently stationed at that post, station or base.

5. Persons convicted of burglary, criminal trespass or theft. Persons convicted of the following offenses are not eligible to obtain a license or permit issued by the department:

A. Burglary or criminal trespass of a building located within the unorganized territories;

B. Theft of equipment used for trapping, hunting or fishing; or

C. Theft of an animal that has been obtained by trapping or hunting and that was in the possession or control of the person who trapped or hunted the animal.

If the conviction under paragraph A, B or C was a first conviction, the person convicted is not eligible to obtain a license or permit issued by the department within 2 years of the date of that first conviction.

6. Persons convicted of certain offenses. The following applies to the conviction of certain offenses.

A. A person convicted of a violation of section 12256, disturbing traps, is not eligible to obtain any license issued by the department for 3 years from the date of conviction in the case of a first offense and 5 years from the date of conviction in the case of a 2nd or subsequent offense.

B. Notwithstanding any other provision of this Part, a person is not eligible to obtain a hunting license under the following circumstances.

(1) A person convicted of shooting a domestic animal in violation of section 11210 is not eligible to obtain a license to hunt in this State for a period of at least 5 years from the date of conviction.

(2) A person convicted of hunting while under the influence of intoxicating liquor or drugs in violation of section 10701, subsection 1 is not eligible to obtain a license to hunt in this State for a period of 5 years from the date of conviction.

(3) A person convicted of a violation of Title 17-A, chapter 9, if the offense occurred in the context of a hunting activity and if, through failure of the hunter to make proper target identification, the offense resulted in the injury or death of another person, is not eligible to obtain a license to hunt in this State for a period of at least 10 years from the date of the conviction.

§10753. Proof of residency

An applicant for a license or permit under this Part is responsible for submitting proof of residency to the agent or the department, or both. A resident license issued to a person unable to meet the residency requirements at the time the license was issued is invalid and must be returned to the commissioner upon request.

§10754. Trespass reminder

The following notice must be printed on each hunting and fishing license: "This document does not authorize you to enter private property without permission."

§10755. Intentional issuance of resident license or permit to nonresident

A town clerk or agent may not intentionally issue a resident license or permit to a person who is not a resident. A person who violates this section commits a Class E crime.

§10756. Duty to carry and exhibit license or permit

A person who holds a license or permit issued under this Part shall, while engaged in the licensed activity or while transporting fish, wild animals or wild birds:

1. Carry license or permit. Have on that person that license or permit; and

2. Exhibit license or permit. Exhibit that license or permit for inspection upon request to a warden or other law enforcement officer, an employee of the department, a registered Maine guide or the owner of the land on which the licensed activity is taking place.

A person who violates this section commits a Class E crime.

§10757. Fraudulently obtaining license or permit

A person may not obtain a license or permit authorized in this Part through fraud, misstatement or misrepresentation. A person who violates this section commits a Class E crime.

§10758. Possession of altered license or permit

A person may not possess a license or permit issued under this Part that has been altered, tampered with or mutilated in any manner.

§10759. Expiration

All licenses and permits issued under this chapter expire at midnight on December 31st of the calendar year for which the license or permit was issued, unless specifically provided for otherwise.

SUBCHAPTER 2**ESTABLISHMENT OF AGENTS****§10801. Establishment of agents**

1. Appointment. The commissioner may appoint clerks of towns, the State Tax Assessor or such other agents as the commissioner considers necessary to issue licenses and permits. The commissioner shall determine the period during which the agents perform their duties. In the case of services performed for the commissioner by the State Tax Assessor, the provisions of this chapter regarding agents' fees do not apply.

2. Agents for purpose of selling licenses. The commissioner shall adopt rules that establish the criteria for selecting agents to sell licenses and permits. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Reporting and payment requirements. The commissioner shall adopt rules establishing the reporting requirements for agents and the procedure for payment of all funds collected for the reporting period. If these rules include a requirement that agents must report more frequently than once a month, the commissioner is responsible for all costs associated with the additional reporting requirement, including mailing costs. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Deposit. The commissioner shall deposit funds collected by agents from the sale of licenses and permits and any unencumbered balances as of June 30, 1990 in the State Treasury as undedicated revenue to the General Fund.

5. Purposes. All funds derived from the sale of licenses or permits under this Part must be used for the following purposes only:

A. The administration of the department;

B. The protection, propagation, preservation, promotion and investigation of fish and wildlife;

C. Conservation education; and

D. Other expenses incident to the administration of the functions set out in this subsection.

6. Delinquent agents. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under subsection 3. Failure to remit the funds as provided in this section results in the following sanctions, in addition to any others provided by law.

A. The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

B. If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one calendar year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

7. Exception. This section does not apply to the State Tax Assessor with respect to services performed for the commissioner.

§10802. Rule violations; agent

Notwithstanding section 10602, a person who violates a rule regulating hunting and fishing agents commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

SUBCHAPTER 3**LIFETIME, COMPLIMENTARY AND
REDUCED-RATE LICENSES****§10851. Resident lifetime licenses**

1. Infants and seniors. The following resident lifetime licenses may be purchased:

A. For a resident who is less than 6 years of age:

(1) An infant resident lifetime fishing license. The fee for an infant resident lifetime fishing license is \$150;

(2) An infant resident lifetime hunting license. The fee for an infant resident lifetime hunting license is \$150;

(3) An infant resident lifetime archery hunting license. The fee for an infant resident lifetime archery hunting license is \$150;

(4) An infant resident combination of any 2 lifetime licenses. The fee for an infant resident combination of any 2 lifetime licenses is \$250; and

(5) An infant resident combination of all 3 lifetime licenses. The fee for an infant resident combination of all 3 lifetime licenses is \$400;

B. For a resident from 6 to 15 years of age:

(1) A junior resident lifetime fishing license. The fee for a junior resident lifetime fishing license is \$300;

(2) A junior resident lifetime hunting license. The fee for a junior resident lifetime hunting license is \$300;

(3) A junior resident lifetime archery hunting license. The fee for a junior resident lifetime archery hunting license is \$300;

(4) A junior resident combination of any 2 lifetime licenses. The fee for a junior resident combination of any 2 lifetime licenses is \$500; and

(5) A junior resident combination of all 3 lifetime licenses. The fee for a junior resident combination of all 3 lifetime licenses is \$800;

C. For a resident from 65 to 69 years of age:

(1) A senior resident lifetime fishing license. The fee for a senior resident lifetime fishing license is \$50 for a person who purchases the license in the year in which that person turns 65 years of age, \$40 for a person who purchases the license in the year in which that person turns 66 years of age, \$30 for a person who purchases the license in the year in which that person turns 67 years of age, \$20 for a person who purchases the license in the year in which that person turns 68 years of age and \$10 for a person who purchases the license in the year in which that person turns 69 years of age;

(2) A senior resident lifetime hunting license. The fee for a senior resident lifetime hunting license is \$50 for a person who purchases the license in the year in which that person turns 65 years of age, \$40 for a person who purchases the license in the year in which that person turns 66 years of age, \$30 for a person who purchases the license in the year in which that person turns 67 years of age, \$20 for a person who purchases the license in the year in which that person turns 68 years of age and \$10 for a person who purchases the license in the year in which that person turns 69 years of age;

(3) A senior resident lifetime archery hunting license. The fee for a senior resident lifetime archery hunting license is \$50 for a person who purchases the license in the year in which that person turns 65 years of age, \$40 for a person who purchases the license in the year in which that person turns 66 years of age, \$30 for a person who purchases the license in the year in which that person turns 67 years of age, \$20 for a person who purchases the license in the year in which that person turns 68 years of age and \$10 for a person who purchases the license in the year in which that person turns 69 years of age;

(4) A senior resident combination of any 2 lifetime licenses. The fee for a senior resident combination of any 2 lifetime licenses is \$80 for a person who purchases the license in the year in which that person turns 65 years of age, \$64 for a person who pur-

chases the license in the year in which that person turns 66 years of age, \$48 for a person who purchases the license in the year in which that person turns 67 years of age, \$32 for a person who purchases the license in the year in which that person turns 68 years of age and \$16 for a person who purchases the license in the year in which that person turns 69 years of age; and

(5) A senior resident combination of all 3 lifetime licenses. The fee for a senior resident combination of all 3 lifetime licenses is \$110 for a person who purchases the license in the year in which that person turns 65 years of age, \$94 for a person who purchases the license in the year in which that person turns 66 years of age, \$78 for a person who purchases the license in the year in which that person turns 67 years of age, \$62 for a person who purchases the license in the year in which that person turns 68 years of age and \$46 for a person who purchases the license in the year in which that person turns 69 years of age; and

D. For a resident 70 years of age or older. A person who holds a valid senior lifetime license under this section upon turning 70 years of age may obtain at no cost a hunting license, fishing license, trapping license, archery license under section 11109, subsection 7, a pheasant hunting permit under section 11156, a muzzle-loading hunting license under section 11109, subsection 4, a migratory waterfowl permit under section 11157 and a bear hunting permit under section 11151 and may renew at no cost a guide license under section 12853. A person who is 70 years of age or older may purchase a senior lifetime license that entitles the holder to all the privileges described in this paragraph for a one-time \$8 fee.

A person must be a resident to purchase a resident lifetime license under this section. Once purchased, a resident lifetime license is valid for the life of the holder without regard to subsequent changes in the legal residence of the holder. The license entitles the holder to all fishing or hunting privileges extended to residents of that same age who hold the equivalent annual license and subjects the holder to all limitations and prerequisites on those fishing or hunting privileges that apply to residents of that same age who hold the equivalent annual license.

Notwithstanding any other provision of this section, if the commissioner determines that the sale of lifetime licenses for persons 65 years of age or older will result in a loss of license revenue to the department in any fiscal year, the commissioner shall

withhold from deposit to the fund established in section 10251 an amount necessary to avoid that loss in revenue. Money withheld under this paragraph may be withheld only from revenue from the sale of lifetime licenses to persons 65 years of age or older. This paragraph is repealed on July 1, 2010.

§10852. Lifetime privileges to be honored

A lifetime license issued under this subchapter is valid for the life of the license holder unless lawfully suspended or revoked by the commissioner for a violation of fish and wildlife laws under this Part. The Legislature may not otherwise act in any way to limit or end the right of a person holding a lifetime license to the lifetime enjoyment of all the rights and privileges authorized by that license.

§10853. Complimentary and reduced-rate licenses

1. Residents over 70 years of age. A complimentary license to hunt, trap or fish, including an archery license under section 11109, subsection 7, a pheasant hunting permit under section 11156, a muzzle-loading hunting license under section 11109, subsection 4, a migratory waterfowl permit under section 11157 and a bear hunting permit under section 11151 must be issued to a resident who is 70 years of age or older upon application to the commissioner.

A. A resident who applies for a complimentary license under this section at any time during the calendar year of that resident's 70th birthday must be issued a license upon application, regardless of the actual date during that calendar year in which that resident attains 70 years of age. A guide license may be renewed without charge for a resident who is 70 years of age or older upon application to the commissioner. The application must be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency.

B. Beginning January 1, 2006, the department may not issue a complimentary license to a resident over 70 years of age. A complimentary license issued to a resident over 70 years of age prior to January 1, 2006 is valid as long as the license holder satisfies the residency requirements set out in section 10001, subsection 53.

C. A complimentary license issued under this subsection remains valid for the remainder of the life of the license holder, as long as the license holder continues to satisfy the residency requirements set out in section 10001, subsection 53 and the license is not revoked or suspended.

2. Blind residents. A complimentary license to fish must be issued to a resident who is 16 years of age or older and blind and applies for the fishing license to

the commissioner. This complimentary license remains valid for the life of the license holder if the license holder continues to satisfy the residency requirements in section 10001, subsection 53 and the license is not revoked or suspended. The application must be accompanied by certified evidence that the applicant is permanently blind. For the purpose of this subsection, "blind" means having visual acuity for distant vision of 20/200 if the widest diameter of field of vision subtends an angle no greater than 20 degrees.

3. Paraplegics. The commissioner may issue, upon application, complimentary resident hunting and fishing licenses to a resident who has lost, or who has permanently lost the use of, both lower extremities. A license issued under this subsection remains valid for the life of the license holder if the license holder continues to satisfy the residency requirements in section 10001, subsection 53 and the license is not revoked or suspended.

The commissioner may issue, upon application, complimentary nonresident hunting and fishing licenses to a person from another state who would qualify under this subsection as long as the state where the person resides provides a reciprocal privilege for residents of this State.

4. Resident disabled veteran. A resident disabled veteran may apply to the commissioner for one or more of the following complimentary permits and licenses: a license to hunt with a firearm, a license to trap, a license to fish, archery hunting licenses as provided in section 11109, subsection 7, a pheasant hunting permit as provided in section 11156 and a muzzle-loading hunting license as provided in section 11109, subsection 4. The commissioner shall issue the permit, license or licenses requested under this subsection if the commissioner determines the applicant is a resident disabled veteran and is not otherwise ineligible to hold that permit or license. For the purposes of this subsection, "resident disabled veteran" means a person who:

A. Is a resident as defined in section 10001, subsection 53;

B. Is a veteran as defined in Title 37-B, section 505, subsection 2, paragraph A, subparagraph (3); and

C. Has a service-connected disability evaluated at:

(1) One hundred percent; or

(2) Seventy percent or more as a result of honorable military service and who has served in a combat zone during any armed conflict in which participants were exposed

to war risk hazards as defined in 42 United States Code, Section 1711 (b).

Each application must be accompanied by satisfactory evidence that the applicant meets the requirements of this subsection. A permit or license issued under this subsection remains valid for the life of the permit or license holder, as long as the permit or license holder continues to satisfy the residency requirement in section 10001, subsection 53 and the permit or license is not revoked or suspended.

5. Holders of Congressional Medal of Honor. Upon application, the Governor may grant 2-year complimentary hunting and fishing licenses to holders of the Congressional Medal of Honor.

6. Members of Armed Forces domiciled in State. A member of the Armed Forces of the United States on active duty who is permanently stationed outside of the State may be issued a combination fishing and hunting license for an amount equal to the administrative costs associated with issuing the license as determined by the department. Administrative costs do not include agent fees. To qualify, the member of the Armed Forces of the United States must show proof that that member's home of record, as recorded in that person's service records, is Maine. That person may purchase all other licenses or permits at resident fees. The license is valid during the year of issue. That person's spouse and children may purchase hunting and fishing licenses at reduced rates. The reduced fees are as follows:

A. Twenty dollars, plus the issuing fee for a combination fishing and hunting license;

B. Ten dollars, plus the issuing fee for a hunting license; and

C. Ten dollars, plus the issuing fee for a fishing license.

7. Patients and inmates in certain state institutions. The commissioner may issue free fishing permits covering:

A. Residents or groups of residents at any state institution under the control of the Department of Behavioral and Developmental Services;

B. Groups of full-time patients at a nursing home, as defined in Title 22, section 1812-A; and

C. Groups of full-time residents of a facility licensed under Title 22, chapter 1663.

8. Native American. The commissioner shall issue a hunting, trapping and fishing license to any Native American, 10 years of age or older, of the Passamaquoddy Tribe, the Penobscot Nation, the

Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs without any charge or fee if the Native American presents a certificate from the respective reservation governor, the Aroostook Micmac Council or "Wesget-Sipu" stating that the person described is a Native American and a member of that nation, band or tribe. Holders of these licenses are subject to this Part.

9. Foreign exchange students. A resident license to hunt or fish must be issued, at a fee equal to the resident license fee for a person of like age and status, to any citizen of a foreign nation under 21 years of age who is domiciled with a family within the State pursuant to any cultural or educational exchange program conducted by any governmental, educational, cultural or religious organization.

10. Persons with mental retardation. A complimentary license to fish must be issued to any person with mental retardation, as defined in Title 34-B, section 5001, subsection 3, upon application to the commissioner. The application must be accompanied by certified evidence that the applicant meets the defined condition. This complimentary license remains effective for the life of the license holder, if the license is not revoked or suspended.

11. Permits to accommodate permanent physical disabilities. The commissioner may issue a special permit to a person with a permanent physical disability that includes special authorization that allows that person to hunt, trap or fish at times or in a manner otherwise prohibited by this Part in order to enhance access to hunting, trapping and fishing opportunities. No laws or rules may be waived except as are necessary to effect this subsection. A permit may be issued under this subsection only if:

A. The applicant provides the commissioner with a letter signed by a licensed physician clearly stating the nature of that person's disability, the permanence of the disability and the extent to which the disability affects that person's ambulatory ability or endurance; use of one or both hands, arms or legs; or sight or hearing;

B. The commissioner determines that the permanent physical disability prevents that person from safely accessing hunting, trapping or fishing opportunities at the times or in the manner allowed by this Part or by rules adopted pursuant to this Part; and

C. The person meets all other requirements for issuance of that permit and related licensing requirements and is not otherwise ineligible for that permit.

Prior to making a determination of eligibility under this subsection, the commissioner or the commis-

sioner's agent shall meet with the applicant in person at a location chosen by the commissioner to discuss the applicant's needs. Each applicant's disability and needs must be reviewed in consultation with the disabled hunter, trapper and angler advisory committee established in section 10152 and a determination made regarding the special authorization that may be made to enhance the applicant's access to fishing, hunting and trapping opportunities. A permit issued under this subsection must be signed by the commissioner and include a clear and specific description of the activities authorized by that permit. The disabled person shall carry the permit whenever that person is hunting, trapping or fishing, and the permit must be presented to a game warden or other law enforcement officer upon request. No laws or rules may be waived except as are necessary to effect this subsection.

The commissioner may authorize only the minimum special exceptions necessary to overcome the applicant's disability and allow that applicant to safely hunt, trap or fish. This does not authorize the commissioner to issue special exceptions that endanger public safety. A permit issued under this subsection may not authorize a person to exceed the allowable bag or size limits for any fish or wildlife species; to fish for or take a fish or wildlife species for which a license is not otherwise issued; to fish for, trap or hunt a fish or wildlife species more than 7 days before the opening or more than 7 days after the closing of the regular open season for that species; or to fish, trap or hunt in any area permanently closed to those activities by state law or rule.

SUBCHAPTER 4

REVOCAION AND SUSPENSION OF LICENSES OR PERMITS

§10901. Compliance; noncompliance

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

A. "Compliance with a court order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in a court order of support and has obtained or maintained health insurance coverage if required by a court order of support.

B. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or

any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

2. Compliance. In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201.

3. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee who is not in compliance with a court order of support is subject to the requirements of Title 19-A, section 2201.

§10902. Suspension or revocation of or refusal to issue license or permit

1. Conviction or adjudication of violation. Any conviction or adjudication for a violation of this Part is grounds for suspension of any license or permit issued under this Part. Except where provided by law, the commissioner shall determine the suspension period. To suspend a license or permit based upon a conviction or adjudication, the commissioner shall follow the procedures under section 10903. A suspension or revocation of a license by the District Court is subject to the provisions of subsection 5.

2. Refusal to issue license or permit. If a person is convicted or adjudicated of a violation of any provision of this Part and is not the holder of a valid license or permit issued under this Part, the commissioner may refuse to issue a related license or permit to that person for up to 5 years following the date of conviction or adjudication, except when the killing or wounding of a human being has occurred, in which case the commissioner may revoke the license or permit for a period of not less than 5 years.

3. Failure to pay fine. If a license or registration is suspended pursuant to Title 14, section 3142, the suspension remains in effect until the person pays the fine. On condition of payment of a \$25 reinstatement fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record. For the purposes of this subsection, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

4. Mandatory revocation of all licenses issued by the department. A person's license must be revoked under the following circumstances.

A. If a person holding a license or permit under this chapter is convicted of the violation of any provision of Title 17-A while on a hunting or fishing trip or in the pursuit of wild animals, wild birds or fish, the commissioner shall revoke the license or permit held by that person for a period of at least one year, except when the killing or wounding of a human being has occurred, in which case the commissioner shall revoke the license or permit for at least 5 years.

B. Any license issued by the department in effect at the time a person is convicted of a violation of section 12256, disturbing traps, is revoked upon conviction and must be immediately surrendered to the commissioner.

C. If an habitual violator, as defined in section 10605, subsection 1, is convicted or adjudicated of a violation of any provision of this Part, the commissioner shall revoke all licenses and permits held by that person. A license may not be granted to that person for a period to be determined by the commissioner, but not less than 3 years from the date of revocation. A hearing for a person whose licenses and permits have been revoked under this paragraph is governed by the following.

(1) A person whose licenses and permits have been revoked under this paragraph may, within 30 days of the effective date of the revocation, petition for a hearing before the commissioner to show cause why the licenses and permits should not have been revoked.

(2) If, after the hearing, the commissioner finds that the petitioner's record does not bring the petitioner within the definition of an habitual violator, the commissioner shall rescind the revocation. If the commissioner finds that the petitioner's record does bring the petitioner within the definition of an habitual violator, the revocation remains in effect. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.

5. Hunting license revocation or suspension for endangerment or harm to another. The commissioner may bring a complaint in the District Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person whom the commissioner reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting. The District Court shall revoke or suspend the person's license or privilege for a period of at least 5 years if the court finds that the person, while hunting,

has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of that license or privilege. For the purpose of this subsection, "recklessly" has the same meaning as that set out in Title 17-A, section 35, subsection 3.

A. A person whose hunting license has been revoked or suspended or whose right to hunt or the right to obtain a hunting license has been denied under this subsection, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of the person's privilege to procure such a license.

B. The commissioner, after hearing, may restore the petitioner's privilege if the commissioner determines that the public safety will not be endangered by restoring that privilege.

C. If the commissioner disallows the petition and thereby refuses to grant the restoration of the privilege, the petitioner may appeal to the commissioner's advisory council, which, after hearing on the petition, may allow it and restore the privilege.

6. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of:

A. A closed season violation, in violation of section 11201 as it relates to bear, deer or moose;

B. Hunting while under the influence of intoxicating liquor or drugs, in violation of section 10701;

C. Night hunting, in violation of section 11206;

D. Discharging a firearm within 100 yards of a residential dwelling without owner permission, in violation of section 11209;

E. Buying or selling bear, hunting or trapping bear after having killed one or exceeding the bag limit on bear, in violation of section 11217 or 11351;

F. Buying or selling deer, exceeding the bag limit on deer or hunting deer after having killed one, in violation of section 11217 or 11501;

G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing moose, in violation of section 11154, 11217, 11601, 11652, 12302, 12304, 12305 or 12403; or

H. Buying or selling wild turkeys, unlawfully hunting wild turkeys, unlawfully possessing wild turkeys or using unlawful methods to hunt wild turkeys, in violation of section 11217, subsection 1; section 11751; section 11801; or section 12306, subsection 1.

7. Mandatory hunting license revocation; coyote hunting violation. A hunting license of a person convicted of hunting coyote in violation of section 11160 or 12001 must be revoked and that person is not eligible to obtain any hunting license for a period of one year from the date of conviction.

8. Mandatory revocation of fishing license. The commissioner shall suspend a person's fishing license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted or adjudicated of:

A. Introducing fish into inland waters without a permit in violation of section 12510;

B. Taking or possessing sport fish in violation of bag, weight and size limits in violation of section 12602, as it relates to trout, salmon, togue and black bass, whenever the violation involves twice the general bag and possession limit adopted by rule by the commissioner for that species of fish;

C. Importing live bait fish or smelts, in violation of section 12556;

D. Buying or selling freshwater sport fish, in violation of section 12609; or

E. Taking fish by explosive, poisonous or stupefying substances, in violation of section 12653.

§10903. Effective date for suspensions

1. For mandatory suspension. For a violation having a minimum statutory suspension period, a suspension is effective upon conviction or adjudication and the license holder must surrender the license immediately to the commissioner. That person is not entitled to a hearing under section 10905 if the suspension period does not exceed the minimum period of suspension required by law. In addition to any suspension period ordered by the commissioner, a person whose license is suspended for a violation having a mandatory suspension must successfully complete an outdoor ethics course conducted or endorsed by the department prior to being eligible to have that license reinstated.

2. For all other suspensions. For a violation that does not have a minimum statutory suspension period, a suspension is effective upon written notification of suspension by the commissioner. That person must surrender that license to the commissioner upon

receipt of a notice of suspension and is entitled to a hearing under section 10905. The commissioner shall adopt rules specifying the conditions under which a person whose license is suspended for a violation that does not carry a mandatory suspension is required to complete an outdoor ethics course. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Outdoor ethics courses must be scheduled by the Bureau of Warden Service and must be given whenever there are 10 or more persons needing or wanting to take the course. The fee for an outdoor ethics course is \$100, payable 10 working days prior to the start of the course. All fees collected under this section are allocated to the Sport Hunter Program established in section 10108, subsection 4, paragraph B.

§10904. Notice of suspension

A decision by the commissioner to suspend a license of a person convicted or adjudicated of a violation that does not carry a mandatory suspension must be made within 60 days after that conviction. The commissioner shall give written notice of all suspensions immediately following a decision to suspend. A notice of suspension must name the license or permit that is suspended and state the effective date and length of the suspension and must inform the person of any applicable hearing provisions under section 10905.

§10905. Hearings

Except as provided in section 10903, subsection 1, a person receiving a notice of suspension under section 10904 may request a hearing on that suspension. A request for a hearing must be in writing and must be made not later than 30 days after receipt of the suspension notice required under section 10903. The commissioner shall notify the person of the date and location of the hearing.

1. Evidence. A person may present evidence at a hearing concerning the violation that might justify reinstatement of the license or permit or the reduction of the suspension period. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.

2. Decisions. Decisions of the commissioner must be in writing. Except as provided in subsection 3, the commissioner may reinstate the license or permit or reduce the suspension period if the commissioner finds that the person has not been convicted or adjudicated or that reinstatement of the license or permit or reduction of the suspension period would be in the best interests of justice.

3. Mandatory suspension period not waived.

The commissioner may not waive or reduce a mandatory minimum suspension period established in statute except upon determination by the commissioner that an inappropriate action contributed to or resulted in that suspension.

§10906. Violation of suspended or revoked license or permit

While a person's license or permit is under suspension or revocation under this Part, a person may not engage in the particular activity permitted by the license or permit that has been suspended or revoked.

§10907. Obtaining suspended or revoked license or permit

A person may not obtain or attempt to obtain any license or permit that has been suspended or revoked by the commissioner under this Part.

§10908. Guide license revocation

1. Conditions for revocation. The commissioner may suspend or revoke a guide license pursuant to this subchapter and Title 5, section 10004. The commissioner may revoke, suspend, refuse to issue or refuse to renew a guide license or the District Court may revoke or suspend a guide license:

A. If the guide fails to meet the standards of competency established pursuant to section 12851;

B. If the guide fails to meet the qualifications for a guide license, including, but not limited to, failure to pass a reexamination conducted pursuant to section 12855, subsection 4; or

C. If the guide is found to be incompetent, negligent or neglectful in the conduct of guiding activities, including, but not limited to, entering into a contractual agreement with a client to provide services and then failing, without just cause, to provide the services as agreed.

2. Mandatory revocation. The commissioner shall revoke for a period of 3 years the guides license of a guide who is convicted of violating a provision of this Part punishable by a mandatory fine of not less than \$1,000 and at least 3 days in jail. The commissioner shall provide notice of revocation as provided in section 10904. A person whose license has been revoked under this subsection may, within 30 days of the effective date of the revocation, petition the commissioner for a hearing to show cause why the license should not have been revoked. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of this

subsection do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of this subsection apply, the revocation remains in effect.

§10909. Taxidermists and dealers in furs; suspension of license

The commissioner shall investigate or cause to be investigated all complaints made to the department and all cases of noncompliance with or violation of sections 12952 and 12953 and this section. A person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any licensee. The complaint must be in writing, be sworn to by the person making it and filed with the department.

1. Disciplinary action. The commissioner may suspend or revoke a license pursuant to this subchapter and Title 5, section 10004. The commissioner may refuse to issue or renew a license or the District Court may revoke, suspend or refuse to renew a license for any one of the following causes:

A. Procuring a license by fraud or deceit practiced upon the department or a purchaser;

B. Failure to meet the competency standards established pursuant to section 12952;

C. Engaging in the art of taxidermy under a false name or alias with fraudulent intent;

D. Incompetence, negligence or neglect in the conduct of the practice of taxidermy, including, but not limited to, entering into a contractual agreement with a customer to provide services and then failing, without just cause, to provide the services as agreed;

E. Failure to meet the qualifications for a license, including, but not limited to, failing to pass a reexamination pursuant to section 12953, subsection 5; or

F. For any violation of this section or section 12952 or 12953 or any rules adopted pursuant to section 12952, subsection 5.

2. Reissue of license. The commissioner may reissue a license to any former licensee whose license has been revoked.

3. Hearings. Hearings may be conducted by the commissioner to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or as otherwise necessary to implement the provisions of this section and sections 12952 and 12953. The commissioner shall hold an adjudicatory hearing at the written

request of a person who has been denied a license without a hearing for any reason other than failure to pay a required fee, as long as the request for hearing is received by the commissioner within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter 4, to the extent applicable. The commissioner may subpoena witnesses, records and documents in any hearing the commissioner conducts.

4. Terms of revocation of license. A person whose license has been revoked under this section may not apply for a new license for a minimum of 3 years.

§10910. Operator's license to carry passengers for hire; suspension

1. Suspension. The commissioner may initiate proceedings in the District Court to suspend the operator's license of an operator of a motorboat carrying passengers for hire under the following conditions:

A. It is found, upon examination under section 13062, subsection 4, that any motorboat carrying passengers for hire is unsafe; or

B. The commissioner receives satisfactory evidence of the operator's intemperance, incompetency or willful violation of the law.

2. Exception. This section does not apply to any person who operates a watercraft in connection with a boys or girls camp located in this State and licensed by the Department of Human Services or located in another state and licensed in a similar manner in that state.

CHAPTER 915

HUNTING: SEASONS, REQUIREMENTS AND RESTRICTIONS

SUBCHAPTER 1

GENERAL HUNTING SEASON PROVISIONS

§10951. Closed season

1. General; prohibition. Except as otherwise provided in this Part and except as the commissioner may establish by rule not inconsistent with this Part, there is a perpetually closed season on hunting any wild animal or wild bird.

§10952. Open seasons for hunting with bow and arrow

A person may, except as otherwise provided in this Part, hunt any wild bird or wild animal with a hand-held bow and arrow during any open season on that bird or animal.

SUBCHAPTER 2**HUNTING LICENSE REQUIREMENTS AND FEES****§11101. Application and issuance**

A resident or nonresident may apply for and the commissioner or the commissioner's authorized agent may issue a written license to hunt wild animals and wild birds.

§11102. Age limitation for hunting with weapon; prohibition

A person under 10 years of age may not hunt wild animals or wild birds with firearms, bow and arrow or a muzzle-loader.

§11103. Convicted felon

A person who is prohibited from possessing a firearm under Title 15, section 393, subsection 1 is not eligible to obtain or possess any license or permit issued by the department that authorizes a person to hunt with a firearm unless that person possesses a valid permit in accordance with Title 15, section 393, subsection 2.

§11104. Mental deficiency or illness; prohibition

A hunting license may not be issued to a person who is a mentally ill person, as defined in Title 34-B, section 3801, or who has a mental deficiency or mental illness, as those terms are defined in Title 34-B, section 9002.

§11105. Safety course

1. Hunter safety course requirements. A person who applies for a Maine license to hunt with firearms other than a juvenile license must submit proof of having successfully completed a hunter safety course as provided in section 10108 or an equivalent hunter safety course or satisfactory evidence of having previously held an adult license to hunt with firearms in this State or any other state, province or country in any year beginning with 1976.

When proof of competency can not otherwise be provided, the applicant may substitute a signed affidavit that the applicant has previously held the required adult hunting license or that the applicant has

successfully completed the required hunter safety course.

§11106. Eligibility for archery hunting license

1. Age requirement. A person is eligible to obtain an archery hunting license as provided in this section.

A. A resident or nonresident 16 years of age or older who has satisfied section 11105 may obtain an archery hunting license to hunt with bow and arrow from the commissioner or the commissioner's authorized agent.

B. A resident or nonresident 10 years of age or older and under 16 years of age may hunt with bow and arrow if that person holds a valid junior hunting license.

2. Archery hunter education requirements. A person who applies for an archery hunting license, other than a junior hunting license, must submit proof of having successfully completed an archery hunter education course as described in section 10108 or an equivalent archery hunter education course or satisfactory evidence of having previously held an adult archery hunting license issued specifically for the purpose of hunting with bow and arrow in this State or any other state, province or country in any year after 1979.

When proof or evidence can not be otherwise provided, the applicant may substitute a signed affidavit that the applicant has previously held the required adult archery hunting license or has successfully completed the required archery hunter education course.

§11107. Eligibility for hunting with muzzle-loader

This section governs eligibility for hunting with a muzzle-loader.

1. Big game license. A person 16 years of age or older at the beginning of the special season established under section 11404, subsection 1 may obtain a muzzle-loading license from the commissioner or the commissioner's authorized agent if the person possesses a valid license to hunt big game with firearms.

2. Junior license. A person 10 years of age or older and under 16 years of age may obtain a muzzle-loading license from the commissioner or the commissioner's authorized agent if the person possesses a valid junior hunting license.

§11108. Landowners and junior hunters

1. Hunting without license. Notwithstanding section 11109, subsection 1 as it applies to this

subchapter, a resident over 10 years of age and a member of the resident's immediate family over 10 years of age, as long as the hunter's license to hunt is not under suspension or revocation, may hunt without a license, including an archery hunting license and a muzzle-loading license, on a single plot of land:

- A. To which they are legally entitled to possession;
- B. On which they are actually domiciled;
- C. That is used exclusively for agricultural purposes; and
- D. That is in excess of 10 acres.

2. Junior hunters. A resident or nonresident hunter 10 years of age or older and under 16 years of age may hunt with firearms only in the presence of:

- A. That hunter's parent or guardian; or
- B. A person at least 18 years of age approved by that hunter's parent or guardian who either holds a valid Maine hunting license or has successfully completed a hunter safety course acceptable under sections 10108 and 11105.

A hunter who is 16 years of age and who is hunting with a junior hunting license must complete a hunter safety course prior to hunting without the adult supervision required by this section.

3. Allowing junior hunter to hunt without adult supervision. A person who is the adult supervisor, parent or guardian of a holder of a junior hunting license under 16 years of age, may not allow that junior hunter to hunt other than in the presence of, and under the supervision of, an adult as provided in subsection 2.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise provided.

4. Expiration of junior hunting license. A junior hunting license issued to a person who has passed that person's 15th birthday is valid through the calendar year for which the license is issued. All other permit requirements for a person who is 16 years of age or older apply to a person who continues to hunt with a junior hunting license.

For the purposes of this section, "in the presence of" means in visual and voice contact without the use of visual or audio enhancement devices, including binoculars and citizen band radios.

§11109. Licenses and fees

1. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a license may be issued under this section unless that person has a valid license issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Hunting licenses; agent's fee. Clerks or other agents appointed by the commissioner to issue licenses and permits shall charge a fee of \$2 for each hunting license issued. The commissioner shall charge a fee of \$1 for each hunting license issued by department employees.

3. Hunting licenses; combination licenses; fees. Hunting licenses, combination licenses and fees are as follows.

A. A resident junior hunting license, for a person 10 years of age or older and under 16 years of age, is \$5.

B. A resident hunting license, for a person 16 years of age or older, is \$19.

C. A resident small game hunting license, for a person 16 years of age or older, which permits hunting for all legal species except deer, bear, turkey, moose, raccoon and bobcat, is \$12.

D. A resident combination hunting and fishing license is \$30.

E. A resident combination archery hunting and fishing license is \$36.

F. A nonresident junior hunting license, for a person 10 years of age or older and under 16 years of age, is \$25.

G. A nonresident small game hunting license, which permits hunting of all legal species except deer, bear, turkey, moose, raccoon and bobcat, is \$55.

H. A nonresident 3-day small game hunting license, valid for 3 consecutive hunting days, which permits hunting of all legal species except deer, bear, turkey, moose, raccoon and bobcat for the 72-hour period specified on the license, is \$30.

I. A nonresident big game hunting license, which permits hunting of all species including deer and bear, is \$85.

J. A nonresident combination hunting and fishing license is \$123.

K. An alien small game hunting license, which permits hunting of all species except deer, bear, turkey, moose, raccoon and bobcat, is \$70.

L. An alien big game hunting license, which permits hunting of all species including deer and bear, is \$125.

M. An alien combination hunting and fishing license is \$176.

N. A license to use leashed dogs to track wounded deer, which permits a person to use one or more leashed dogs to track a lawfully wounded deer, is \$25.

4. Muzzle-loading license; issuance and agent's fee. The commissioner, through the commissioner's agent, shall issue muzzle-loading licenses to eligible persons. The issuing agent shall charge a fee of \$1 for each license issued.

5. Muzzle-loading licenses and fees. Muzzle-loading hunting licenses and fees are as follows:

A. A resident muzzle-loading hunting license is \$11;

B. A nonresident muzzle-loading hunting license is \$33; and

C. An alien muzzle-loading hunting license is \$58.

6. Issuance of archery hunting license; agent's fee. Clerks or other agents appointed by the commissioner to issue archery hunting licenses must charge a fee of \$1 for each archery hunting license issued. The commissioner shall charge a fee of \$1 for each archery hunting license issued by department employees.

7. Archery hunting licenses; combination licenses and fees. Archery hunting licenses, combination licenses and fees are as follows:

A. A resident archery license is \$19;

B. A resident combination archery hunting and fishing license is \$36;

C. A nonresident archery license is \$55; and

D. An alien archery license is \$70.

SUBCHAPTER 3

HUNTING PERMIT REQUIREMENTS AND FEES

§11151. Bear hunting permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt for bear without a permit from the first Monday preceding September 1st to the day preceding the open firearm season on deer. This section does not apply to trapping for bear.

Each day a person violates this subsection that person commits a Class E crime for which a minimum of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Eligibility; big game license required. A person who possesses a valid license to hunt big game may obtain a permit to hunt for bear from the commissioner or an authorized agent.

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a bear hunting permit to an eligible person. The annual fee for each permit issued is \$25 for residents and \$65 for nonresidents.

§11152. Antlerless deer; regulation and authority to issue permits

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt antlerless deer as authorized in this section unless that person has a valid permit issued under this section.

2. Authority to regulate taking of antlerless deer. The commissioner may regulate the taking of antlerless deer within an area of the State, as necessary to maintain deer populations in balance with available habitat if the following conditions are met.

A. The demarcation of each area must follow recognizable physical boundaries such as rivers, roads and railroad rights-of-way.

B. The determination must be made and published prior to August 1st of each year.

3. Rulemaking. The commissioner may adopt rules necessary for the administration, implementation, enforcement and interpretation of this section, except that there may not be an antlerless deer permit system unless otherwise specified in this section. Rules adopted by the commissioner that provide for permits to be issued to nonresident or alien hunters must provide that:

A. The percentage of antlerless deer permits issued to nonresident and alien hunters may not exceed the average percentage of applicants for antlerless deer permits over the previous 3 years who were nonresidents or aliens; and

B. No more than 15% of the antlerless deer permits issued in any one district or in any one zone may be issued to nonresident and alien hunters.

4. Landowner consideration. An antlerless deer permit system adopted by the commissioner pursuant to this section may include a provision giving special consideration to landowners who keep their lands open to hunting by the public. Any 2 or more areas of land owned by the same person that are open for hunting and that would be contiguous except for being divided by one or more roads are considered contiguous for the purposes of determining landowner eligibility for special consideration under this subsection.

5. Junior hunter and senior hunter permit transfers. A junior hunter or a person 65 years of age or older may take an antlerless deer, if a person who holds a valid antlerless deer permit transfers the permit to the junior hunter or person 65 years of age or older by identifying the name, age and address of the transferee on the permit as well as any other information reasonably requested by the commissioner and then returns the permit to the department prior to the start of the firearm season on deer. The commissioner shall record the transfer and return the permit to the junior hunter or person 65 years of age or older. A valid permit must be in the possession of the transferee in order for the transferee to take an antlerless deer. If a person transfers the permit to the junior hunter or person 65 years of age or older, that person is prohibited from taking an antlerless deer.

§11153. Special season deer permits; fees

1. Special season deer hunting permits; authority to issue for special season. The commissioner may implement a permit system to regulate hunter participation in a special season established by the commissioner pursuant to section 11402, subsection 4, paragraph B and the number, sex and age of deer harvested. If permits are issued, the fee for a deer permit other than an antlerless deer permit is \$30 and the fee for an antlerless deer permit is \$10.

2. Prohibition. Except as otherwise authorized pursuant to this Part, a person may not hunt deer during a special season established under this section unless that person has a valid permit issued pursuant to this section.

§11154. Moose permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt moose unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance of moose hunting permits. In accordance with section 11552, the commissioner may issue moose hunting permits and may establish the number of moose hunting permits to be issued for each wildlife management district established by the commissioner by rule open to moose hunting. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters.

3. Moose hunting permit fee. The fee for a moose hunting permit is \$50 for a resident and \$475 for a nonresident or alien.

4. Big game hunting license required. While hunting moose both the permittee and subpermittee, may not fail to have a valid Maine resident, nonresident or alien big game hunting license, whichever is applicable.

Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

5. Eligibility. Except as provided in this subsection, a resident, nonresident or alien who is eligible to obtain a Maine hunting license or who will be eligible to obtain a Maine hunting license by the opening day of the open moose season is eligible to apply for a moose hunting permit. A person who has obtained a moose hunting permit is ineligible to obtain another permit until 2 years have elapsed after the issuance of the last permit. This limitation does not apply to subpermittees under subsection 7.

6. Application procedure. An eligible person wishing to apply for a permit must file a written application for a permit on a form furnished by the commissioner. The application fee may not be refunded. A person may file no more than one application. A person who submits more than one application is disqualified from the selection of permittees. The application must be accompanied by an application fee of:

A. For a resident:

(1) Five dollars for a one-chance application;

(2) Ten dollars for a 3-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 3-chance application; and

(3) Twenty dollars for a 6-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 6-chance application; or

B. For a nonresident:

- (1) Ten dollars for a one-chance application;
- (2) Twenty dollars for a 3-chance application;
- (3) Thirty dollars for a 6-chance application; and
- (4) Fifty dollars for a 10-chance application.

7. Subpermittees. An applicant for a moose permit may indicate on the application filed pursuant to subsection 6 the name of a subpermittee-designate and the name of an alternate subpermittee-designate. If the applicant is issued a moose permit under subsection 9, the subpermittee-designate becomes a subpermittee and the permittee may authorize the subpermittee to participate in the moose hunt with the permittee. The permittee may authorize the alternate subpermittee-designate to participate in the hunt in place of the subpermittee-designate if the permittee notifies the department of the authorization at least 5 business days prior to the first day of the moose season, in which case the alternate subpermittee-designate becomes the subpermittee. The permittee may choose not to authorize a subpermittee to participate in the hunt.

8. Point system for public chance drawing. The department shall adopt rules to allow a person to accumulate one point for each consecutive year that person purchases an application for a moose hunting permit but is not selected to receive a permit. Each point entitles that applicant to one chance in the public chance drawing. A person's accumulated points are eliminated if, in any year, that person is selected to receive a permit or that person fails to purchase a new chance. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

9. Selection procedure. Permittees are selected by a public chance drawing.

10. Questionnaire. Each permittee shall complete a questionnaire, to be provided by the commissioner, and return this questionnaire to the commissioner within a period of 10 days after the close of the moose hunting season.

11. Auction of moose hunting permits to fund youth conservation education programs. Notwithstanding subsection 1, the commissioner may issue not more than 5 moose hunting permits each year through public auction in accordance with this subsection.

A. Each moose hunting permit issued under this subsection must be awarded through public auction to the applicant who submits the highest bid.

B. A person who applies for a moose hunting permit under this subsection is subject to the eligibility provisions of subsection 5, except that a successful applicant is not required to wait 2 years in order to obtain another permit.

C. An eligible person wishing to apply for a permit under this subsection shall submit a written application in such form as the commissioner may require. The application must be accompanied by a bidding fee of \$25, which, except as otherwise provided in paragraph D, may not be refunded. The commissioner may waive the requirements of this paragraph when, as provided in paragraph G, the commissioner enters into a contract with a conservation organization to auction the permits.

D. An eligible person may apply for a moose hunting permit both through the public chance drawing and in accordance with this subsection. If a person is selected to receive a moose hunting permit as a result of the public chance drawing, that person is no longer eligible to obtain a permit under this subsection and the bidding fee submitted by that person must be refunded.

E. A moose hunting permit issued under this subsection is valid in the district designated by the permittee. This designation must be made within 30 days after the permit is awarded.

F. A person who is awarded a moose hunting permit under this subsection may select a subpermittee to participate in the moose hunt as provided in subsection 7.

G. The commissioner may enter into a contract with a conservation organization whose goals and objectives are not inconsistent with those of the department to advertise this process of issuing permits, auction the permits and collect revenues.

H. Except as otherwise provided, the provisions of this Part relating to moose are applicable to the hunting of moose with a permit awarded under this subsection.

I. The commissioner may adopt rules necessary for the proper administration, implementation, enforcement and interpretation of this subsection.

J. Notwithstanding this subsection, the total number of moose hunting permits issued each year must be in accordance with section 11552, subsection 2.

12. Persons in armed forces called to serve in armed conflict. A person who is issued a moose permit under this section and who is subsequently

called to active duty in the Armed Forces of the United States to serve in an armed conflict and is unable to use the permit is entitled to use the same permit during the next appropriate season following that person's return to the State. Permits used under this subsection do not affect the number of permits that may be issued by the commissioner under this section. For purposes of this subsection, "armed conflict" means any military action in which participants are exposed to war-risk hazards as defined in 42 United States Code, Section 1711(b).

§11155. Wild turkey hunting permits

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt wild turkey unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance of wild turkey hunting permits. The percentage of total wild turkey permits issued to nonresident and alien hunters may not exceed the average percentage of applicants for wild turkey permits over the previous 3 years who were nonresidents and aliens and may not be more than 10% of the total wild turkey hunting permits issued statewide.

3. Eligibility. When a public chance drawing is utilized to allocate permits, a resident, nonresident or alien who is eligible to obtain a Maine hunting license or who will be eligible to obtain a Maine hunting license by the opening day of the wild turkey hunting season is eligible to apply for a wild turkey hunting permit.

4. Application procedure and fee. If wild turkey permits are issued by public chance drawing, persons wishing to apply for a permit must apply in a manner prescribed by the commissioner. The application must be accompanied by an application fee of \$5 for residents and \$10 for nonresidents and aliens. The application fee may not be refunded.

5. Wild turkey hunting permit fee. The fee for a wild turkey hunting permit is \$10 for residents and \$40 for nonresidents and aliens.

6. Transfer of turkey permits. A person who holds a valid wild turkey permit may transfer the permit to a junior hunter or to a person 65 years of age or older by identifying the name, age and address of the transferee on the permit as well as any other information reasonably requested by the commissioner and then returning the permit to the department prior to the start of the turkey season. The commissioner shall record the transfer and return the permit to the junior hunter or person 65 years of age or older. A

valid permit must be in the possession of the transferee in order for the transferee to hunt turkey.

7. Landowner; wild turkey permit. A wild turkey permit system adopted by the commissioner pursuant to subchapter 8 may include a provision giving special consideration to landowners who keep their lands open to hunting by the public. Any 2 or more areas of land owned by the same person that are open for hunting and that would be contiguous except for being divided by one or more roads are considered contiguous for the purposes of determining landowner eligibility for special consideration under this subsection.

8. Big game license required. While hunting turkey, a resident, nonresident or alien hunter must be in possession of a valid resident, nonresident or alien big game hunting license, as applicable. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

§11156. Pheasant hunting permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt pheasant in Cumberland County or York County unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Rules. The commissioner may adopt rules necessary for the proper administration, enforcement and interpretation of this section.

3. Issuance. The commissioner or the commissioner's authorized agent may issue a pheasant hunting permit to an applicant 16 years of age or older permitting the applicant to hunt or possess pheasants in Cumberland County and York County. A person under 16 years of age may hunt or possess pheasants in accordance with this Part, except that a person under 16 years of age is not required to purchase or carry a pheasant hunting permit in order to hunt or possess pheasants.

4. Fee. The fee for a pheasant hunting permit is \$16, \$1 of which is retained by the commissioner's authorized agent.

§11157. Migratory waterfowl permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt migratory waterfowl unless that person has a valid permit issued pursuant to this section. Each day a person violates this subsection that person commits a

Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance of permit. The commissioner or the commissioner's authorized agent shall issue a migratory waterfowl hunting permit to an applicant 16 years of age or older permitting the applicant to hunt or possess migratory waterfowl. A person under 16 years of age may, without a permit, hunt or possess migratory waterfowl in accordance with this Part.

3. Fee. The fee for a migratory waterfowl hunting permit is \$5.50, 25¢ of which must be retained by the agent.

4. Possession of valid permit; expiration date. The following restrictions apply to migratory waterfowl permits.

A. A permittee shall keep an unexpired, validated migratory waterfowl hunting permit on that person when hunting or possessing migratory waterfowl.

B. Migratory waterfowl hunting permits expire on June 30th following the season for which the permits were issued.

§11158. Migratory game bird certification

1. Certification required; exception. A person may not hunt migratory game birds unless that person is certified under this section. This section does not apply to a resident of the State who is 70 years of age or older and who is issued a complimentary license pursuant to section 10853, subsection 1.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

2. Eligibility. A resident of the State, nonresident or alien who is eligible to obtain a state hunting license is eligible to be certified to hunt migratory game birds.

3. Certification procedure. An eligible person becomes certified to hunt migratory game birds when that person indicates on that person's hunting license at the time of purchase the intention to hunt migratory game birds during the calendar year for which the license is valid.

§11159. Falconry hunting permit

1. Permit required. Except as otherwise authorized in this Part, a person may not engage in the practice of falconry unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E

crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Eligibility. A person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to engage in the practice of falconry.

3. Issuance and fee. The commissioner shall issue permits to eligible persons to engage in the practice of falconry at a fee of \$24.

A. The permit may be for a one-year, 2-year or 3-year period at a fee equivalent to the sum of the annual fees established for each of the years for which the permit is issued.

B. A person not a resident of the State who holds a valid permit to engage in the practice of falconry in another state may import and use raptors in this State for up to 30 days solely for the purpose of hunting without the permit described in this section if that person holds a valid Maine hunting license issued in accordance with subchapter 2. A person must have both the permit to engage in the practice of falconry in the other state and the Maine hunting license in possession at all times while engaged in the practice of falconry in this State. These documents must be exhibited to a warden or employee of the department upon request.

4. Rules. The commissioner may adopt rules necessary for the proper administration and enforcement of this section.

5. Compliance with rules and regulations. Falconry hunting is subject to the following limitations.

A. A person who holds a valid falconry hunting permit may take, possess and use any raptor, except as provided in this Part or by federal regulation and except as the commissioner may by rule provide.

B. Persons engaged in the practice of falconry are subject to all rules adopted by the commissioner pertaining to seasons and bag limits on wild birds and wild animals.

§11160. Coyote night hunting permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt coyote at night unless that person has a valid permit issued under this section. Each night a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Eligibility; hunting license required. A person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to hunt coyotes at night, except that a permit may not be issued to a person who has been convicted of a violation of section 11206 within 5 years of the date of application for the permit.

3. Issuance. The commissioner shall issue a permit to hunt coyotes at night to eligible persons at a fee of \$2.

SUBCHAPTER 4

GENERAL UNLAWFUL ACTS PERTAINING TO HUNTING

§11201. Hunting during closed season

A person may not hunt any wild animal or wild bird during the closed season or possess any wild animal or wild bird taken during the closed season on that wild animal or wild bird. Except as otherwise provided in this section, a person who violates this section commits a Class E crime.

A person who hunts or possesses a bear in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

A person who hunts or possesses a deer in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11202. Unity Utilities District; closed season

There is a perpetually closed season on all wild animals and wild birds on property owned by the Unity Utilities District located on Route 139 and Prairie Road in the municipality of Unity in Waldo County.

§11203. Hunter orange clothing

1. Hunter orange required. A person may not hunt with firearms during the open firearm season on deer unless that person is wearing 2 articles of hunter orange clothing that are in good, serviceable condition and visible from all sides, except that a person hunting waterfowl from a boat or blind or in conjunction with waterfowl decoys is not required to wear hunter orange clothing. One article of clothing must be a solid-colored hunter orange hat. The other article of

clothing must cover a major portion of the torso, such as a jacket, vest, coat or poncho, and must be a minimum of 50% hunter orange in color. The presence of a decal on an article of clothing that is otherwise solid-colored hunter orange does not disqualify that article of clothing from satisfying the requirements of this subsection.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§11204. Criminal trespass

A person may not possess a wild animal or wild bird taken while criminally trespassing as described in Title 17-A, section 402, except as otherwise provided in this Part. A person who violates this section commits a Class E crime.

§11205. Hunting on Sunday

1. Prohibition. A person may not:

A. Hunt wild animals or wild birds on Sunday; or

B. Possess any wild animal or wild bird taken in violation of paragraph A except as otherwise provided in this Part.

A person who violates this subsection commits a Class E crime.

§11206. Night hunting

1. Prohibition. A person may not:

A. Hunt wild birds from sunset to 1/2 hour before sunrise of the following day;

B. Hunt wild animals, except raccoons and coyotes as provided in this Part, from 1/2 hour after sunset until 1/2 hour before sunrise the following day; or

C. Possess any wild animal or wild bird taken in violation of paragraphs A and B except as otherwise provided in this Part.

A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11207. Twilight hunting

1. Prohibition. Except for raccoons as provided in this Part, a person may not:

A. Hunt wild animals between 15 minutes after sunset and 1/2 hour after sunset during the open firearm season on deer; or

B. Possess any wild animal or wild bird taken in violation of paragraph A except as otherwise provided in this Part.

§11208. Unlawful shooting or discharge of firearm

1. Shooting or discharge of firearm over or near public paved way. A person may not:

A. Shoot at any wild animal or wild bird from any public paved way or within 10 feet of the edge of the pavement of the public paved way or from within the right-of-way of any controlled access highway;

B. Discharge any firearm over a public paved way; or

C. Possess any wild animal or wild bird taken in violation of paragraph A or B, except as otherwise provided in this Part.

This subsection does not prohibit a person who has a valid permit to carry a concealed weapon from possessing that weapon on or near a public paved way as long as it is not used for shooting at wild animals or wild birds or discharged in violation of this subsection. A person who violates this subsection commits a Class E crime.

§11209. Discharge of firearm near dwelling

1. Prohibition. A person may not:

A. Unless a relevant municipal ordinance provides otherwise and except as provided in sections 12401 and 12402, discharge a firearm within 100 yards of a residential dwelling without the permission of the owner or, in the owner's absence, of an adult occupant of that dwelling; or

B. Possess a wild animal or wild bird taken in violation of this subsection, except as otherwise provided in this Part.

This subsection may not be construed to prohibit a person from killing or taking a wild animal in accordance with sections 12401 and 12402.

A person who violates this subsection commits a Class E crime.

§11210. Shooting domestic animals

Except as provided in section 12404, subsection 6, paragraph C, a person may not, while on a hunting trip or in the pursuit of wild animals or wild birds, intentionally, knowingly, recklessly or negligently shoot and wound or kill any domestic animal, including, but not limited to, a dog, cat or domestic bird. A person who violates this section commits a Class E crime.

§11211. Unlawful use of firearm in Southport

A person may not use any firearm other than a shotgun in the Town of Southport or the islands within the confines of the Town of Southport. A person who violates this section commits a civil violation for which a forfeiture of not more than \$100 nor less than \$500 may be adjudged, unless otherwise specified.

§11212. Motor vehicles and motorboats

1. Prohibition. The following provisions apply to shooting from a motor vehicle or motorboat or possessing a loaded firearm in a motor vehicle.

A. A person may not shoot while in or on a motor vehicle or motorboat or while in or on a trailer or other type of vehicle being hauled by a motor vehicle except:

(1) A person may hunt migratory waterfowl from a motorboat in accordance with federal regulations;

(2) Paraplegics and single or double amputees of the legs may shoot from motor vehicles that are not in motion; and

(3) A person may shoot from a motorboat when the motor is shut off and the boat is drifting, beached, moored, resting at anchor or is being propelled solely by paddle, oars or pole.

B. A person may not, while in or on a motor vehicle or in or on a trailer or other type of vehicle being hauled by a motor vehicle, have a firearm with a cartridge or shell in the chamber or in an attached magazine, clip or cylinder or a muzzle-loading firearm charged with powder, lead and a primed ignition device or mechanism, except that a person who has a valid Maine permit to carry a concealed weapon may have in or on a motor vehicle or trailer a loaded pistol or revolver covered by that permit.

C. A person may not possess a wild animal or wild bird taken in violation of paragraph A or B, except as otherwise provided in this Part.

§11213. Shooting at or near wildfowl decoys

1. Prohibition. A person may not with a firearm:

A. Shoot or shoot at a wildfowl decoy of another; or

B. Shoot within an area encompassed by a set of another person's wildfowl decoys, including the area 50 yards away from the outer perimeter of the set of decoys.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§11214. Unlawful use or possession of implements or aids

1. Prohibition. A person may not:

A. Use for hunting or possess for hunting any automatic firearm. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; or

(2) Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;

B. Use for hunting or possess for hunting any autoloading firearm having a magazine capacity of more than 5 cartridges. All autoloading firearms having a magazine capacity in excess of 5 cartridges must have the magazine permanently altered to contain not more than 5 cartridges before the autoloading firearm may be used in this State for hunting. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; or

(2) Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;

C. Use for hunting or possess for hunting any firearm fitted or contrived with a device for deadening the sound of explosion. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty;

D. Use for hunting cartridges containing tracer bullets. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; or

(2) Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;

E. Use for hunting cartridges containing explosive bullets. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; or

(2) Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;

F. Hunt migratory game birds with a shotgun of any description originally capable of holding more than 3 shells, unless the shotgun's magazine has been cut off, altered or plugged with a one-piece filler incapable of removal without disassembling the gun so as to reduce the capacity of the gun to not more than 3 shells in the magazine and chamber combined. This paragraph does not apply to:

(1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty;

G. Hunt a wild animal or wild bird with a cross-bow or set bow;

H. Use for hunting or possess for hunting an arrow having either an explosive or poisonous tip;

I. Allow duck decoys to remain in waters of Merrymeeting Bay at any time during the period from one hour after legal shooting time until one hour before legal shooting time the next day;

J. Leave or allow to remain in waters of Merrymeeting Bay an artificial cover, that is, a "stationary blind," or parts of an artificial cover used for hunting purposes between one hour after legal shooting time and one hour before legal shooting time the next day;

K. Use a dog to hunt deer or moose, except as provided in section 11109, subsection 3, paragraph N;

L. Use an artificial light, snare, trap or set gun to hunt deer or moose. This paragraph does not affect or restrict the legitimate possession and sale of flashlights;

M. Use artificial lights between 1/2 hour after sunset and 1/2 hour before sunrise the next day to

illuminate, jack, locate, attempt to locate or show up wild animals or wild birds from September 1st to December 15th of each calendar year. This paragraph does not affect chapter 921, or any rule issued in accordance with section 10104, subsection 1;

N. Hunt a wild animal or wild bird by any method other than by the usual method of shooting with a firearm not larger than number 10-gauge or shooting with a hand-held bow and arrow or by falconry; or

O. Possess a wild animal or wild bird taken in violation of this section, except as otherwise provided in this Part.

§11215. Use of motorized vehicle to kill, injure or molest wild animals or wild birds

A person may not intentionally kill, injure or molest a wild animal or wild bird with a motor vehicle, motorboat or aircraft.

A person who violates this section commits a Class E crime.

§11216. Hunting with aid of aircraft

1. Prohibition on use of aircraft to hunt. A person on the ground or airborne may not use an aircraft to aid or assist in hunting:

A. Bear;

B. Deer; or

C. Moose.

2. Penalties. The following penalties apply to this section.

A. A person who violates subsection 1 without the taking of a bear, deer or moose commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

B. A person who violates subsection 1 and takes a bear, deer or moose commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended.

§11217. Buying and selling wild animals and wild birds

1. Prohibition against buying and selling bear, deer, moose or wild turkey. Except as provided in subsection 2, a person may not:

A. Buy, sell or offer for sale or barter a:

(1) Bear;

(2) Deer;

(3) Moose; or

(4) Wild turkey;

B. Aid in buying, selling or offering for sale or bartering a:

(1) Bear;

(2) Deer;

(3) Moose; or

(4) Wild turkey; or

C. Counsel or otherwise aid in buying, selling, offering for sale or bartering a:

(1) Bear;

(2) Deer;

(3) Moose; or

(4) Wild turkey.

2. Exception. A person may sell:

A. The head, teeth, gall bladder, claws and hide of a bear;

B. Notwithstanding section 10606 as it applies to section 12954, the skin and head of a deer lawfully registered by that person;

C. The head, antlers, feet and hide of a deer and the meat from domesticated deer for use as food only in accordance with Title 7, chapter 202; and

D. The head, antlers, bones, feet and hide of a moose.

3. Prohibition regarding selling of wild birds.

A person may not sell or possess for sale a wild bird, except as provided in this Part. A person may sell the plumage of lawfully taken wild birds if that sale does not violate regulations of the federal Migratory Bird Treaty Act.

4. Penalty. A person who violates this section commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of not less than 10 days for the first offense, none of which may be suspended, and not less than 20 days for each succeeding offense, none of which may be suspended. The court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11218. Game fees

A person may not charge any fee for access to land if the fee is contingent upon the taking of game on the land or directly related to the taking of game on the land unless the land is an authorized commercial shooting area licensed under section 12101. This section does not apply to:

1. Gate fees. Gate fees or other access fees that are unrelated to the taking of game;

2. Guiding fees. Fees charged by licensed guides or other fees that are unrelated to access to land; or

3. Fees for placing bear bait. Fees that are directly related to the placing of bear bait on land.

A person who violates this section commits a Class E crime.

§11219. Hunting on state game farm

A person may not hunt on a state game farm at any time. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§11220. Hunting in licensed wildlife exhibit

A person may not hunt in a licensed wildlife exhibit at any time. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§11221. Disposal of offal; littering

A person may not drop, deposit, discard, dump or otherwise dispose of a carcass, waste parts or remains of a wild animal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged. Additionally, a person who violates this section violates the Maine Litter Control Act, Title 17, chapter 80 and is subject to the penalties set forth in that Act.

§11222. Target identification while hunting

1. Findings. Due to the large numbers of Maine citizens and visitors engaged in hunting in the State's woods during hunting season, the continued decline of unpopulated areas through the State, the widespread use of powerful weapons in the pursuit of wild animals and wild birds and the growing presence of nonhunters engaged in nonhunting activities in the State's woods during hunting season, the Legislature finds that a

sufficient risk of serious bodily injury or death to human beings is posed to make it necessary and prudent to provide guidance to those in pursuit of wild animals and wild birds on the matter of proper target identification.

2. Target identification. While hunting, a hunter may not shoot at a target without, at that point in time, being certain that it is the wild animal or wild bird sought.

A. The target-determining process to be utilized is that which a reasonable and prudent hunter would observe in the same situation. A reasonable and prudent hunter always bears the risk of loss of legitimate prey to avoid the risk of the destruction of human life. A reasonable and prudent hunter neither disregards the risk of causing the death of another human being nor fails to be aware of that risk as a consequence of misidentification. A reasonable and prudent hunter never bases identification upon sound alone or even upon sound in combination with what appears to be an appendage of the wild animal or wild bird sought. A reasonable and prudent hunter, independent of these target-determining factors, bases identification upon obtaining an essentially unobstructed view of the head and torso of the potential target. This visual sighting is the most critical target-determining factor. Visual sighting of the head and torso may present itself intermittently or continuously. If presented intermittently, a reasonable and prudent hunter does not make a target-identification decision until this visual sighting exists at the point in time the hunter takes aim and is making final preparation to shoot. A reasonable and prudent hunter additionally recognizes that these sound and sight target-determining factors are affected by a number of other considerations, including, but not limited to, the distance to the target, surrounding or intervening terrain and cover, lighting and weather conditions, the hunter's own ability to hear and see, the hunter's own experience and the proximity of other persons in the hunter's immediate vicinity.

3. Penalty. A person who violates subsection 2 commits a Class E crime.

§11223. Aid to injured person and reporting hunting accident

1. Duty. A person who knows or has reason to know that that person has inflicted injury or may have inflicted injury on another person by the use of a firearm or bow and arrow shall:

A. Make that person known to the victim;

B. Render first aid and assistance as that person is capable of rendering under the circumstances; and

C. Give notice of the event by the quickest means to a game warden or, in the event that a game warden can not be contacted, to the law enforcement officer nearest the place where the event occurred.

2. Prohibition. A person may not fail to comply with the requirements of subsection 1.

3. Penalty. A person who fails to aid an injured person or report a hunting accident in accordance with this section commits a Class C crime.

SUBCHAPTER 5

BEAR HUNTING

ARTICLE 1

BEAR SEASONS

§11251. Open and closed seasons

1. Open season on bear; commissioner's authority. This subsection governs the open and closed seasons on bear.

A. There is an open season on hunting bear from the first Monday preceding September 1st to November 30th annually. The commissioner may, pursuant to section 10104, subsection 1, adopt rules prohibiting the use of bait to hunt black bear during any portion of the open bear hunting season.

B. There is an open season on using a dog or dogs in conjunction with bear hunting from the first Monday preceding September 1st to the day preceding the open firearm season on deer provided in sections 11401 and 11402.

C. The commissioner may shorten the open seasons on bear as established in paragraphs A and B in any part of the State as long as:

(1) The demarcation of the areas with a shortened season follows recognizable physical boundaries such as rivers and railroad rights-of-way; and

(2) The decision is made and published prior to February 1st of any year.

D. The commissioner may terminate the open season on bear as established in paragraphs A and B at any time in any part of the State if, in the commissioner's opinion, an immediate emer-

gency action is necessary due to adverse weather conditions or severe hunting or trapping pressure.

ARTICLE 2

HUNTING METHODS SPECIFIC TO BEAR

§11301. Placing of bear bait

1. Bear baiting. A person may not use bait to hunt or trap black bear, unless:

A. The bait is placed at least 50 yards from a travel way that is accessible by a conventional 2-wheel-drive or 4-wheel-drive vehicle;

B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the name and address of the baiter;

C. The bait is placed more than 500 yards from a dump or campground;

D. The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or lessee;

E. The bait is placed not more than 30 days before the opening day of the season and not after October 31st;

F. The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and

G. The person hunting from a stand or blind of another person has permission of the owner of that stand or blind.

§11302. Hunting bear with dogs

1. Limit on number of dogs. A person may not, while either hunting alone or hunting with other persons, use more than 4 dogs at any one time to hunt bear.

2. Nonresidents hunting with dogs. A non-resident may not hunt bear with the use of a dog or dogs unless that nonresident employs and hunts with a resident Maine guide.

A. The total number of clients with a resident Maine guide may not be more than 3 in order to satisfy the requirements of this subsection.

This subsection does not apply to nonresidents who hold a valid Maine guide license.

§11303. Hunting bear near dumps

1. Dump demarcation. The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 200 yards from sites permitted or licensed for the disposal of solid waste.

2. Prohibition. A person may not hunt, trap, molest or harass a bear or release dogs for the purpose of hunting bear within the area described in subsection 1. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live-trapping nuisance bears.

3. Penalty. A person who violates subsection 2 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§11304. Permission to harvest another person's bear

A person may not, without the permission of the person conducting the hunt, kill or wound a bear that is treed or held at bay by another person's dog or dogs.

ARTICLE 3

POSSESSION OF BEAR

§11351. Bear bag limit

1. Hunting or trapping bear after having killed one. A person may not hunt or trap bear after that person has killed or registered one during any open season. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

2. Exceeding bag limit on bears. Except as otherwise provided, a person may not possess more than one bear in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11352. Bear tags and tagging bear

1. Bear tags. The commissioner shall prescribe the form and content of a bear tag and produce a bear tag that is part of a big game hunting license.

2. Prohibition. A person may not, prior to presenting a bear for registration, possess or leave in the field or forest a bear killed by that person that does not have securely attached to it and plainly visible a bear tag that conforms to the requirements of subsection 1.

3. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not more than \$100 nor more than \$500 may be adjudged.

§11353. Leaving harvested bear

1. Prohibition. A person who kills a bear may not leave the bear without taking it with that person unless the person notifies a warden within 18 hours of the location of the bear and the circumstances necessitating leaving the bear.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§11354. Possessing gift bear

Except as provided in section 12351, and notwithstanding section 12356, subsection 1, a person may not possess parts of a bear given to that person unless each part is plainly labeled with the name and address of the person:

1. Person who registered. Who registered the bear;

2. Recipient. To whom the part of the bear was given; or

3. Transporter. Who transports the part or parts of the bear, if that person is a 3rd party.

A person who violates this section commits a Class E crime.

SUBCHAPTER 6

DEER HUNTING

ARTICLE 1

DEER SEASONS

§11401. Open and closed seasons for deer

1. Open and closed seasons. This subsection applies to open and closed seasons for deer.

A. Except as otherwise provided in this subsection and sections 10952, 11152, 11403 and 11404 or by rule adopted by the commissioner pursuant to section 11402, subsection 4, there is an open season for deer in each calendar year in all counties of the State between September 15th and December 15th annually. In a year that the regular season extends beyond November 30th, the regular season must start no later than the 4th Monday preceding Thanksgiving.

B. The commissioner may shorten the open season on deer in any part of the State, as long as:

(1) The demarcation of the areas with the shortened season follows recognizable physical boundaries, such as rivers and railroad rights-of-way;

(2) The determination is made and published prior to June 1st of any year; and

(3) The Saturday preceding the first day of open season on deer is an open day for residents of the State only.

C. The commissioner may terminate the open season on deer at any time in any area if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting pressure.

D. Whenever a section of the State is closed to hunting by proclamation of the Governor during the open season on deer, the commissioner, after the proclamation has been annulled, with the consent of the Governor, may extend the open season for deer hunting in that section of the State for a period not to exceed the number of days lost.

§11402. Special regulations

1. Vinalhaven; open season. There is an open season on deer in the Town of Vinalhaven, and the islands within the confines of the Town of Vinalhaven, to conform with the open season on deer for Knox County.

2. Southport; open season. There is an open season on deer in the Town of Southport, and the islands within the confines of the Town of Southport, to conform with the open season on deer in Lincoln County.

3. Closed season. Except as provided by rule pursuant to subsection 4, there is a continual closed season on deer in the following places:

A. Mount Desert Island;

B. Cross Island in Washington County;

C. Scotch Island in Washington County;

D. The Town of Isle au Haut and the islands within the confines of the Town of Isle au Haut in Knox County;

E. All of Swans Island in the Town of Swan's Island in Hancock County;

F. The Town of Islesboro in Waldo County, except that a person may hunt deer in that town with bow and arrow from the first day of the special archery season on deer, established in accordance with section 11403, subsection 2, to the end of the regular firearm season on deer of each calendar year in Waldo County;

G. The whole of Cranberry Isles in Hancock County, except that a person may hunt deer in the Cranberry Isles with a shotgun or archery equipment in accordance with applicable laws and rules; and

H. The whole of Long Island in Long Island Plantation in Hancock County.

4. Rule. The commissioner by rule may:

A. Open any of the areas closed to deer hunting under subsection 3, as long as the legislative body of each affected town approves the opening. For purposes of this subsection, "affected town" means a town, township or municipality that contains within its borders any area proposed to be opened under this paragraph;

B. Create special hunting seasons for the taking of deer in any part of the State to maintain deer populations in balance with available habitat, subject to the provisions of this paragraph.

(1) The demarcation of each area must follow recognizable physical boundaries, such as rivers, roads and railroad rights-of-way.

(2) The determination of these areas must be made and published prior to August 1st of each year.

(3) The commissioner may establish limits on the number of deer taken or possessed by persons during a special season. Limits established by the commissioner under this subparagraph are exceptions to the limits imposed under section 11501.

(4) The commissioner may specify types of weapons to be used during a special season; and

C. Establish a youth deer hunting day.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§11403. Archery-only deer hunting season

1. License required. Except as provided in section 11108, subsection 1 or otherwise authorized by this Part, a person 16 years of age or older may not hunt deer with a bow and arrow during the special open season on deer as provided under this section unless that person has a valid archery hunting license.

Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of

\$50 and an amount equal to twice the applicable license fee must be imposed.

2. Open archery season on deer. The commissioner shall by rule establish a special archery season beginning at least 30 days prior and extending to the beginning of the regular deer hunting season, as described in section 11401, subsection 1, paragraph A, for the purpose of hunting deer with bow and arrow only. During the special archery season on deer, the following restrictions apply.

A. A person may not take a deer during a special archery season unless that person uses a hand-held bow and broadhead arrow with the following specifications.

(1) Bows must have a minimum draw weight of 35 pounds.

(2) Arrowheads must be at least 7/8 inch in width.

B. A person may not carry firearms of any kind while hunting any species of wildlife with bow and arrow during the special archery season on deer, except that a person who holds a license that allows hunting with firearms may carry a handgun.

C. If a person takes a deer with bow and arrow during the special archery season on deer, that person is precluded from further hunting for deer during that year.

D. Except as provided in this subsection, the provisions of this Part concerning deer are applicable to the taking of deer with bow and arrow, including the transportation, registration and possession of deer taken by this method.

§11404. Muzzle-loading-only deer hunting season

1. Muzzle-loading-only open season on deer. There is a special muzzle-loading open season on deer immediately following the regular deer hunting season established under section 11401, subsection 1, paragraph A for the purpose of hunting deer only with muzzle-loading firearms as defined in section 10001, subsection 42. The commissioner may terminate this open season at any time in an area if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting pressure. The length of the special muzzle-loading season is as follows.

A. The commissioner shall establish by rule the length of the special muzzle-loading season. The commissioner may establish seasons of different lengths in different regions of the State. The sea-

son may extend for no more than 12 hunting days in any part of the State.

2. Applicability of laws. The following provisions apply during the muzzle-loading open season.

A. The commissioner's authority to regulate the harvest of antlerless deer under section 11152 is applicable during the muzzle-loading hunting season.

B. Deer tags for the muzzle-loading open season must be issued for use in the same manner as regular deer tags.

C. Except as provided in this section, the provisions of this Part relating to deer apply to the taking of deer with muzzle-loading firearms.

ARTICLE 2

HUNTING METHODS SPECIFIC TO DEER

§11451. Hunting deer with unconventional weapon; license

1. License required. Except as otherwise authorized in this Part, a person may not hunt deer with an unconventional weapon unless that person has a valid license issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance; eligibility. The commissioner shall issue to an eligible person a license to hunt deer with an unconventional weapon during any open season on deer. A license issued pursuant to this section is valid for only one type of unconventional weapon and must specify that type of weapon on the license.

3. Eligibility. A person is eligible for a license to hunt deer with an unconventional weapon if that person:

A. Is suffering from the loss of both arms above the elbow or from the loss of the use of both arms; and

B. Can demonstrate, to the satisfaction of the commissioner, proficiency with that weapon, including knowledge of safety skills and responsible hunting practices relevant to that weapon.

A person who applies for a license to hunt deer with an unconventional weapon on the basis that the person has lost the use of both arms must submit a statement by a doctor licensed to practice medicine in the State verifying that the applicant has lost the use of both arms to the extent that it would be medically impossi-

ble for that person to hunt with a conventional weapon.

4. Schedule of fees. The schedule of fees for this license is the same schedule of fees for other licenses provided in section 11109 that allow the licensee to take deer, subject to a special privilege in section 10108, subsection 3 and section 10853.

5. Applicability of laws. Except as provided in this section, those portions of this Part relating to deer are applicable to the taking of deer with a license issued under this section.

§11452. Baiting deer

1. Unlawful baiting of deer. A person may not, during an open hunting season on deer:

A. Place salt or any other bait or food in a place to entice deer to that place; or

B. Hunt from an observation stand or blind overlooking salt, grain, fruit, nuts or other foods known to be attractive to deer. This prohibition does not apply to hunting from an observation stand or blind overlooking:

(1) Standing crops;

(2) Foods that are left as a result of normal agricultural operations or as a result of a natural occurrence; or

(3) Bear bait that is placed at a bear hunting stand or blind in accordance with section 11301, subsection 1.

§11453. Driving deer

1. Unlawfully driving deer. A person may not participate in a hunt for deer during which an organized or planned effort is made to drive deer except that a group of 3 or fewer persons may hunt together as long as they do not use noisemaking devices.

2. Penalty. A person who violates this section commits a Class E crime.

§11454. Hunting deer with .22 caliber rimfire cartridge

A person may not hunt deer with any firearms using a .22 caliber rimfire cartridge, except that the use of the .22 caliber rimfire magnum cartridge is not prohibited.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

ARTICLE 3

POSSESSION OF DEER

§11501. Bag limit

1. Exceeding bag limit. A person may not possess more than one deer during any open season, except as otherwise provided.

2. Hunting deer after having killed one. A person may not hunt deer after that person has killed or registered one during the open season of that calendar year, except as otherwise provided.

3. Penalty. A person who violates this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11502. Deer tags and tagging

1. Deer tags. The commissioner shall prescribe the form and content of a deer tag and produce a deer tag that is part of a big game hunting license.

2. Tagging deer. A person may not, prior to presenting a deer for registration, possess or leave in the fields or forests a deer killed by that person that does not have securely attached to it and plainly visible a deer tag that conforms to the requirements of subsection 1.

§11503. Gift deer

Notwithstanding section 12356, a person may not possess a part or parts of a deer given to that person unless each separate part is plainly labeled with:

1. Registration seal. The registration seal number; and

2. Person who registered deer. The name and address of the person who registered the deer.

3. Penalty. A person who violates this section commits a Class E crime.

This section does not apply to a deer or parts of a deer being transported by a Maine licensed transportation company, including a common carrier, in accordance with other provisions of this Part.

SUBCHAPTER 7**MOOSE HUNTING****ARTICLE 1****COMMISSIONER'S AUTHORITY TO
REGULATE MOOSE HUNTING AND TO SET
HUNTING SEASONS AND AREAS****§11551. Commissioner authority regarding moose**

The commissioner may issue applications for moose hunting permits, issue permits and make all rules pertaining to moose hunting. The commissioner may make all other rules that the commissioner considers necessary for the protection of the moose resource.

§11552. Moose hunting areas

1. Areas open to moose hunting. The commissioner may designate by rule areas of the State open to moose hunting.

2. Moose management. To effectively manage the moose herd in the State, the commissioner may by rule establish:

A. The number of moose permits to be issued every year, including a percentage for antlerless moose;

B. The length of the moose hunting season; and

C. The timing of the moose hunting season.

Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over wildlife matters by February 1st of each year on proposed actions under this section.

ARTICLE 2**HUNTING METHODS SPECIFIC TO MOOSE****§11601. Unlawful hunting of moose**

1. Hunting with permittee. A person may not hunt moose with a permittee unless that person is a subpermittee authorized in accordance with this section.

2. Presence of permittee. A subpermittee may not hunt moose if that subpermittee is not in the presence of the permittee while hunting moose. A subpermittee is not in the presence of a permittee if contact between the permittee and the subpermittee

requires visual or audio enhancement devices, including binoculars or citizen band radios.

3. One subpermittee. A permittee may not hunt moose with more than one authorized subpermittee.

A person who violates this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11602. Driving moose

A person may not participate in a hunt for moose during which an organized or planned effort is made to drive moose. A person who violates this section commits a Class E crime.

§11603. Unlawful firearms for hunting moose

A person may not use a .22 caliber rimfire firearm or a shotgun using shot loads to hunt moose. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§11604. Unlawful hunting methods

A person may not use electronic calling devices while hunting moose. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

ARTICLE 3**POSSESSION OF MOOSE****§11651. Unlawful possession of moose**

A person may not possess a moose except in accordance with the provisions of sections 11154, 11217, 11601, 11652, 12302, 12305 and 12403.

§11652. Bag limits

A person may not exceed the bag limit of one moose per permit holder. In the case of a permittee and a subpermittee, the permit allows one of them to take one moose. A person who violates this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court

also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11653. Tagging moose

A person may not, prior to presenting a moose for registration, possess or leave in the fields or forests a moose that that person has killed that does not have securely attached to one of its hind legs, and plainly visible, the moose tag portion of the permit, bearing that person's full name and address. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§11654. Unlawful possession of gift moose

1. Prohibition. A person may not, notwithstanding section 12356, possess a part or parts of a moose unless each separate part given to that person is plainly labeled with:

- A. The registration seal number; and
- B. The name and address of the person who registered the moose.

2. Penalty. A person who violates this section commits a Class E crime.

SUBCHAPTER 8

WILD TURKEY HUNTING

ARTICLE 1

**COMMISSIONER'S AUTHORITY TO
REGULATE THE HUNTING OF WILD
TURKEY; HUNTING LAWS**

§11701. Authority of commissioner; wild turkey hunting

The commissioner may establish open seasons for hunting wild turkeys, designate areas that are open to the taking of wild turkeys in any part of the State, prescribe the form and regulate the number of permits to be issued, determine the number and sex of the birds to be harvested, establish bag limits, establish permit eligibility requirements, specify the types of weapons to be used during any open wild turkey hunting season and make any other rules that the commissioner considers necessary for the protection of the wild turkey resource.

§11702. Wild turkey hunting hours

The legal hunting time, unless otherwise provided by rule of the commissioner, is 1/2 hour before sunrise to 11 a.m. each wild turkey hunting day.

ARTICLE 2

POSSESSION OF WILD TURKEYS

§11751. Unlawful possession of wild turkey

1. Possession of wild turkeys. A person may not possess a wild turkey except in accordance with section 11155, subsections 1 to 6; sections 11701, 11702 and 12301; section 12304, subsection 3; and section 12305.

2. Possession of wild turkey parts. A person may not, notwithstanding section 12356, subsection 1, possess any part or parts of a wild turkey, unless each part is plainly labeled with the name and address of the person who registered the wild turkey.

3. Penalties. A person who violates subsection 1 commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended. The court also shall impose a fine for \$500 for each turkey unlawfully possessed, none of which may be suspended.

§11752. Tagging wild turkey

A person may not, prior to presenting a wild turkey for registration, possess or leave in a field or forest a wild turkey that person killed that does not have securely attached and plainly visible the wild turkey tag portion of that person's permit bearing that person's full name and address. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

ARTICLE 3

**HUNTING METHODS SPECIFIC TO WILD
TURKEYS**

§11801. Prohibited hunting methods

1. Unlawful hunting of wild turkey. A person may not hunt wild turkeys, except in accordance with section 11155, subsections 1 to 6; sections 11701, 11702 and 12301; section 12304, subsection 3; and section 12305.

2. Unlawful methods of hunting wild turkey. A person may not:

- A. Employ the use of a dog or dogs in any manner while hunting wild turkeys;
- B. Engage in an organized drive of any manner while hunting wild turkeys;
- C. Use bait; or

D. Use a trap or other device intended or designed for the purpose of capturing or ensnaring wild turkeys.

3. Penalties. A person who violates subsection 1 commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended. The court also shall impose a fine of \$500 for each turkey unlawfully killed, none of which may be suspended.

SUBCHAPTER 9

GAME BIRD HUNTING

§11851. Hunting wild birds

1. Unlawfully hunting wild birds. A person may not hunt a wild bird, other than the English or European house sparrow and the European starling, except as provided in this Part.

2. Unlawful possession of wild birds. A person may not possess, alive or dead, a wild bird, other than the English or European house sparrow and the European starling, except as provided in this Part.

§11852. Reopening season

Whenever a section of the State is closed to hunting by proclamation of the Governor during the open season on birds, the commissioner, after the proclamation has been annulled, with the consent of the Governor, may extend the open season for bird hunting in that section of the State for a period not to exceed the number of days lost.

§11853. Closed season; Haley Pond

A person may not hunt waterfowl on Haley Pond in the Town of Rangeley and Dallas Plantation in the County of Franklin. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§11854. Nest or eggs of wild birds

A person may not take, possess or needlessly destroy the nest or eggs of a wild bird, except the English or European house sparrow and the European starling. A person who violates this section commits a Class E crime.

§11855. Unlawful use of migratory game birds

A person may not hunt, possess, transport, buy or sell migratory game bird, except in the manner and numbers, and by the means specifically permitted by regulations of the federal Migratory Bird Treaty Act,

16 United States Code, Sections 703 to 712, or by rules adopted by the commissioner in conformity with Title 5, Part 18, except section 8052, subsection 3 of that Title.

SUBCHAPTER 10

RACCOON HUNTING

§11901. Raccoons

An open season for hunting raccoons established by the commissioner must be of uniform duration throughout the State.

SUBCHAPTER 11

HARE AND RABBIT HUNTING

§11951. Hunting hares and rabbits with dog

A person may use a dog to hunt, or be accompanied by a dog while hunting, wild hares or rabbits during the open firearm season on deer.

§11952. Unlawful harvest of wild rabbits or hares

1. Prohibition. A person may not:

A. Set or use any snare, trap or other device in the hunting of wild hares or rabbits, except that trappers may take wild hares or rabbits by box traps solely for the purpose of selling them to the commissioner as authorized by this Title; or

B. Hunt wild hares or rabbits in any manner except by the ordinary method of shooting with guns or shooting with a long bow and arrow or by falconry.

SUBCHAPTER 12

COYOTE HUNTING

§12001. Seasons and restrictions

1. Open season. Notwithstanding section 11206, an open season for hunting coyotes at night in all counties of the State from January 1st to April 30th is established.

2. Night; hunting hours. All hunting is limited to the hours between 1/2 hour after sunset and 1/2 hour before sunrise and ceases at midnight each Saturday and may resume at 12:01 a.m. each Monday.

3. Restrictions; calling devices required. A person may not hunt coyotes at night without possessing an electronic, hand-held or mouth-operated predator calling device.

SUBCHAPTER 13**HUNTING DOG TRAINING AND FIELD TRAINING****§12051. Training**

1. Open training season. Unless otherwise provided in this Part, a person may not train dogs on wild birds and wild animals except as follows.

A. A person may train dogs on foxes, rabbits and raccoons from July 1st through the following March 31st, including Sundays.

B. A person may train sporting dogs on wild birds at any time, including Sundays.

C. A resident may train up to 4 dogs at any one time on bear from August 1st to the first day of the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9.

A person who violates this subsection commits a Class E crime.

2. Rock dove permits. Notwithstanding section 11158; section 11217, subsection 3; and sections 11851, 11854 and 11855, the commissioner may issue permits to persons licensed under section 12151 to take rock doves from the wild by the use of box traps or nets for the purpose of training sporting dogs pursuant to this section and section 12052, subsection 5.

3. Possessing firearm while training dogs. A person may not possess a firearm while training a dog outside of the open training season on foxes, rabbits and raccoons as set out in subsection 1. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Unlawful use of firearm during training or field trials. Except as otherwise provided in this subsection, a person may not possess during the training or field trials permitted in this section and section 12054 a firearm other than a blank pistol or shotgun loaded with blank ammunition, except during an open season for hunting.

A. Notwithstanding this section, the commissioner may issue a permit to a person authorizing the use of firearms during the training of sporting dogs to shoot and kill wild birds propagated or legally acquired by the permittee and possessed in accordance with section 12152.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12052. Special dog training area license

1. License required. Except as otherwise authorized under this Part, a person may not engage in an activity authorized under this section unless that person has a valid license issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Application and issuance. Upon application of a club or organization having 25 or more resident members, the commissioner may issue to the club or organization a license authorizing the following.

A. The licensee may establish and maintain on land owned by the licensee, or over which the licensee has legal control, a special dog training area in which and on which dogs may be trained at any time during the year.

B. The licensee may at any time during the year train the licensee's own dogs or the dogs of other persons on that area.

C. The licensee may hold field trials at any time on that area or permit, in writing, others to hold field trials on that area under such conditions as are mutually agreed on.

No more than 5 clubs in any one county may be issued a license.

3. Fee. The fee for a special dog training area license is \$25.

4. Restrictions. The following provisions must be observed.

A. Each club licensed under this section may not establish more than 2 special dog training areas, each of which may not be less than 20 acres.

B. A club may not control more than a total of 400 acres.

C. A person may not fail to plainly and conspicuously post the boundary line of a special dog training area with legible notices at least 11 inches square, placed not more than 100 yards apart, that must bear the following warning:

"SPECIAL DOG TRAINING FIELD TRIAL AREA -- HUNTING AND TRAPPING IS UNLAWFUL. This land is set aside under special license for the training of dogs and the holding of field trials. En-

tering on this land for the purpose of hunting or permitting dogs to enter without proper authorization is prohibited."

The name and address of the licensee must be printed on the notice.

5. Use of special dog training area other than by licensee. Unless the area is completely enclosed with rabbit-proof fence, a person not a licensee may train that person's own dogs or the dogs of other persons on a special dog training area under the following conditions.

A. The person shall apply in writing to the licensee and must receive a permit to do so, for which a charge not to exceed \$2 may be made, which amount is retained by the licensee.

Unless the special dog training area is completely enclosed by rabbit-proof fence, a licensee's failure to make reasonable provision for the use of that special dog training area by persons not licensees is sufficient grounds for the department to deny a renewal of license.

6. Stocking by commissioner. The commissioner may, from time to time during each year, stock wild animals or wild birds at the special dog training area and shall charge the licensees a reasonable price for them.

7. Stocking by licensee. This section is not to be construed as authorizing licensees to liberate a wild bird or quadruped coming from outside of the State on a special dog training area.

8. Violation of license restriction. A person may not violate any restriction of a license or permit issued in accordance with this section. Each day a person violates a license or permit restriction under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12053. Unlawful use of licensed dog training area

1. Unlawful use of licensed dog training area. The following provisions apply to licensed dog training areas.

A. A person may not hunt on a licensed dog training area licensed under section 12052 except that the owner of the land being used as a licensed dog training area may hunt wild animals and wild birds on the training area to the extent permitted by this Part.

B. A person may not do any of the following on a dog training area licensed and posted in accord-

ance with section 12052 except as provided in section 12052:

- (1) Train a dog;
- (2) Hold a field trial;
- (3) Enter the area accompanied by a dog;
or
- (4) Permit a dog of which that person is the owner or trainer to enter the area.

C. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12054. Field trials; raccoon and rabbits

1. Raccoon dog field trials. A person may hold raccoon dog field trials at any time.

2. Rabbit hound field trials. A person may not hold field trials for beagles and other rabbit hounds except from September 1st through the following April 10th. A person who violates this subsection commits a Class E crime.

3. Sporting dog field trials. The licensing and conduct of sporting dog field trials is governed by section 12055.

§12055. License to hold field trials; wild birds

1. License required. A club or organization may not hold field trials as provided under this section unless the club or organization has a valid license issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Application and issuance. Upon application of a club or organization, the commissioner may, at the commissioner's discretion, issue to the club or organization a license authorizing the following.

A. The licensee may hold, at the time and place stated in the license, a field trial for sporting dogs for the purpose of demonstrating the skill of the dogs in retrieving dead or wounded wild birds.

B. Members of the licensee club or organization may shoot and kill with firearms wild birds propagated or legally acquired by members of the licensee at the field trial held at the time and place specified in the license.

C. Persons may participate in a field trial pursuant to this section without a hunting license.

A separate application must be filed for each field trial proposed to be held by a club or organization, as described in this section.

3. Fee. The fee for a license to hold field trials for sporting dogs is \$25.

4. Shooting hours and consent. Members of the licensee club or organization may not shoot and kill birds, unless it is during the daylight hours and only with the consent of the owner or person having legal control of the land on which the field trial is held.

5. Violation of restrictions. A person may not violate any restriction of a license or permit issued in accordance with this section. Each day a person violates a license or permit restriction under this section, that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

SUBCHAPTER 14

COMMERCIAL SHOOTING AREAS

§12101. License to operate commercial shooting area

1. Issuance. The commissioner may issue licenses authorizing the establishment and operation of commercial shooting areas to qualified applicants. A commercial shooting area license authorizes the owner of a commercial shooting area to charge others for the opportunity to hunt mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in that area. A commercial shooting area license is valid for one year and is renewable annually.

2. Eligibility. In order to qualify for a commercial shooting area license:

A. The location of the land must be at least 5 miles from another commercial shooting area, as measured by a straight line between the property lines at their closest points to each other;

B. The land must be between 200 acres and 400 acres in area;

C. The land must be contiguous. Property bisected by a road or highway is considered to be contiguous for purposes of this paragraph; and

D. The land must be owned or leased by the licensed operator of the commercial shooting area.

A person is not eligible to receive a new shooting area license within 6 months of the expiration of the license for another shooting area located within 5 miles unless the holder of the expired license states in writing to the commissioner that that license will be abandoned.

A renewal of a shooting area license may be issued for a commercial shooting area within 5 miles of another commercial shooting area, notwithstanding paragraph A, as long as the renewed license is applied for within 6 months following the expiration of the old license.

3. Fees. The fee for a commercial shooting area license is:

A. For the first year of operation, \$500; and

B. For each subsequent year, \$250, payable prior to July 1st of each year.

4. Restrictions. The following restrictions apply to a commercial shooting area.

A. The operator of the commercial shooting area shall maintain and keep open to inspection by representatives of the department a register of:

(1) The name and address of each person shooting in the area;

(2) The date or dates when that person hunted in the area; and

(3) The number and type of birds killed by that person.

B. The operator of the commercial shooting area shall provide to each person taking birds in that area a receipted invoice or bill of sale for possession and transportation of those birds.

C. The operator of the commercial shooting area shall mark the boundary of the shooting area in a manner prescribed by the commissioner and shall post the boundary conspicuously with signs or other markings approved by the commissioner. The signs or markings must be of a color, size and wording prescribed by the commissioner and must be placed not more than 250 feet apart facing the outside of the area.

The operators of a commercial shooting area may not fail to meet the requirements of this subsection.

5. Enforcement. Enforcement of the trespass laws of a commercial shooting area is the responsibility of the owner and may not in any manner be considered an obligation of the department.

6. Exceptions. The following exceptions apply to a commercial shooting area.

A. Notwithstanding subsection 1, the operator of a commercial shooting area may authorize a person to hunt other wild birds or wild animals in a commercial shooting area during the regular open season on those species, in accordance with this Part, as long as the person possesses a valid

state hunting license that allows the hunting of those wild birds and wild animals.

§12102. Importation permit for mallard ducks, quail, Chukar partridge and Hungarian partridge

1. Issuance. The commissioner may grant permits to import live mallard ducks, quail, Chukar partridge and Hungarian partridge to operators of commercial shooting areas.

2. Application. When requesting permission to import these birds, an importer shall:

A. Provide the commissioner with information on the number of the birds to be imported and the name and address of the seller; and

B. Furnish the commissioner with a statement from an approved veterinarian or from the Department of Agriculture or from the conservation department of the state from which the birds are imported certifying that they are from flocks that have been tested for infectious or contagious disease and have not been exposed to that disease during the 6 months prior to importation.

SUBCHAPTER 15

WILDLIFE IMPORTATION AND POSSESSION PERMITS AND REQUIREMENTS

§12151. Keeping wildlife in captivity

A person may not keep wildlife in captivity except as provided under sections 10105, 12102, 12152, 12155, 12157, 12158 and 12202 and Title 7, section 1809 or except if the wild animal was purchased from a dealer or pet shop licensed under Title 7, section 3933. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12152. Permit to possess wildlife in captivity

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a permit may be issued under this section unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Affected species. Except as otherwise provided in this Part, this section applies to the possession of any wildlife regulated by the State that is held in captivity and to the importation of wildlife from an area outside the State, including:

A. All species listed under state law as threatened or endangered;

B. All species other than those listed in paragraph A not included on a list of unregulated, nonnative species that is maintained by the commissioner to facilitate the issuance of importation permits; and

C. Species identified in rules adopted by the commissioner.

3. Issuance. The commissioner may issue a permit to a person permitting the possession and use of wildlife with the following exceptions.

A. A propagation, rearing and sale permit does not authorize the permittee to possess, propagate or sell deer, bear, moose, wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross nor does it authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601, 11602 or 11604.

B. A commercial exhibition permit does not authorize the permittee to import any species of wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross or the eggs of these species.

C. A general possession permit does not authorize the permittee to possess, propagate or sell deer, bear, moose, wild turkey, hybrid turkey or wild turkey-domestic turkey cross nor does it authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601, 11602 or 11604.

D. A rehabilitation permit does not authorize the permittee to possess, propagate or sell any wild animal taken in accordance with section 11601, 11602 or 11604.

4. Fees. Permit fees are as follows:

A. Propagation, \$25 for 2 calendar years;

B. Commercial exhibition or attracting trade, \$145 every 2 years from July 1st to June 30th;

C. Personal use, professional or vocational husbandry, therapy or aid to disabled persons, \$25 every 2 calendar years; and

D. Rehabilitation, renewable every 2 years, no fee.

5. Rules. The commissioner may adopt rules necessary for the administration of this section, including provisions to ensure that all wildlife possessed under these permits receives humane treatment and proper husbandry and security, and to

safeguard the interests of the wildlife and citizens of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6. Additional permit requirements. In addition to the provisions adopted under subsection 3, the commissioner may assign permit conditions or requirements designed to mitigate potential impacts or risks that may arise from the possession of specific wildlife species or to ensure the humane treatment or proper husbandry for specific species.

§12153. Violation of rules regarding wild animals in captivity

A person who violates a rule regarding wild animals in captivity commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12154. Department breeding or rearing wild birds

Notwithstanding section 10606 as it applies to section 12152, section 10606 does not apply to migratory game birds, partridge, grouse or pheasant owned by the department.

§12155. Importation permit for wildlife

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a permit may be issued under this section unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a written permit to any person, permitting that person to:

A. Introduce or import wildlife into the State; and

B. Receive or possess wildlife introduced or imported into the State.

3. Application. Each applicant for a permit to import wildlife into the State shall submit a written application in the form required by the commissioner. The application must be accompanied by a nonrefundable application fee of \$25.

4. Restrictions. A permit issued pursuant to this section does not authorize the permittee to import any species of live wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross or the eggs of these species.

§12156. Release of wild birds and wild animals into wild

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not release into the wild captive, raised or imported wild birds or wild animals unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a written permit to any person permitting that person to release into the wild captive raised or imported wild birds and wild animals.

3. Wild turkey restrictions. Only the commissioner or agents of the commissioner may sell, give away or release into the wild any live wild turkey, hybrid wild turkey, wild turkey-domestic turkey cross or fertile egg of these species.

§12157. Permit to transport wildlife for breeding and advertising

The commissioner may issue a permit to anyone permitting that person to take and transport within the limits of the State wildlife taken in the State for breeding or advertising purposes.

§12158. Importation permit for pheasants

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not import pheasants, alive, dead or dressed, unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a written permit to any person permitting that person to import pheasants, alive, dead or dressed.

3. Application. Importers shall, when requesting a permit, provide the commissioner with the following:

A. Information as to the number of pheasants to be imported;

B. The name and address of the seller;

C. Information whether or not the birds are live or dressed; and

D. A statement from an approved veterinarian, from the Department of Agriculture, Food and Rural Resources or from the conservation department of the state from which the pheasants

are imported certifying that they are from flocks that have been tested for pullorum and typhoid, show no evidence of tuberculosis or other infectious or contagious disease and have not been exposed to such disease during the 6 months prior to importation.

4. Restrictions; leg band required. Upon receipt of shipment, importers of ringneck pheasants shall attach securely to each bird a permanent leg band. This leg band must remain attached to the birds until they are finally prepared for consumption.

§12159. Taking of snakes and turtles from the wild for commercial purposes

1. Prohibition; penalty. Except as provided in this section, a person may not take and possess snakes or turtles from the wild for export, sale or commercial purposes. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

2. Commercial snapping turtle permit. Persons harvesting snapping turtles for purposes of resale are required to obtain a permit from the commissioner.

3. Rules. The commissioner shall adopt rules pertaining to harvest methods, confinement and disposal of snapping turtles. The commissioner may by rule:

- A. Require reporting of commercial harvest activities;
- B. Establish a season, including daily and season possession limits;
- C. Establish size limits; and
- D. Establish a fee schedule to implement a permit system under this section.

CHAPTER 917

TRAPPING

SUBCHAPTER 1

LICENSE REQUIREMENTS AND FEES

§12201. Trapping license

1. License required. Except as otherwise authorized pursuant to this Part, a person may not trap unless that person has a valid license issued under this section. Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Eligibility. The following persons are eligible to purchase a trapping license, subject to the provisions of subsection 3.

- A. A resident 16 years of age or older is eligible to purchase a resident trapping license.
- B. A resident 10 years of age or older and under 16 years is eligible to purchase a resident junior trapping license.
- C. A resident under 10 years of age may trap without a license.
- D. A nonresident is eligible to purchase a nonresident trapping license.

Nonresident aliens are not eligible to purchase a trapping license.

3. Successful completion of trapper evaluation program required for license. A person who applies for a state license to trap, other than a junior license, must submit proof of having successfully completed an education course of the type described in section 10108, subsection 7 or satisfactory evidence of having previously held an adult license to trap in this State or any other state, province or country in any year beginning with 1978.

When proof or evidence can not otherwise be provided, the person may substitute a signed affidavit that that person has previously held the required adult trapping license or that that person has successfully completed the required trapper education course.

4. Issuance. The commissioner, or the commissioner's agent, may issue a license to engage in trapping. Clerks or other agents appointed by the commissioner shall charge a fee of \$2 for each trapping license issued. The commissioner shall charge a fee of \$1 for each trapping license issued by department employees.

5. Expiration. All licenses issued under this section are valid for one year commencing July 1st of each year.

A resident junior trapping license issued to a person who has passed that person's 15th birthday is valid through the year for which the license was issued.

6. Trapping fees. The fees for trapping licenses are as follows:

- A. A resident junior trapping license, for a person 10 years of age or older and under 16 years of age, is \$7;
- B. A resident trapping license, for a person 16 years of age or older, is \$33; and

C. A nonresident trapping license is \$308.

7. Supervision of junior trappers. The following provisions must be observed.

A. A person under 10 years of age may not trap unless that person is accompanied at all times while trapping by a parent or guardian or by an adult at least 18 years of age approved by a parent or guardian.

B. A person over 10 years of age and under 16 years of age may not trap unless that person:

(1) Holds a junior trapping license; and

(2) Is accompanied by an adult at all times while trapping, unless the holder of the junior trapping license submits proof of having successfully completed an education course of the type described in section 10108, subsection 7.

8. License violations. Each day a person violates a restriction of a license issued under this section, that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12202. Trapping by landowner

A resident and a member of the resident's immediate family, as long as the trapper's license to trap is not under suspension or revocation, may trap for wild animals, except beaver, without a trapping license issued under section 12201 on land:

1. Possession. To which they are legally entitled to possession;

2. Domiciled. On which they are actually domiciled; and

3. Agricultural purposes. That is used exclusively for agricultural purposes.

§12203. Trapping by agents of commissioner

A person, except a full-time department employee, serving as an agent of the commissioner for purposes of animal damage control, including animal control officers appointed pursuant to Title 7, section 3947, must satisfy the licensing requirements of section 12201 prior to trapping or attempting to trap a wild animal.

SUBCHAPTER 2

TRAPPING SEASON, REQUIREMENTS AND RESTRICTIONS

§12251. Open and closed seasons

1. General. Except as otherwise provided in this Part and except as the commissioner may establish by rule that is not inconsistent with this chapter, there is a perpetual closed season on trapping any wild animal or wild bird.

2. Unity Utilities District. There is a continued closed season on all wild animals and wild birds on property owned by the Unity Utilities District located on Route 139 and Prairie Road in the municipality of Unity in Waldo County.

3. Closed season violation. A person may not trap, or attempt to trap, any wild animal or wild bird during the closed season or possess any wild animal or wild bird taken during the closed season on that wild animal or wild bird.

§12252. Unlawful trapping methods

1. Unlawfully rigging traps. A person may not use auxiliary teeth on any leg-hold trap set on land.

2. Use or possession of prohibited implements or aids. A person may not:

A. Set or tend a snare for the purpose of trapping any wild animal or wild bird, except as provided in section 10105, subsection 1 and section 12259;

B. Set or tend a set gun for the purpose of killing, taking, catching, wounding, harming or molesting any wild animal or wild bird;

C. Deposit any poisonous or stupefying substance for the purpose of killing, taking, catching, wounding, harming or molesting any wild animal or wild bird, except that a landowner or member of the landowner's immediate family may use gas cartridges on the landowner's own land for woodchuck control; or

D. Sell, advertise, give notice of the sale or keep for sale any set gun or poisonous substance for the taking of wild animals or wild birds, except that a person may sell, advertise, give notice of sale of or keep for sale rodenticide for orchard mouse control and gas cartridges for woodchuck control.

3. Use of pole traps. A person may not use or set any steel trap on the top of a pole, constituting a device commonly known as a "pole trap" for the purposes of catching any wild bird.

§12253. Consent to trap

1. Trapping without written consent. A person may not, without first obtaining the written consent of the landowner or occupant, trap any wild animal on land in any organized or incorporated place

or on the cultivated or pasture area of land that is used for agricultural purposes in any unorganized place and on which land there is an occupied dwelling. The provisions of this subsection do not apply to:

- A. Beaver trapping;
- B. Trapping with drowning sets in navigable rivers and streams; or
- C. Trapping with drowning sets on state-owned land and public rights-of-way.

2. Trapping near occupied dwelling without written consent. A person may not trap any wild animal within 200 yards of an occupied dwelling without first obtaining the written consent of the owner or occupant of the land on which the trap is to be set. The provisions of this subsection do not apply to beaver trapping or trapping with drowning sets on state-owned land or public rights-of-way.

3. Trapping near compact, built-up portion of city or village. A person may not trap outside that person's land within 1/2 mile of the compact, built-up portion of a city or village, except:

- A. A person may trap within 1/2 mile of the built-up portion of a city or village with drowning sets; and
- B. A person who has a written permit from the landowner may trap on that landowner's land with cage-type live traps within 1/2 mile of the built-up portion of a city or village.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Proof of ownership of land. Before any prosecution is made under subsection 1 or 2, the landowner or occupant shall prove that landowner's ownership or that occupant's occupancy of the land in question.

5. Permission to trap on land of another. This section may not be construed to give license or permission to set, place or tend traps on property that is owned by another person.

§12254. Labeling traps

A person may not set a trap for any wild animal without having the trap plainly labeled with that person's full name and address. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged unless otherwise specified.

§12255. Tending traps

1. Failure to visit traps. A person may not:

A. While trapping in an organized or incorporated place fail to:

- (1) Check each trap, except killer-type traps, at least once in every calendar day; and
- (2) Check each killer-type trap at least once in every 3 calendar days; and

B. While trapping in an unorganized place fail to:

- (1) Check each trap, except killer-type traps and drowning sets, at least once in every calendar day; and
- (2) Check each killer-type trap or drowning set at least once in every 5 calendar days.

This subsection does not apply to under-ice drowning sets for beaver and muskrat. For the purposes of this subsection, "check" means to visit or cause to be visited.

2. Failure to remove animal from trap. A person may not fail to remove or cause to be removed from that person's trap an animal found caught in that trap.

3. Carrying a firearm while trapping. Notwithstanding section 11205, subsection 1, paragraph A and section 11206, subsection 1, paragraphs A and B, a person who holds a valid trapping license may carry a firearm at any time during the open trapping season for the sole purpose of dispatching trapped animals.

§12256. Disturbing traps of another

A person may not disturb or take a trap or a wild animal from a trap, other than that person's own trap, without the consent of the owner of the trap, except that a landowner or occupant of land that the landowner or occupant is legally entitled to possess may remove any trap found on the land if permission has not been granted under section 12253, subsection 1 or 2 or the person has not obtained a written permit from the landowner to trap on that landowner's land with cage-type live traps within 1/2 mile of a built-up portion of a city or village.

A person who violates this section commits a Class E crime.

§12257. Trapping by certain department employees

A department biologist or warden may not trap wild animals for profit while on duty within the district to which that person is assigned. A person

who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12258. Eel permit for licensed trappers

1. Issuance. The commissioner may issue a permit to any licensed trapper to take eels for baiting traps.

2. Restrictions. A licensed trapper with an eel permit may not take more than 20 pounds of eels annually, by eel pots or hook and line only, for use in baiting traps.

3. Penalty. Each day a person violates a restriction of a permit issued in accordance with this section, that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12259. Trapping beaver

1. Snares. A person may use snares to trap for beaver during the open beaver trapping season.

2. Rules. All rules adopted pursuant to section 10104, subsection 1 pertaining to the trapping of beaver with killer-type traps also apply to the trapping of beaver with snares.

3. Nonresident trapping beaver. A nonresident may not trap beaver in this State.

§12260. Trapping bear

1. Open and closed season. There is an open season on trapping bear from September 1st to October 31st annually.

A. The commissioner may shorten the open season on bear in any part of the State as long as:

(1) The demarcation of the areas with a shortened season follows recognizable physical boundaries such as rivers and railroad rights-of-way; and

(2) The decision is made and published prior to February 1st of any year.

B. The commissioner may terminate the open season on bear at any time in any part of the State if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting or trapping pressure.

2. Unlawful trapping of bear. A person may not catch a bear in a trap and cause or allow another person to kill or register that bear.

3. Setting bear traps. Setting traps for bear is governed by this subsection.

A. A person may use a cable trap with a closing diameter of not less than 2 1/2 inches to trap bear in the State during the open season on bear.

B. A person may not set a bear trap other than a cable trap, unless it conforms to the following specifications.

(1) The trap must be enclosed by at least 2 strands of wire, one strand 2 feet from the ground and one strand 4 feet from the ground.

(2) The wire must be securely held in position.

(3) The wire must be not less than 5 yards nor more than 10 yards at any point from the enclosed trap.

(4) The trap enclosure must be marked by substantial signs with the words "BEAR TRAP" in letters not less than 3 inches in height.

(5) The signs must be spaced around each enclosure at intervals of not more than 20 feet.

(6) Each sign must be securely fastened to the top strand of wire.

4. Trapping bear after having killed one. A person may not trap a bear after that person has killed or registered one during any open season. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not too exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

5. Exceeding bag limit on bears. A person may not possess more than one bear in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not too exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

6. Trapping bear near dumps. Trapping bear near dumps is governed by this subsection.

A. The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 200 yards from sites permitted or licensed for the disposal of solid waste.

B. A person may not trap within the demarcation area established under paragraph A. The com-

missioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live trapping of nuisance bears. A person who violates this paragraph commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

CHAPTER 919

REGISTRATION AND TRANSPORT OF HARVESTED ANIMALS

SUBCHAPTER 1

REGISTRATION

§12301. Registration of harvested animals

1. Registration stations established. The commissioner shall:

A. Adopt rules in accordance with Title 5, chapter 375 governing the establishment and closure of bear and deer registration stations for the purpose of registering those harvested animals;

B. Establish moose registration stations for the purpose of registering harvested moose; and

C. Establish turkey registration stations to allow collection of biological and hunting data.

2. Agents designated; bear, deer or moose. An agent designated by the commissioner must be in charge of each bear, deer or moose registration station.

3. Agent duties. Registration agents shall:

A. Register every bear, deer, moose or wild turkey legally presented for registration;

B. Attach a seal to each bear, deer, moose or wild turkey in the manner directed and with the materials furnished by the commissioner; and

C. Collect and retain \$1 for each seal from the person registering a bear, deer or moose. The agent may collect \$1 for registration of each wild turkey.

4. Lists; bear and deer. A list of bear registration stations and deer registration stations must be published in one or more daily newspapers of the State.

§12302. Timely registration of bear, deer, moose or wild turkey

1. Prohibition. A person who kills any of the following animals may not fail to present that animal for registration in that person's name at the first open

registration station for that animal on the route taken by that person:

A. Bear;

B. Deer;

C. Moose; or

D. Wild turkey.

§12303. Time limits for registering bear, deer, moose or wild turkey

1. Bear. A person may not keep an unregistered bear at home or any place of storage except for more than 18 hours unless it is kept in an official bear registration station, except a person on a hunting trip in an unorganized township and staying at a temporary place of lodging may keep an unregistered bear at that temporary place of lodging for a period not to exceed 7 days or until that person leaves the woods, whichever comes first.

2. Deer. A person may not keep an unregistered deer at home or any place of storage for more than 18 hours unless it is kept in an official deer registration station. If a person is on a hunting trip in an unorganized township and staying at a temporary place of lodging, that person may keep an unregistered deer at that temporary place of lodging for a period not to exceed 7 days or until that person leaves the woods, whichever comes first. A person may leave an unregistered deer in the woods if that person notifies a game warden within 18 hours as to the location of the deer and the circumstances necessitating leaving the deer in the woods.

3. Moose. A person may not keep an unregistered moose at home or any place of storage for more than 18 hours unless it is kept in an official moose registration station or at the office of a game warden. A person may leave an unregistered moose in the woods if that person notifies a game warden within 18 hours as to the location of the moose and the circumstances necessitating leaving the moose in the woods.

4. Wild turkey. A person may not keep an unregistered wild turkey at home or any place of storage for more than 12 hours unless it is kept in an official wild turkey registration station or at the office of a game warden.

§12304. Condition of animal presented for registration

A person may not present the following animals for registration unless that animal is presented in its entirety, except:

1. Bear. For bear, the viscera and rib cage may be removed, and the bear may be dismembered for

ease of transportation, but the bear must be field dressed in a manner that permits determination of the sex of the animal;

2. Moose. For moose, the viscera, rib cage, lower legs, head and hide may be removed and the animal may be dismembered for ease of transportation, but evidence of gender must remain attached to at least one part of the dressed animal. If the head is not brought to the registration station, a canine tooth or the lower jaw also must be presented at the time of registration. Any parts not presented for registration must be placed where they are not visible to a person traveling on a public or private way; or

3. Wild turkey. For wild turkey, the viscera may be removed.

§12305. False registration of bear, deer, moose or wild turkey

1. Prohibition. A person may not present for registration or allow to be registered in that person's name any of the following animals that that person did not lawfully kill:

- A. Bear;
- B. Deer;
- C. Moose; or
- D. Wild turkey.

§12306. Possessing unregistered bear, deer, moose or wild turkey

1. Prohibition. A person may not possess any of the following animals if that animal has not been legally registered as provided in sections 12301 and 12304, unless that animal is possessed in accordance with chapter 921:

- A. Bear;
- B. Deer;
- C. Moose; or
- D. Wild turkey.

2. Penalties. A person who possesses a:

A. Moose in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended;

B. Wild turkey in violation of this section commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended; or

C. Bear or deer in violation of this section commits a Class E crime.

SUBCHAPTER 2

TRANSPORTATION

§12351. Transportation by residents

A resident may transport home any wild animal or wild bird that that resident has killed and that is legally possessed, as long as that resident is properly licensed and has met all other requirements of this Part. A resident may have any lawfully harvested wild animal or wild bird transported to a location other than that person's home without accompanying the wild animal or wild bird by obtaining a transportation permit from any game warden. There is no fee for a permit issued under this section.

§12352. Transportation by nonresidents

A nonresident may transport to that person's home any lawfully harvested wild animal or wild bird. A nonresident may have transported to that person's home by another individual or common carrier any wild animal or wild bird that that nonresident has lawfully harvested, as long as that person has obtained a transportation permit from any game warden and has met all the other requirements of this Part. There is no fee for a permit issued under this section.

§12353. Method of transportation

Any wild animal or wild bird transported or offered for transportation must be open to view and accompanied by the person who killed that animal or bird, except that a wild animal or wild bird transported for nonresidents by common carrier need not be accompanied by the owner if all other requirements of this Part have been met.

§12354. Common carriers

A common carrier accepting any wild animal or wild bird for transportation shall:

1. Check license. Be satisfied that the person presenting that animal or bird for shipment is the person to whom the hunter's license offered for inspection was issued;

2. Affix tags. Securely affix any tags and identification required by this chapter; and

3. Make returns. Make such returns to the commissioner as the commissioner may require.

§12355. Unlawful transportation of wild animal or wild bird

1. Transport. A person may not transport or offer for transport a wild animal or wild bird except as provided in this subchapter.

2. Accept transportation. A person or carrier may not accept for transportation or transport a wild animal or wild bird except as provided in this subchapter.

3. Transport in closed season. A person or carrier may not transport a wild animal or wild bird in closed season, except that a person who has killed a wild animal or wild bird in open season has a reasonable time after the beginning of the closed season in which to transport the animal or bird to that person's home.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

§12356. Unlawful transport of bear, deer, moose, wild turkey, wild hare or wild rabbit

1. Prohibitions regarding transport of bear, deer, moose and wild turkey. Except as otherwise provided in this Part, a person may not move or transport a bear, deer, moose or wild turkey, or any part of a wild turkey or a moose that has been dismembered for transportation, unless:

A. The bear, deer or moose, or a portion of the moose, is open to view. This subsection does not apply to a bear, deer or moose that is legally registered in accordance with this chapter;

B. The animal is tagged in the following manner:

(1) A bear or deer tag that conforms to the requirements of section 11352, subsection 1 or section 11502, subsection 1 is securely attached to the bear or deer, and, if a deer, the deer tag has the name and address of the person who killed the deer; except a person who takes a deer on land owned by that person, in accordance with section 11108, subsection 1, may move or transport that deer if a tag bearing the name and address of the person who killed the deer is securely attached to the deer; or

(2) The moose or wild turkey portion of the permit bearing the name and address of the person who killed the moose or wild turkey is securely attached to the moose or wild turkey. This subparagraph does not apply

to a moose that is legally registered in accordance with subchapter 1; or

C. The person who killed the bear, deer, moose or wild turkey accompanies it while it is being moved or transported or the person who killed the deer or moose obtains a transportation permit required under section 12351 allowing another person to accompany the deer or moose and that person accompanies the animal while it is being transported.

A person who moves or transports a bear in violation of this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

2. Prohibition regarding transport of bear or deer beyond limits of State. A person may not, except as provided in section 12351, transport or attempt to transport a bear or deer beyond the limits of this State. A nonresident who has lawfully killed and registered a bear may have the bear or its parts transported beyond the boundaries of the State by a transportation company, including common carriers, whether or not licensed in the State. If transported by other than a Maine-licensed transportation company, the bear or its parts must be accompanied by a nonresident transportation permit, which may be obtained by the licensee from any game warden.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, unless otherwise specified.

3. Prohibition regarding possession and transportation of wild hares or wild rabbits. A person may not possess or transport a wild hare or rabbit taken:

A. During the closed season; or

B. By any method or with any device prohibited by section 11952, subsection 1 or section 12252, subsection 2, paragraphs A to D.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

CHAPTER 921**WILDLIFE CAUSING DAMAGE OR NUISANCE****§12401. Attacking domestic animals or destroying property**

Except as provided in sections 12402 and 12404, a person may lawfully kill, or cause to be killed, any wild animal or wild turkey, night or day, found in the

act of attacking, worrying or wounding that person's domestic animals or domestic birds or destroying that person's property. A person who kills a wild animal or wild turkey by authority of this section shall report the incident to the Maine Warden Service as provided in section 12402, subsections 3 and 4.

§12402. Damage to crops or orchards

1. Permission to kill nuisance animals or wild turkeys. Except as provided in section 12404, the cultivator, owner, mortgagee or keeper of any orchard or growing crop, except all types of grasses, clover and grain fields, may take or kill wild animals or wild turkeys night or day when the wild animals or wild turkeys are located within the orchard or crop where substantial damage caused by the wild animal or wild turkey to the orchard or crop is occurring. For purposes of this section, corn is not considered grain.

2. Employment of agents. When a person wants to employ someone outside of that person's immediate family to take or kill wild animals or wild turkeys, that person shall contact a game warden. If the warden is satisfied that substantial damage is occurring, the warden may arrange for a department agent to alleviate the damage; when an agent is not available, the warden may authorize a person who is knowledgeable and can perform the work in a reasonable, safe and proficient manner. Permission to take or kill wild animals or wild turkeys may not be granted to a person whose license to hunt has been revoked or suspended, who is an habitual violator as defined in section 10605, subsection 1 or who has been convicted of night hunting within the past 5 years.

3. Report to Maine Warden Service; dressing of carcass. The person by whom or under whose direction the wild animal or wild turkey is wounded, taken or killed under this section shall:

A. Within 12 hours, report all the facts relative to the act to the Maine Warden Service, stating the time and place of the wounding, taking or killing; and

B. In all cases of deer, bear, moose or wild turkey, immediately and properly dress the carcass or carcasses and care for the meat.

4. Warden's certificate. A game warden shall investigate an incident under this section as soon as possible and, if the game warden is satisfied that the wild animal or wild turkey was taken as provided in this section, give the person who killed the wild animal or wild turkey a certificate that entitles the cultivator, owner, mortgagee or keeper of the orchard or growing crop to own the carcass or carcasses, which may be possessed and consumed only within the immediate family of the cultivator, owner,

mortgagee or keeper of the orchard or growing crop, or, in accordance with the labeling requirements for possession of deer, bear, moose or wild turkey, to transfer possession of those wild animals or wild turkeys to another person. Any excess carcasses after the first 2 carcasses of deer, bear, moose or wild turkey killed or taken under subsection 1 or 2 must be distributed to recipients authorized through the Hunters for the Hungry Program established in section 10108, subsection 8 or as otherwise authorized by the game warden.

5. Failure to report wounding, taking or killing of nuisance wild animal or to properly care for carcass. A person may not:

A. Wound, take or kill a wild animal under section 12401 or this section unless the person reports all the facts relative to the incident to the Maine Warden Service within 12 hours; or

B. Kill a deer, bear or moose pursuant to section 12401 or this section unless the person immediately and properly dresses the carcass and cares for the meat to prevent spoilage.

§12403. Damage to motor vehicles by wild animals or wild birds

1. Claims. The State may not pay any claims for damages to a motor vehicle by a wild animal or wild bird.

2. Accidental collisions involving deer, moose, bear or wild turkey. This subsection applies to accidental collisions involving deer, moose, bear or wild turkey.

A. The operator or owner having knowledge of a motor vehicle that has been involved in an accidental collision with a deer, moose, bear or wild turkey shall, by the quickest means, report the accident to a law enforcement officer.

B. The officer shall investigate an accident reported under paragraph A and, if the officer finds that the motor vehicle has sustained apparent damage as the result of the collision, shall give a certificate that entitles the person to the ownership of the carcass. The person may then take possession and immediately remove the entire carcass from the scene of the collision.

C. A person entitled to ownership of a deer, moose or bear carcass under paragraph B may not take possession of or remove any portion of the carcass without taking possession of or removing the entire carcass from the scene of the collision.

3. Penalties. The following penalties apply under this section.

A. A person who fails to report an accident in accordance with subsection 2, paragraph A or who removes a portion of a carcass in violation of subsection 2, paragraph C commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

B. A person who possesses a moose injured in an accidental collision, except in accordance with subsection 2, paragraphs A and B, commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; and a fine of not less than \$1,000, none of which may be suspended.

§12404. Specific animals

1. Bear. This subsection applies to the taking or killing of bear found doing damage.

A. Section 12402 does not prohibit the taking or killing of bear found doing damage to blueberry land.

B. The commissioner may issue a permit to any licensed beekeeper, or to a person entrusted with the custody of the beehives of a licensed beekeeper, authorizing that person to protect beehives from damage by bear.

C. The commissioner may suspend the game laws relating to bears in such restricted localities and for such periods of time as the commissioner finds it advisable to relieve excessive damage being done by bears to sweet corn or other crops.

D. The commissioner may suspend subsection 6 for the purpose of allowing dogs to be used in hunting and killing bears, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable.

2. Beaver. A person may not take or kill beaver under sections 12401 and 12402. The commissioner may cause agents of the department to take nuisance beaver at any time.

3. Birds. A person may not take or kill wild birds, with the exception of rock doves and wild turkeys under sections 12401 and 12402.

4. Coyotes. The commissioner may cause department personnel to take coyotes at any time and in any manner that the commissioner may prescribe.

5. Deer. This subsection applies to the taking or killing of deer found doing damage.

A. Whenever deer are doing damage to orchards and crops, including legumes, but excepting grass, the department shall furnish to the owner or agent of the orchards and crops suitable repellants without cost to the owner or agent. The commissioner may follow other good conservation practices to alleviate the damage.

B. Whenever the commissioner determines it impossible to keep deer from doing damage to young orchards, the commissioner may enter into an agreement with the owner of a young orchard in which the department assumes 1/2 the cost of fencing the orchard.

6. Dogs. This subsection applies to nuisance dogs.

A. A game warden may kill a dog outside the enclosure or immediate care of its owner or keeper when the game warden finds that dog:

(1) Chasing, killing, wounding or pursuing a moose, caribou, deer or elk at any time;

(2) Chasing, killing, wounding or pursuing any other wild animal in closed season; or

(3) Worrying, wounding or killing a domestic animal, livestock or poultry.

B. An owner of domestic animals, livestock or poultry, a member of the owner's family or a person to whom is entrusted the custody of domestic livestock or poultry may kill any dog killing or attacking the domestic animals, livestock or poultry.

C. A person having evidence of a dog chasing, killing, wounding or pursuing moose, caribou, deer or elk or any other wild animal in closed season may present that evidence to the commissioner or any game warden.

(1) The commissioner or game warden shall give notice in writing to the owner or keeper of the dog, stating the acts committed by the dog.

(2) After the owner or keeper of the dog has received written notice that the dog has committed any act prohibited by paragraphs E and F, anyone may kill the dog when it is found committing any of those prohibited acts.

D. A person having evidence of a dog chasing, killing, wounding or pursuing a moose, caribou, deer or elk or any other wild animal in closed

season, or of a dog kept and used for that purpose, or of a dog worrying, wounding or killing a domestic animal, including another dog, or livestock, poultry, fowl or fur-bearing animal legally in captivity, when the dog is outside of the enclosure or immediate care of the dog's owner or keeper, may present that evidence to the District Court having jurisdiction.

(1) The court may issue a warrant against the owner of the dog, ordering the owner to show cause why the dog should not be killed.

(2) Upon hearing the evidence in the case, the court may order the dog killed by a game warden.

(3) The costs of prosecution must be paid by the owner or keeper of the dog.

E. Except as provided in paragraph F, the owner or keeper of a dog commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged if:

(1) That owner's or keeper's bird dog, retrieving dog or hound dog is found killing or wounding a moose, caribou, deer or elk during a period in which it is lawful to train dogs, as provided for in section 12051, subsection 1, while the dog is at a licensed dog training area or at a licensed trial for retrieving dogs; or

(2) That owner or keeper has been notified under paragraph C and that owner or keeper permits any dog mentioned in the notice to leave the owner's or keeper's immediate control.

F. The owner or keeper of a dog commits a civil violation for which a forfeiture of not less than \$500 nor more than \$1,000, none of which may be suspended, may be adjudged if that owner's or keeper's dog is found:

(1) Chasing or pursuing a moose, caribou, deer or elk at any time or any other wild animal in closed season; or

(2) Killing or wounding a moose, caribou, deer or elk at any time or any other wild animal in closed season.

7. Muskrat. The commissioner may declare an open season on muskrats that are polluting water supplies or damaging property if the owner makes a written complaint to that effect to the commissioner.

8. Raccoons. The commissioner may suspend the game laws relating to raccoons in such restricted localities and for such periods of time as the commissioner finds it advisable to relieve excessive damage being done by raccoons to sweet corn or other crops. The commissioner may suspend subsection 6 for the purpose of allowing dogs to be used in hunting and killing raccoons, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable.

CHAPTER 923

FISH: FISHING SEASONS AND RESTRICTIONS

SUBCHAPTER 1

SEASONS, RULEMAKING AND SPECIAL REGULATIONS

§12451. Application of laws

1. Waters covered by provisions relating to fish. This Part so far as it relates to fish of all varieties and fishways applies to fish and fishways in the inland waters of the State.

2. Great ponds. A person on foot may engage in any activity on the great ponds not inconsistent with any other law or regulation of the State or its political subdivisions.

3. Ponds of 10 acres or less. Fishing in a pond of 10 acres or less, whether natural or artificial, formed on a brook, stream or river, is governed by the same laws and rules that govern fishing in the brook, stream or river on which the pond is situated. This subsection does not apply to private ponds as set forth in section 12508.

§12452. Consolidation of rules

Fishing rules as set forth in the annual Open Water Fishing Regulations folder and the annual Ice Fishing Regulations folder, as printed and distributed to the public, are declared to be official consolidations of fishing rules upon filing with the Secretary of State.

§12453. Inland waters closed to fishing except as opened by law or rule

All inland waters of the State are closed to fishing except as opened by law or rule.

§12454. Ice fishing; closed areas and times

1. Closed waters; commissioner's authority. All inland waters of the State are closed to ice fishing except those that have been opened by rule of the commissioner.

A. The commissioner may by rule close to ice fishing waters that have been reclaimed by the removal of rough fish.

B. The commissioner may open other waters for ice fishing for cusk in the nighttime.

§12455. List of waters where children may fish with single-baited hook and line

Rules adopted by the commissioner that set forth the special fishing regulations for inland waters of the State must include a list of waters where a person under 12 years of age may fish with a single-baited hook and line.

§12456. Open seasons; exceptions

1. Open seasons. Except as provided in subsection 2 and Part 12 and except as the commissioner may by rule provide, the following are the open seasons for fishing in the State. All opening and closing dates are inclusive.

A. The open season for all fish in waters or portions of waters naturally free of ice in lakes and ponds is from April 1st to September 30th.

B. The open season for all fish in the rivers above tidewater in waters free of ice is from April 1st to September 15th.

C. The open season for all fish in brooks and streams in waters free of ice is from April 1st to August 15th.

D. The open-water fishing season on boundary waters between Maine and New Brunswick is from April 15th to September 30th.

2. Exceptions. Notwithstanding the open seasons established under subsection 1:

A. A person may take smelts at any time by the use of a dipnet in the usual and ordinary way in inland waters or portions of inland waters that are naturally free of ice, and where the taking of smelts is not prohibited by rules of the commissioner;

B. There is a continued closed season on the dipping of smelts from Morrill Pond and its tributaries in Somerset County;

C. Whenever the last day of open-water fishing season falls on a Saturday, the season is extended one day to include the following Sunday; and

D. The commissioner by rule may extend the open-water fishing season as long as such an extension does not pose a threat to the fishery. Rules adopted under this paragraph may include

provisions that establish catch-and-release-only restrictions on landlocked salmon, trout, togue and bass.

§12457. Restricted areas

1. Closed waters. Except as the commissioner may by rule provide, the following waters are closed to fishing:

A. The area within 150 feet of any dam in which a fishway is located, except:

(1) At the following places, the fishway and the area within 75 feet of any part of the fishway are closed to fishing at all times:

(a) Grand Falls Powerhouse Dam on the St. Croix River in Baileyville; and

(b) Woodland Dam on the St. Croix River in Baileyville;

(2) At the following places, the area within 75 feet of the mouth of the fishway is closed to fishing at all times:

(a) East Grand Lake Dam in Forest City Township, T9 R4 NBPP; and

(b) Spednic Lake Dam in Vanceboro;

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

(4) At East Outlet Dam in Sapling Township, T1R7, in Somerset County and in Big Moose 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

(5) There is no fishing in or from the fishway at the Sheepscot Lake Dam in the Town of Palermo in Waldo County;

B. All waters within 200 feet of any fish hatchery or rearing station; and

C. The property owned by the Unity Utilities District located on Route 139 and Prairie Road in the municipality of Unity in Waldo County.

§12458. Special regulations

1. Aroostook River. A person 12 years of age or younger may fish from shore with a single-baited

hook and line on the following areas of the Aroostook River during the open-water fishing season:

A. In the Town of Caribou, from and including Otter Brook upstream to the Maine Public Service Company dam, including all tributaries in this section upstream to the first highway bridge intersecting each tributary; and

B. In the Town of Fort Fairfield, from and including Pattee Brook upstream to Hockenhull Brook, including all tributaries in this section upstream to the first highway bridge intersecting the tributary.

§12459. Fly-fishing by person who has loss of arm

A person who possesses a valid fishing license and has suffered the loss of an arm may use any type of rod and reel to fish with a fly on waters open to fly-fishing. For the purposes of this section, "loss of an arm" means the physical loss of the arm at the wrist or above.

SUBCHAPTER 2

LICENSE AND PERMIT REQUIREMENTS AND AUTHORIZATIONS

§12501. General fishing license

1. License required. Except as otherwise permitted pursuant to this Part, a person may not fish for, transport or possess fish without a valid license issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Eligibility. The commissioner may issue the following licenses to the following persons:

A. A resident fishing license to a resident 16 years of age or older; and

B. A nonresident fishing license to a nonresident 12 years of age or older.

3. Agent's fee. Clerks or other agents appointed by the commissioner to issue licenses shall charge a fee of \$2 for each license issued. The commissioner shall charge a fee of \$1 for each fishing license issued by department employees.

4. Exchange of licenses. A license issued under this section may not be exchanged for another license except as provided in this subsection. Temporary licenses may be exchanged for annual licenses as follows.

A. A resident who possesses a one-day or 3-day fishing license may exchange it in the municipality in which that person resides for an annual resident fishing license or a resident combination hunting and fishing license upon the payment to the clerk or issuing agent of \$2 and the difference between the fee for the one-day or 3-day license and the fee for the annual license.

B. A nonresident who possesses a 15-day nonresident fishing license may exchange it for an annual nonresident license upon the additional payment of \$12, the difference between the fee for the 15-day license and the fee for the annual license, and \$2 to the clerk or issuing agent.

5. Nonresident junior fishing license expiration. A nonresident junior fishing license issued to a nonresident who has passed the nonresident's 15th birthday is valid through the calendar year for which the license was issued.

6. Schedule of fees. The fees for fishing licenses are as follows.

A. A resident fishing license is \$19.

B. A resident combination hunting and fishing license is \$36.

C. A resident combination archery hunting and fishing license is \$36.

D. A nonresident junior fishing license, for persons 12 years of age or older and under 16 years of age, is \$7.

E. A 3-day fishing license for a resident or nonresident, valid for the 72-hour period specified on the license, is \$21.

F. A nonresident 7-day fishing license, valid for 7 days from date indicated on license, is \$34.

G. A nonresident 15-day fishing license, valid for 15 days from date indicated on license, is \$38.

H. A nonresident season fishing license for persons 16 years of age or older is \$50.

I. An alien season fishing license for persons 16 years of age or older is \$70.

J. A one-day fishing license for a resident or nonresident, valid for the 24-hour period indicated on license, is \$9.

7. Reciprocity with New Hampshire. When similar legislation is enacted by the State of New Hampshire, a fishing license issued to any person by either this State or New Hampshire meets all require-

ments of the law for a fishing license with respect to fishing in any lake or pond that lies partly in both of the states of Maine and New Hampshire.

§12502. Boys and girls camps fishing license

1. Issuance of camp fishing license. Upon application, the commissioner shall issue to a boys or girls camp a camp fishing license that will permit any of the boys or girls, under 16 years of age, to fish in the lake or pond adjacent to the main camp. The fee for this permit is \$75. Persons who fish under a camp fishing license, as provided in this subsection, are subject to this Part.

2. Penalty. Each day a person violates the terms of the special privilege under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12503. Permitted fishing without license

1. Resident under 16 and nonresident under 12. A resident under 16 years of age and a nonresident under 12 years of age may fish without a license.

2. Land used for agricultural purposes; domicile. Notwithstanding section 10606 as it applies to this subchapter, any resident and any member of the resident's immediate family, as long as the angler's license to fish is not under suspension or revocation, may fish without a license in open inland waters from land:

- A. To which they are legally entitled to possession;
- B. On which they are actually domiciled; and
- C. That is used exclusively for agricultural purposes.

3. Free fishing days. The Saturday and Sunday of Father's Day weekend and the Saturday and Sunday immediately preceding President's Day are free fishing days. Notwithstanding sections 10606 and 12501, it is lawful during a free fishing day established under this subsection for a person to fish without a license in inland waters, except that this subsection does not apply to a person whose license to fish is under suspension or revocation. All other provisions of this Part relating to fishing apply during a free fishing day.

4. Groups of resident students. The commissioner may permit groups of residents who attend high school or who are enrolled in special education courses for persons who are underprivileged, persons with handicaps or people with special learning needs to fish without licenses for periods of not more than 3 days as long as the fishing activity is conducted as part

of an educational program and is under the direct supervision of a teacher or instructor.

A. Each day a person violates the terms of the special privilege granted under this subsection that person commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

5. Patients at Veterans Administration Hospital. The commissioner may permit inpatients at the Veterans Administration Hospital at Togus to fish without a license in the inland waters within a 25-mile radius of Togus. Patients not under the direct supervision of hospital staff or volunteer supervisors shall have in their possession while fishing a valid pass issued by the Veterans Administration Hospital.

A. Each day a person violates the terms of the special privilege granted under this subsection that person commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

6. Fishing during event sanctioned by department. Notwithstanding section 10606 as it applies to this subchapter, a person who does not hold a fishing license may assist a child or a handicapped person who is a participant in a fishing event sanctioned by the department.

§12504. Fishing derby and fishing tournament permits

1. Permit required. Except as provided in section 12505, a person may not conduct a fishing derby or fishing tournament without a valid permit issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Application. A person wishing to conduct a fishing derby or fishing tournament shall first make application for and obtain a permit from the commissioner. A bass tournament sponsored by a bass club in waters free of ice falls under the provisions of section 12505. A completed application for a permit must include the proposed rules, requested dates, places, times and prize structure for the derby or tournament.

3. Rules. The commissioner shall adopt all necessary rules relative to permits to ensure that derbies and tournaments are conducted only at such times and places and in such a manner as are consistent with the fisheries management objectives of the department. Such rules must include:

A. Specifying the number of derbies or tournaments that may be conducted in a given body of water and the dates within which they may be conducted. These rules must be reviewed periodically; and

B. Fixing the maximum total value of prizes that may be awarded at each derby or tournament.

4. Issuance. The commissioner, following a determination that an applicant has complied with all rules adopted pursuant to this section, may issue a permit to the applicant authorizing the conduct of the derby or tournament. Applicants who have conducted derbies or tournaments in the requested body of water in the past that have conformed with all rules must be given preference in the issuance of permits.

5. Fee. The fee for a permit to conduct a fishing derby or fishing tournament is \$24.

§12505. Bass tournament permit

1. Permit required. A person may not conduct a bass tournament in waters free of ice without a permit issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Application. A bass club seeking approval to conduct a bass tournament pursuant to this section may make application to the commissioner in a manner and form to be designated by the commissioner. The application must include the club's tournament rules, any amendments or changes to the rules and a schedule of the dates, places and times of the proposed tournament.

3. Issuance; notification to municipality. The commissioner, following a determination that a bass club has complied with all rules adopted pursuant to this section, may issue a permit to the applicant club authorizing the club to conduct the tournament during open season for black bass in waters free of ice. At least 10 days prior to issuing the permit, the commissioner shall notify any affected municipality of the receipt of an application for a multi-day bass tournament.

4. Fee. The fee for a bass tournament permit is:

A. For weigh-in tournaments, \$50 per day; and

B. For catch-and-release tournaments, \$10 per day.

5. Restrictions. The commissioner shall adopt all rules necessary to carry out the purposes of this section, including, but not limited to:

A. Requiring that precautions be taken so that, if possible, all fish caught may be retained alive and, following the close of the tournament, be released into the body from which they were taken;

B. Fixing the maximum total value of prizes that may be awarded at each tournament; and

C. Limiting the length of a tournament to 3 days. A tournament lasting more than one day must be a regional or multistate tournament sanctioned by the applicant bass club.

§12506. Alewife, eel, sucker and yellow perch permit; elver prohibition

1. Permit required. Except as otherwise authorized pursuant to the this Part and except as provided in subsection 5, a person may not fish for or possess alewives, eels, suckers, lampreys or yellow perch without a valid permit issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue permits to fish for or possess alewives, eels, suckers, lampreys and yellow perch under rules that the commissioner establishes, if these permits do not interfere with rights granted under section 6131.

A. Eels may be harvested in inland waters using only eel pots or weirs.

B. Alewives, suckers and yellow perch may be harvested in inland waters using trap nets, dip nets or spears.

C. Lampreys may be harvested in inland waters by use of a hand-held dip net or by hand.

3. Fees; transfer of permit. The minimum fee for an individual permit for alewives, suckers, lampreys and yellow perch is \$42. A crew permit may be sold for alewives, suckers, lampreys and yellow perch for \$100, authorizing up to 3 persons to engage in the permitted activity. The annual fee for an eel pot or weir permit is \$100. An eel pot or eel weir permit is not transferable.

4. Five-year limited entry; eel weirs. The department may not issue an eel weir permit to a person unless that person possessed a valid eel weir permit for calendar year 1995. The department shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A regarding the issuance of eel weir permits. The number of weirs and the number of square miles of watersheds in this State fished by eel

weirs may not exceed those permitted in calendar year 1995.

5. Exception to permit requirement. Notwithstanding subsection 1:

A. A person may fish for alewives by use of a dip net or single hook and line for consumption by that person or members of that person's family, provided that the person takes or possesses no more than one bushel in any day and provided also that the alewives are not taken from any waters in which a municipality or other person has been granted exclusive rights under section 6131;

B. A person licensed or otherwise entitled to fish in Maine waters may take suckers for that person's use in all rivers, brooks and streams that are open to fishing between April 1st and June 30th of each calendar year by the use of a hand spear, bow and arrow or by snagging. If suckers are taken by bow and arrow, the arrow must have a barbed or prong point and must be attached to the bow with a line;

C. A person may fish for or possess alewives from inland waters if that person has been granted fishing rights under section 6131; and

D. A person may take suckers for use as bait for fishing in inland waters as provided in section 12551 without a permit under subsection 2.

6. Eels and elvers prohibitions. The following prohibitions apply to the harvesting of eels and elvers in inland waters.

A. A person may not fish for or take elvers from inland waters.

B. A person other than the owner of a weir used to fish for or take eels in inland waters may not tend that weir while the weir is immersed unless that person has in the person's possession written permission from the owner to tend the weir or is in the presence of the owner and has the owner's permission to tend the weir.

§12507. License to cultivate or sell commercially grown and imported fish

1. License required. Except as otherwise authorized pursuant to this Part, a person may not cultivate or sell fish that have been commercially grown within the State or imported from outside the State without a valid license issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of

\$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a license to cultivate and sell fish that have been either commercially grown within the State or imported from without the State.

3. Application. This section does not apply to and the commissioner may not issue permits governing any aspect of either the commercial aquaculture of Atlantic salmon when intended for use in commercial aquaculture in coastal waters or the Atlantic salmon restoration program.

4. Fee. The fee for a license to sell commercially grown or imported fish is \$25 annually.

5. Restrictions. The following provisions must be observed.

A. A license issued pursuant to subsection 2 must be kept constantly and publicly posted in the office or place of business of the licensee.

B. Whenever a person sells fish in more than one wholesale or retail outlet, each outlet must be licensed.

C. All fish sold under this section must be identified with the name and address of the source of the fish in a manner approved by the commissioner. A person may not offer for sale any commercially grown or imported fish that is not so identified.

D. A licensee shall keep invoices of fish sold and purchased under this section so that the invoices are available at all times for inspection by the commissioner or the commissioner's duly authorized agent.

6. Penalty. Each day a person violates any restriction of a license issued under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12508. License to operate private fee pond

1. License required. A person who owns a private pond may not charge others for the opportunity to fish in that private pond unless the owner of that pond possesses a valid private fee pond license issued by the commissioner under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Licensed activities. A private fee pond license authorizes the owner of a private pond to charge others for the opportunity to fish in that private pond and authorizes persons who fish in that pond to fish for, take, possess and transport fish harvested from that pond, notwithstanding other provisions of the law or rules of the department pertaining to manner, time, season, bag limit, length limit or fishing license requirements.

3. Fee. The fee for a private fee pond license is \$25.

4. Restrictions. All fish taken from a private fee pond operated pursuant to this section must be killed prior to being transported from the site. All fish transported from the site must be tagged as provided by rules established by the commissioner.

§12509. Permit to import live freshwater fish or eggs

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not introduce, import or transport any live fish or gametes into the State or receive or have in that person's possession fish or gametes so introduced, imported or transported without a valid permit issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may grant permits to introduce, import or transport any live fish or gametes into the State or to receive or have in possession fish or gametes so introduced, imported or transported if the commissioner determines that the species does not pose an unreasonable risk to any species of fish or other organism after evaluating fish health, habitat and population management issues. The commissioner may not adopt rules or issue permits governing any aspect of either the commercial aquaculture of Atlantic salmon when intended for use in commercial aquaculture in coastal waters or the Atlantic salmon restoration program.

3. Application. Importers shall, when requesting a permit issued pursuant to subsection 2, provide the commissioner with the following information:

A. The number and species to be imported;

B. The name and address of the source;

C. A statement from a fish health inspector certified by the American Fisheries Society, a fish pathologist certified by the American Fisheries Society or a licensed accredited veterinarian,

certifying that the fish or gametes are from sources that show no evidence of viral hemorrhagic septicemia, infectious pancreatic necrosis, infectious hematopoietic necrosis, Myxosomocerebralis or other diseases that may threaten fish stocks within the State; and

D. Other professionally recognized tests or analyses, including evaluation of fish health, habitat or population management issues that the commissioner may require by rule to ensure that the species will not pose an unreasonable risk to any species of fish or other organism.

4. Rules. The commissioner may adopt rules allowing the possession and importation of certain species of tropical fish and goldfish without a permit, for aquarium purposes only, if the commissioner determines that the species does not pose an unreasonable risk to any species of fish or other organism after evaluating fish health, habitat and population management issues. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§12510. Permit to stock inland waters

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not introduce fish of any kind into any inland waters without a valid permit issued under this section. A person who violates this subsection commits a Class E crime, except that, notwithstanding Title 17-A, section 1301, the fine may not be less than \$1,000 or more than \$10,000.

2. Issuance. The commissioner may issue a written permit allowing a person to introduce fish of any kind into any inland waters by means of live fish or otherwise.

§12511. Permit to introduce fish or fish spawn into private pond

The commissioner may issue a written permit to introduce fish or fish spawn into a private pond.

§12512. Permit to transport live fish for breeding and advertising

The commissioner may issue a permit to a person permitting that person to take and transport within the limits of the State fish taken in the State for breeding or advertising purposes.

§12513. Permit to take baitfish

Whenever inland waters are closed to fishing, the commissioner may issue permits to take baitfish for bait purposes from those waters.

SUBCHAPTER 3**LIVE BAIT; DEALING, TRAPPING AND POSSESSION****§12551. Dealing in live smelts and baitfish**

1. Definition. For purposes of this section, "business facility" means a fixed place of business and does not include a motor vehicle or trailer. Live smelts or baitfish that are held in or on a motor vehicle or trailer by a person licensed under this section are considered in transport even if the motor vehicle or trailer may be temporarily placed at a specific location by the licensee, or the licensee's designee, for the purpose of selling live smelts and baitfish to anglers.

2. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in any activity, for which a license may be issued under this section without a valid license issued under this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

3. Eligibility. A resident or nonresident is eligible to obtain a license to deal in live smelts and baitfish upon payment of the appropriate fee.

4. Issuance. The commissioner may issue live smelt and baitfish licenses in the following categories.

A. A live bait retailer's license permits a person to possess for resale, sell or offer to sell live smelts, *Osmerus mordax*, and baitfish, as defined in section 10001, subsection 6.

B. A baitfish wholesaler's license permits a person to take and possess for resale, sell or offer to sell live baitfish.

C. A smelt wholesaler's license permits a person to take and possess for resale, sell or offer to sell live smelts.

5. Schedule of fees. The fees for licenses under this section are:

A. For a live bait retailer's license, \$14;

B. For a baitfish wholesaler's license, \$24; and

C. For a smelt wholesaler's license, \$69.

6. Live bait retailer's license. The following restrictions apply to the selling of live smelts and baitfish under the live bait retailer's license.

A. If a person sells live smelts or baitfish from more than one retail facility, that person must obtain a separate license for each place of business.

B. The holder of a live bait retailer's license may designate others to assist in selling live smelts and baitfish at the license holder's business facility.

C. The holder of a live bait retailer's license, or a designee, may transport live smelts and baitfish.

D. The holder of a live bait retailer's license may possess more than the daily bag limit of smelts at any time, providing that the smelts were acquired in a lawful manner. As evidence of lawful possession, the receipted invoice, bill of lading, bill of sale or other satisfactory evidence must be presented upon request to any agent of the commissioner.

E. A person licensed to sell live fish as bait may not possess at that person's place of business any species of fish that may not legally be sold as bait.

F. A person holding a live bait retailer's license may obtain live smelts only from a person lawfully licensed under this section to deal in live smelts.

7. Baitfish wholesaler's license restrictions. The following restrictions apply to the taking and selling of baitfish under the baitfish wholesaler's license.

A. A person engaged in taking, or assisting in taking, live baitfish for resale from inland waters must hold a current baitfish wholesaler's license, which must be exhibited upon request to any agent of the commissioner.

B. The holder of a baitfish wholesaler's license may take baitfish by use of a seine as defined in section 10001, subsection 55; a baitfish trap as defined in section 10001, subsection 7; a dipnet, a dropnet, a lift net or a bag net; or by hook and line.

C. The holder of a baitfish wholesaler's license may use particles of food for the purpose of luring baitfish to a baitfish trap, a dipnet, a dropnet, a lift net or a bag net.

D. If a person sells live baitfish from more than one wholesale facility, that person must obtain a separate license for each place of business.

E. The holder of a baitfish wholesaler's license may designate others to assist the holder in selling live baitfish at the holder's business facility.

F. The holder of a baitfish wholesaler's license, or the holder's designee, may transport live baitfish.

G. The holder of a baitfish wholesale license who attempts to take live bait for resale using drop nets from the inland waters of the State by fishing through the ice shall mark all holes made in the ice by that person for that purpose. The holes must be marked by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

H. The holder of a baitfish wholesaler's license may not take eels.

I. The holder of a baitfish wholesaler's license may not take or sell suckers, Genus Catostomus, greater than 10 inches in length between April 1st and September 30th of each year.

J. A person licensed to sell live fish as bait may not possess at that person's place of business any species of fish that may not legally be sold as bait.

8. Smelt wholesaler's license restrictions. The following restrictions apply to the taking and selling of live smelts under the smelt wholesaler's license.

A. Any person engaged in taking, or assisting in taking, live smelts for resale from inland waters must hold a current smelt wholesaler's license, which must be exhibited upon request to any agent of the commissioner.

B. The holder of a smelt wholesaler's license may take live smelts for resale from any inland water in accordance with general rules adopted by the commissioner in regard to the taking of smelts. The holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers. The holder of a smelt wholesaler's license may not take multiple limits from waters governed by general rules in order to attain the 8-quart limit of smelts described in paragraph C.

C. The holder of a smelt wholesaler's license may use a baitfish trap, a dipnet, a dropnet, a lift net, a bag net or hook and line to take up to 8 quarts of smelts in a 24-hour period, beginning at noon on a given day, from specific inland waters designated by the commissioner. A seine may not be used to take smelts.

D. The holder of a smelt wholesaler's license may use particles of food for the purpose of luring smelts to a baitfish trap, a dipnet, a dropnet, a lift net or a bag net.

E. The holder of a smelt wholesaler's license may transport or possess at the holder's business facility more than the daily bag limit of smelts at any time, providing that the smelts were acquired in a lawful manner. If the smelts were purchased from another person, a receipted invoice, bill of lading or bill of sale must be presented upon request to any agent of the commissioner.

F. If a person sells live smelts from more than one wholesale facility, that person must obtain a separate license for each place of business.

G. The holder of a smelt wholesaler's license may designate others to assist in selling live smelts at the holder's business facility.

H. The holder of a smelt wholesaler's license, or the holder's designee, may transport live smelts, except that live smelts being transported directly from an inland water source must be accompanied by the licensee. The holder of a smelt wholesaler's license may not transport from an inland water source to the licensee's place of business more than 8 quarts of live smelts.

I. The holder of a smelt wholesaler's license who attempts to take live smelts for resale using drop nets from the inland waters of the State by fishing through the ice must mark all holes made in the ice by that person for that purpose. The holes must be marked either by evergreen boughs placed around the hole or by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

J. A person holding a smelt wholesaler's license may obtain live smelts only from a person lawfully licensed under this section to deal in live smelts.

K. A person holding a smelt wholesaler's license must, at the time that person is engaged during the winter months in the taking of smelts, by any method other than hook and line, have a number 14 fish grader in operable condition in that person's immediate proximity during the taking of smelts and must use that grader during the smelt harvesting activity. The license holder must liberate immediately all undersized smelts alive into the waters from which they were taken. For the purpose of this paragraph, a number 14 grader is a grader having a minimum grate size of 14/64 inches.

L. A person licensed to sell live fish as bait may not possess at that person's place of business any species of fish that may not legally be sold as bait.

For purposes of this subsection, live smelts are considered in possession of the licensee once the smelts have been removed from the inland waters and placed in a container.

9. Effect of revoked or suspended license. A person whose license to deal in live smelts and baitfish has been revoked or suspended pursuant to section 10902 may not assist another dealer in selling or transporting live smelts and baitfish.

10. Inspection of live smelts and baitfish. A person licensed under this section who possesses live smelts or baitfish at a fixed place of business shall make those fish available for inspection by a warden or a department fisheries biologist during normal business hours. A person licensed under this section who possesses live smelts or baitfish at a location other than the licensee's fixed place of business shall make those fish available for inspection by a warden or a department fisheries biologist at any time, upon request.

§12552. Purchase of live smelts from unlicensed dealers

1. Prohibition. A person licensed to deal in live baitfish pursuant to section 12551 may not purchase live smelts from a person who does not hold a current license to sell live smelts issued pursuant to section 12551, subsection 4, paragraph A or C.

2. Penalty. A person who violates subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

The commissioner, subject to the hearing provisions of section 10902, shall revoke for a period of at least one year from the date of conviction any licenses issued under section 12251 to a person convicted of a violation of subsection 1.

§12553. Selling, using or possessing baitfish

1. Selling, using or possessing unlawful baitfish. A person may not, except as provided in this section, sell, offer for sale, use or possess for use as bait for fishing any species of fish other than baitfish as defined in section 10001, subsection 6.

A. Nothing in this Title prohibits the use of commercially prepared eggs from species that do not naturally occur in the State for bait.

B. A person may take baitfish from all inland waters of the State during the period that those

waters are open to fishing and the commissioner may grant permits in accordance with section 12513 to take baitfish from certain waters at any time.

A person who violates this subsection commits a Class E crime. The court shall, in addition, impose a fine of \$20, none of which may be suspended, for each fish illegally possessed.

2. Sale of bait or baitfish in polystyrene foam containers. A person who sells bait or baitfish may not provide or sell the bait or baitfish in containers that are composed in whole or in part of polystyrene foam plastic.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Failure to label baitfish traps, drop nets or baitfish holding boxes. A person may not set or place within the inland waters of the State any baitfish trap, drop net or baitfish holding box without having the baitfish trap, drop net or baitfish holding box plainly labeled with that person's full name and address.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12554. Disturbing baitfish traps or baitfish holding boxes

A person may not disturb or take any baitfish trap or baitfish holding box or any fish from any baitfish trap or baitfish holding box other than that person's own without the consent of the owner of the baitfish trap or baitfish holding box.

A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12555. Checking baitfish traps

While trapping for baitfish in the inland waters with the use of a baitfish trap as defined in section 10001, subsection 7, a person may not fail to check the baitfish trap or fail to cause the baitfish trap to be checked at least once in every 7 calendar days.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12556. Importing live bait

A person may not import into this State any live fish, including smelts, that are commonly used for bait fishing in inland waters.

A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

SUBCHAPTER 4

GENERAL FISHING PROVISIONS

§12601. Rule violations; open-water fishing or ice fishing

Notwithstanding section 10602, a person who violates a rule regulating open-water fishing or ice fishing, except a rule implementing a statute the violation of which is a Class E crime, commits a civil violation for which a forfeiture of not less than \$100 not more than \$500 may be adjudged.

§12602. Violation of number, amount, weight or size limits

A person may not:

1. Fish in violation of certain rules. Fish in violation of the number, amount, weight or size limits established by rules adopted by the commissioner; or

2. Possess fish in violation of certain rules. Possess fish in violation of the number, amount, weight or size limits established by rules adopted by the commissioner.

A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12603. Failure to observe Maine Indian Tribal-State Commission rules and regulations

1. Prohibition. A person may not fish in any pond or in that portion of any river or stream subject to the authority of the Maine Indian Tribal-State Commission created by Title 30, Part 4 in violation of the rules or regulations of the commission.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12604. Closed season violation

1. Prohibition. A person may not fish for any fish during the closed season or possess any fish taken during the closed season on that fish.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12605. Fishing in waters closed to fishing

1. Prohibition. A person may not fish in inland waters closed to fishing as described in section 12457 except that a person may fish for alewives and smelts in the manner provided under the laws regulating marine resources.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12606. Ice fishing; waters closed to fishing

1. Prohibition. A person may not ice fish in inland waters closed to ice fishing, except that person may fish for alewives and smelts in the manner provided under the laws regulating marine resources.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12607. Unlawfully introducing department-raised fish or fish spawn

1. Prohibition. A person may not introduce fish or fish spawn raised by the department into a private pond, unless the department permits the introduction for fishing events held in conjunction with educational or special programs sanctioned by the department.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12608. Failure to label fish

1. Prohibition. A person may not keep any black bass, salmon, togue or trout at any sporting camp, hotel or public lodging place unless the name and address of the person who caught the fish is attached to the fish.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12609. Purchase or sale of certain fish

A person may not directly or indirectly purchase or sell black bass, landlocked salmon, pickerel, togue, trout or white perch except for:

1. Fish produced by commercial producers or imported. Fish that have been lawfully produced by commercial producers within the State or that have been lawfully imported from without the State; and

2. Skins of fish preserved through taxidermy.

The skins of fish that have been preserved for display through the art of taxidermy.

A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12610. Unlawful importation or sale of certain fresh or frozen fish

1. Prohibition. A person may not import or offer for sale fresh or frozen salmon, brook trout, brown trout, rainbow trout, lake trout or any member of the family salmonidae whose source is outside of the continental United States, Canada or Alaska or their adjacent waters.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

SUBCHAPTER 5**UNLAWFUL FISHING METHODS****§12651. Snagging**

1. Prohibition. Except as provided in section 12506, subsection 5, paragraph B, a person may not fish by snagging as defined by section 10001, subsection 58.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12652. Fishing with more than 2 lines

1. Prohibition. Except in accordance with section 12659, subsections 1 and 2, a person may not fish with more than 2 lines at any one time.

2. Violation. Violation of this section is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12653. Taking fish by explosive, poisonous or stupefying substance

1. Prohibition. A person may not use dynamite or any other explosive, poisonous or stupefying substance at any time for the purpose of taking or destroying any kind of fish.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12654. Unlawful angling or fishing

1. Prohibition. A person may not angle or fish other than by the use of the single baited hook and line, artificial flies, artificial lures and spinners, except that a person may take smelts in accordance with rules adopted with regard to the taking of smelts.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12655. Unlawful use of bait

A person may not use live, dead or chemically preserved natural or organic bait or food in water at times in which fishing is limited by rule to the use of artificial lures only.

§12656. Possession and use of unlawful implements and devices

1. Prohibition. A person may not:

A. Possess any grapnel, trawl, weir, seine, gill net or trap or set line on or adjacent to any of the inland waters of the State, except in accordance with sections 12157 and 12506 and section 12763, subsections 3 and 4; or

B. Except as otherwise provided, use any grapnel, spear, spear gun, trawl, weir, gaff, seine, gill net, trap or set lines for fishing.

(1) A person may take suckers, eels, alewives and yellow perch in accordance with section 12506.

(2) A person may take baitfish with a baitfish trap, as defined in section 10001, subsection 7.

2. Penalty. A person who violates this section commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

§12657. Advance baiting

1. Prohibition. Except as provided in subsection 2, a person may not deposit any meat, bones, dead fish, parts of meat, bones, or dead fish or other food for fish for the purpose of luring fish, a practice known as "advance baiting."

2. Exception. A person may place food particles in a baitfish trap for the purpose of luring baitfish.

3. Penalty. A person who violates subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12658. Unlawfully trolling fly

1. Prohibition. A person may not troll a fly in inland waters restricted to fly-fishing.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12659. Ice fishing regulations

1. Five-line limit. Unless otherwise provided by rule, a person licensed to fish may fish through ice in the daytime with not more than 5 lines set or otherwise, which must be under that person's immediate supervision, in any waters that have been opened to ice fishing by the commissioner.

2. Cusk. Unless otherwise provided by rule, a person licensed to fish may fish through the ice in the nighttime for cusk in waters that have been opened pursuant to section 12454, subsection 1, paragraph B, by using not more than 5 lines set or otherwise. All lines set for cusk in the nighttime must be visited at least once every hour by the person setting them.

3. Black bass. Unless otherwise provided by rule, a person may take black bass through the ice during the same period that it is lawful to take salmon and trout.

4. Violation. A person may not fail to comply with any provision of this section.

5. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12660. Antifreeze agents

Adding substances containing ethylene glycol or other antifreeze agents to the waters of this State is a violation of Title 38, section 413.

§12661. Ice fishing shacks

1. Prohibitions. A person who owns any shack or temporary structure used for ice fishing may not:

A. Leave or allow the shack or structure to remain on the ice of any inland waters more than 3 days after the waters on which the shack or structure is located are closed to ice fishing;

B. Place or allow the shack or structure to be placed on the ice of any inland waters more than 3 days before the waters on which the shack or structure is located are opened to ice fishing; or

C. Fail to have painted on the outside of the shack or structure in 2-inch letters the owner's

name and address when the shack or structure is on the ice of any inland waters.

2. Penalty. A person who violates subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Removal of abandoned ice fishing shacks. Notwithstanding the provisions of Title 33, chapter 41, a landowner on whose property an ice fishing shack is left in violation of Title 17, section 2264 may remove or destroy the shack. The landowner may recover any costs of removing or destroying the shack from the owner of the shack in a civil action.

§12662. Night ice fishing

1. Prohibition. Except as provided in section 12659, subsection 2, a person may not ice fish from 1/2 hour after sunset to 1/2 hour before sunrise of the following morning.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12663. Unlawful sale of lead sinkers

1. Prohibition. A person may not:

A. Sell a lead sinker for fishing that contains any lead and weighs 1/2 ounce or less; or

B. Offer for sale a lead sinker for fishing that contains any lead and weighs 1/2 ounce or less.

For the purposes of this subsection, "sinker" means a device that is designed to be attached to a fishing line and intended to sink the line. "Sinker" does not include artificial lures, weighted line, weighted flies or jig heads.

2. Civil penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

CHAPTER 925**FISH AND WILDLIFE MANAGEMENT AND RESEARCH****SUBCHAPTER 1****WILDLIFE MANAGEMENT AND RESEARCH****§12701. Commissioner's authority over sanctuaries; management areas and access sites**

1. Public use. The commissioner may, pursuant to section 10104, adopt rules regulating hunting, fishing, trapping or other public use of any wildlife

management area or wildlife sanctuary as designated in section 12706, subsection 1, except that a landowner may not be prohibited from operating any vehicle on land on which that person is domiciled.

2. Natural products. The commissioner may harvest and sell natural products of the land from land owned by the department.

3. Trapping. The commissioner may regulate the trapping of wild animals on wildlife sanctuaries or closed territories.

4. Fees. The commissioner may establish reasonable fees for admission to the Maine Wildlife Park and the Steve Powell Wildlife Management Area at Perkins Township, Sagadahoc County, known as Swan Island and Little Swan Island.

5. Access sites to inland and coastal waters. The commissioner may, pursuant to section 10104, subsection 1, adopt rules regulating public use of department-owned or department-maintained sites that provide public access to inland or coastal waters. The commissioner may establish reasonable fees for use of these sites by members of the public as necessary to help defray the cost of routine maintenance and security.

§12702. Rule violations; state-owned wildlife management areas

Notwithstanding section 10602, a person who violates a rule regulating state-owned wildlife management areas commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12703. Rule violations; state game farms

Notwithstanding section 10602, a person who violates a rule regulating state game farms commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12704. Permit to hunt, trap, possess, band and transport wild animals and wild birds for scientific purposes

The commissioner may issue a permit to any person, permitting that person to hunt, trap, possess, band and transport wild animals and wild birds for scientific purposes.

§12705. Rule violations; scientific collection permits

Notwithstanding section 10602, a person who violates a rule regulating scientific collection permits commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12706. Wildlife sanctuaries

1. Designation of wildlife sanctuaries. The following described territories are designated as wildlife sanctuaries and are subject to the commissioner's authority under section 12701:

A. Back Bay Sanctuary, Portland: Back Bay, so called, in Portland, in the County of Cumberland, above the Grand Trunk Railway bridge or within the area enclosed by a boundary line drawn as follows: Beginning at Fish Point at the easterly end of the Eastern Promenade in the City of Portland, thence extending about northeasterly to Pomeroy's Rock, thence about northeasterly to Mackworth or Half-way Rock southerly of Mackworth or Mackey Island, thence in a northerly direction to a point marked by a buoy 1,000 feet from the most easterly point of Mackworth Island, so called, thence in a northwesterly direction 700 yards more or less to the northernmost point of the large ridge on the north side of Mackworth Island, thence in a north northwesterly direction in a straight line about parallel to the Town of Falmouth shore to the point on the shoreline where the property known as the Berry Estate meets the property known as the Portland Country Club, thence northwesterly and southwesterly along the shore line of the Town of Falmouth including that of the salt water pond adjacent to the property known as the Portland Country Club to Mackworth or Mackey Point, thence about southwesterly along the easterly side of Martin Point bridge to the shore of East Deering (United States Marine Hospital) Portland, thence about southwesterly and southerly along said East Deering shore to the Grand Trunk bridge, thence along the easterly side of said Grand Trunk bridge to the shore of the Eastern Promenade, Portland, thence about southerly along said shore of the Eastern Promenade to the said Fish Point, the point of beginning;

B. Baxter State Park: The following described tracts of territory situated in the Counties of Penobscot and Piscataquis W. E. L. S. the same being in unorganized townships, to wit: That portion of Township 6, Range 8, Penobscot County in the southwest corner of said township bounded and described as follows: Beginning at the southwest corner of said township thence north along the west line of said township to First Grand or Matagamon Lake; thence easterly, southeasterly and southerly along the western shore of said lake to the point where the said western shore intersects the north line of the Dam Lot, so called, which was conveyed to the East Branch Dam Company by deed dated October 28, 1902 and recorded in Penobscot County Registry of Deeds in book 727, page 335 and re-

puted to be now owned by the East Branch Improvement Company; thence running west along the north line of said Dam Lot to the northwest corner thereof; thence running south along the west line of said Dam Lot to the southwest corner thereof; thence running east along the south line of said Dam Lot to the East Branch of the Penobscot River; thence running south by said East Branch to a point in the south line of said township where the said East Branch intersects the same; thence running west along the said south line of said township to the southwest corner thereof and the point of beginning; all of Township 3, Range 9, Piscataquis County now the property of the State of Maine: All of Township 4, Range 9, Piscataquis County: All of Township 5, Range 9, Piscataquis County: That portion of Township 6, Range 9, Piscataquis County lying south of Trout Brook and south of Wadleigh Brook and extending from the east line of said township across said township to the west line thereof: All of Township 3, Range 10, Piscataquis County: All of Township 4, Range 10, Piscataquis County: All of Township 5, Range 10, Piscataquis County, excepting therefrom an area of 20 acres in the southwesterly quarter thereof, formerly owned by and belonging to Charles A. Daisey, now owned by Arnold R. Daisey, which was excepted and reserved from a deed from Percival Proctor Baxter to the State of Maine, as set forth in chapter 91 of the private and special laws of 1943. The said within described 8 tracts or parcels of land contain 149,506 acres, more or less;

C. Beauchamp Sanctuary: The following described territory situated in Rockport and Camden, in the County of Knox: Beginning at the mouth of Goose River in Rockport; thence in a northerly direction along number 1 highway to the mouth of the Megunticook River in Camden; thence in a southerly direction along the coast around Metcalf Point and Beauchamp Point and thence in a northerly direction to the said Goose River;

D. Carver's Pond Waterfowl Sanctuary: The waters of Carver's Pond, so called, in the Town of Vinalhaven, County of Knox or 100 feet from the mean high water mark of said pond. Carver's Pond for the purpose of this sanctuary must be considered all the waters of said pond above the bridge on Main Street of the Town of Vinalhaven;

E. Drake's Island Game Sanctuary: All that part of Drake's Island, so called, in the Town of Wells, which is bounded as follows: Northerly by the game sanctuary established by chapter 31

of the public laws of 1927; easterly by the Atlantic Ocean; southerly by the Wells River; and westerly by said river and creek flowing under Dyke's Bridge, so called;

F. Dry Pond Sanctuary: On Dry Pond, also known as Crystal Lake, or from the shores of said pond, which pond is situated in the Town of Gray, in the County of Cumberland;

G. Fairfield Sanctuary: The following described territory situated in the Town of Fairfield, in the County of Somerset: Good Will Farm, so called; the Girls' Farm, so called, of Good Will Farm; land of G. W. Hinckley; land of John Connor; land of J. Russell Barrett, which land is bounded as follows: On the north by land of Edwin Hicks and N. E. Bessey; on the east by the Kennebec River; on the south by land of Fred Tobey, Frank Moore, H. B. Hamm and C. B. Tuttle, also by the Fairfield town farm; on the west by land of L. P. Gifford, Alonzo Hoxie, Edwin Marcou and also by Martin Stream; said territory being Good Will Farm proper, so called, the Girls' Farm, so called, and land of G. W. Hinckley, John Connor and J. Russell Barrett, adjacent to the above-named farms. For provisions relating specifically to Fairfield Sanctuary, see section 12707, subsection 2, paragraph D;

H. Glencove Sanctuary; Rockport: Glencove, so called, in Penobscot Bay, which cove is situated in the Town of Rockport, in the County of Knox, and which cove is bounded as follows, to wit: On the north, west and south by the main land, on the east by a line extending from Smith's Point to Ram Island and from Ram Island to the easterly point of Pine Hill in said Rockport;

I. Gray Game Sanctuary: The following described territory situated in the Town of Gray in the County of Cumberland: Beginning at Gray Corner following the Poland Spring Road to Dry Mills, thence following the North Raymond Road to the guidepost at intersection of East Raymond Road, thence following the East Raymond Road to Douglass Mill Road; thence following the Douglass Mill and Furbush Road to "Sand Brook," so called, on shore of Little Sebago Lake, thence following shore of Little Sebago Lake to Foster Shore, so called, at intersection of Foster and Ramsdell Road, so called, near camp of Dr. Cushing following last named road in easterly direction to intersection of Ramsdell Road near homestead of Edgar Foster, thence in a southerly direction following said Ramsdell road to intersection of road leading from Gray to West Gray, thence following last named road to Gray Corner to point of beginning;

J. Hog Island Game Sanctuary: Hog Island in the Town of Bremen, Lincoln County;

K. Jefferson and Whitefield Sanctuary: The following described territory situated in the Towns of Jefferson and Whitefield, in the County of Lincoln, which land is bounded as follows: On the north by the highway leading from Weary Pond to South Jefferson; on the east by Sterns Brook and by Little Dyer's Pond and the inlet stream and marsh of said pond and by the highway leading from South Jefferson to Alna; on the south by the Alna town line; on the west by the road leading from Alna to said Weary Pond, in the Town of Whitefield;

L. Kineo Point Sanctuary: Kineo Point, in Kineo, in the County of Piscataquis;

M. Limington, Hollis and Waterboro Sanctuary: The following described territory situated in the Towns of Limington, Hollis and Waterboro, in York County; beginning at a point where the Little Ossipee River joins the Saco River in the Town of Limington, thence westerly and southerly along said Little Ossipee River to the highway at Edgcomb's bridge, so called, in Waterboro, thence southerly and easterly along said highway to North Hollis, in the Town of Hollis, thence easterly and northerly along the road next west of Killick Brook to the road leading from Nason Mills to Bonney Eagle, thence northeasterly along said Bonney Eagle Road to the town line between Limington and Hollis, thence northerly along said town line to the Saco River, thence northerly along said Saco River to the point of beginning. All roads which serve to bound said Limington, Hollis and Waterboro game sanctuary must be a part of said sanctuary. For provisions relating specifically to Limington, Hollis and Waterboro Sanctuary, see section 12707, subsection 4;

N. Megunticook Lake and Vicinity Sanctuary: The waters of Megunticook Lake, formerly called Canaan Lake, and its tributary lakes, ponds and streams, and upon the land bordering on the same included within the following roads: Beginning at Hopkins' Corner, so called, in the Town of Camden; thence via the Turnpike Road, so called, to Lincolnville Center; thence to Wiley's Corner in Lincolnville, thence to the Mansfield schoolhouse in the Town of Camden; thence via the Fish Hatchery to place of beginning; all of said lake, its tributaries and shores being located in the Towns of Camden, Lincolnville and Hope, in the Counties of Knox and Waldo. For provisions relating specifically to Megunticook Lake and Vicinity Sanctuary, see section 12707, subsection 2, paragraph H;

O. Merrymeeting Bay Game Sanctuary: Merrymeeting Bay in the Towns of Bowdoinham and Woolwich bounded as follows: Commencing at the high tension tower on Kelley's Point, so called, in Bowdoinham; thence westerly by a line approximately 100 feet above the high water mark designated by a series of posted signs over the field lands and by posted signs and a single strand of wire through the wooded area thus southerly 100 feet more or less to a red stake at the high water mark of Merrymeeting Bay; thence southerly approximately 400 yards to a red stake or marker on range between the first mentioned red stake and Butler's Head, so called, this stake or marker must also be on range between the iron pin on the southeasterly corner of the Inland Fisheries and Wildlife camp lot on the west shore of the Abagadasset River and the eastern support tower on the southern high tension power line in Woolwich; thence southeasterly across the flats and waters of Merrymeeting Bay approximately 1,900 yards to a red stake or marker located near high water mark on Elliott's Point, so called, on the Woolwich shore; thence northeasterly following high water mark approximately 1,250 yards to a red stake or marker under the overhead high tension power cables; thence westerly by a straight line to the point of beginning.

For provisions relating specifically to Merrymeeting Bay Game Sanctuary, see section 12707, subsection 3;

P. Monroe Island Game Sanctuary: Monroe Island, in the Town of Owl's Head, in the County of Knox;

Q. Moosehead Lake Game Sanctuary: The following described tracts or territory situated in the County of Piscataquis: Moose Island and Farm Island, in Moosehead Lake, and the territory bounded as follows: Beginning on the shore of Moosehead Lake at a point nearest to the easterly end of the state road leading westerly from Greenville Junction, so called, to the state fish hatchery on Moose Brook, thence westerly by said state road to said hatchery, thence northeasterly down said brook to the shore of Moosehead Lake, thence by the shore of said lake to the point of beginning;

R. Moosehorn Game Sanctuary: The right-of-way of the Maine Central Railroad from St. Croix Junction in Calais, southerly to the Charlotte town line;

S. Narragansett Game Sanctuary: The following described territory situated in the Town of Gorham, in the County of Cumberland: Bounded on

the north by the right-of-way of the W. N. & P. division of the Boston & Maine railroad; on the east by the Black Brook Road or Scarboro Road, so called, in said Town of Gorham; on the south by the Stroudwater River; and on the west by South Street or South Gorham Road, so called, in said Town of Gorham, containing 3,600 acres, more or less. For provisions relating specifically to Narragansett Game Sanctuary, see section 12707, subsection 2, paragraph D;

T. Ocean Park Game and Bird Sanctuary: The following described territory situated in the Town of Old Orchard Beach, in the County of York: Beginning at a point on the easterly side of Fresh Water Cove Brook, so called, where the same intersects the Boston and Maine Railroad right-of-way; thence southerly along said brook to its mouth where it joins the Goose Fare Brook; thence southeasterly along said Goose Fare Brook to its mouth; thence easterly and parallel with the Atlantic Ocean and 50 feet in front of all bulkheads and houses fronting on the beach to the easterly side of Tunis Avenue; thence northwesterly along said avenue to the Boston and Maine Railroad right-of-way; thence by said Boston and Maine right-of-way to point of beginning;

U. Orrington Game Sanctuary: The following described territory beginning at a point on the state aid road No. 4, in Orrington, at the East Bucksport turn, extending in a southerly and southeasterly direction to the county line; on the road leading to Thurston Pond, to the Hancock County line; thence southwestly along said county line to the land of Harry Byard; north along said line to the land of E. F. Bowden; west on said line to the land of Frank Betts; northerly on line of E. F. Bowden to land of Fred Bowden; west on Fred Bowden's line to land of J. Betts; northerly on line of Fred Bowden and J. Betts to line of H. Byard; westerly on Byard's line and line of Mary Gray to land of P. W. Gray; northerly on Gray's line to land of J. Bowden heirs; northerly across said land to the line of E. F. Bowden and J. W. Bowden heirs; easterly on J. W. Bowden heirs' line to the first mentioned bound. The commissioner may add adjacent property to said game sanctuary upon application of said adjacent property owners;

V. Pittston Farm Sanctuary: Pittston Farm, so called, in Pittston Township, in the County of Somerset, being all the fields, pastures and cultivated lands of said farm;

W. Prout's Neck; Richmond's Island; Cape Elizabeth Sanctuary: The following described territory: On the 112 acres of land, more or less,

comprising Prout's Neck, so called, in the Town of Scarboro, in the County of Cumberland; or on Richmond's Island, so called, in the Town of Cape Elizabeth, in said County of Cumberland; or on the tract of land comprising 1,600 acres, more or less, situated in said Town of Cape Elizabeth, and bounded as follows: Southeasterly and southerly by the low low watermark of the Atlantic Ocean, westerly by the low low watermark of the Spurwink River, northerly by the Spurwink Road, so called, leading from Spurwink Bridge to Bowery Beach, easterly by a certain private road or way which runs in a southerly direction from the aforesaid Spurwink Road to said Bowery Beach, being the road which runs in front of the dwelling house of one Charles L. Jordan and along the easterly boundary of land of said Charles L. Jordan, and along the westerly boundary of land of the Great Pond Club, but not including any portion of said Bowery Beach. For the purpose of this paragraph, Richmond's Island includes only that portion of land above the mean high watermark and the easterly portion, as defined by red painted markers, of the causeway between Richmond's Island and the mainland. For provisions relating specifically to Prout's Neck; Richmond's Island; Cape Elizabeth Sanctuary, see section 12707, subsection 2, paragraphs C and D;

X. Rangeley Game Sanctuary, in the County of Franklin: The following described tract or territory, situated in Rangeley, in the County of Franklin, to wit: So much of said Town of Rangeley as is bounded as follows: Southwestly by Rangeley Lake; northwestly and north-easterly by route No. 16; and southeasterly by the inlet to Rangeley Lake leading from Haley Pond, so called. The territory above described being so much of said Town of Rangeley, as lies between Rangeley Lake, the outlet of Rangeley Lake, route No. 16 and said inlet to Rangeley Lake from Haley Pond. This paragraph applies to that part of Hunter Cove, so called, lying northerly of Hunter Cove Bridge, so called;

Y. Rangeley Lake Sanctuary: Rangeley Lake bounded as follows: Beginning at Gilman's Point on the northerly shore of Rangeley Lake; thence southerly across said lake to the southwestly corner of land of the Rangeley Lake Hotel Corporation; thence northerly, westerly and southerly around the shore of said Rangeley Lake back to the original starting point. Boats may pass through without incurring any penalty;

Z. Rangeley Plantation Sanctuary: The following tracts of land situated in Rangeley Plantation in the County of Franklin: Land of the Maine Conference Association of Seventh-day Advent-

ists and the adjoining land now or formerly owned by Mrs. Franklin B. Stahl, said parcels laying southerly of Rangeley Lake. The commissioner may, after notice and public hearing, add adjacent property to said game sanctuary upon application of the owners of said adjacent property. For provisions relating specifically to Rangeley Plantation Sanctuary, see section 12707, subsection 2, paragraph E;

AA. Readfield and Winthrop Sanctuary: The waters of Carleton Pond, so called, in the Towns of Readfield and Winthrop in the County of Kennebec, and the lands of the Augusta Water District adjacent to said pond and located in said Towns of Readfield and Winthrop, now owned or which may be hereafter acquired by said district in furtherance of its chartered purposes. For provisions relating specifically to Readfield and Winthrop Sanctuary, see section 12707, subsection 2, paragraphs F and G and subsection 6;

BB. Salmon Pond Sanctuary: That territory lying within a distance of 1/4 of a mile of Salmon Pond, which pond is situated in the Town of Guilford, in the County of Piscataquis, said pond being the source of water supply for the Dover-Foxcroft Water District, also all the lands now owned by said Dover-Foxcroft Water District in Lots 3 and 4, Range 7, which lie outside of the above 1/4 of a mile limit;

CC. Somerset Game Sanctuary: The following described tract or territory situated in Somerset County, the same being in unorganized territory, and taking in parts of Sapling Town, Misery Gore, Taunton and Raynham Township, and including the whole of Sandbar Tract, bounded and described as follows: The territory from the highway, being route 15, east to low watermark on Moosehead Lake between East Outlet and West Outlet, bounded as follows: Beginning at the junction of the low watermark of Moosehead Lake and the northerly side of the East Outlet of said lake; thence westerly by the northerly side of said East Outlet to the highway, being route 15; thence northerly by said highway to the southerly side of the West Outlet of said Moosehead Lake; thence easterly by the southerly side of said West Outlet to low watermark of Moosehead Lake; thence southerly by said low watermark of Moosehead Lake to the point of beginning;

DD. Standish Sanctuary: The following described territory in the Town of Standish in the County of Cumberland: Beginning at the point where the Maine Central railroad crosses the Pequaket Trail in Steep Falls; thence southerly and easterly by said Pequaket Trail, the Oak Hill

Road, so-called, and the so-called back road from Steep Falls to Richville to its junction with the Rich Mill Road, so-called; thence by said Mill Road northeasterly to its junction with the road leading from Sebago Lake to East Sebago; thence by the last named road northerly to a point approximately 1 1/4 miles north of the Maine Central railroad crossing; thence by a certain wood road westerly to its junction with the Maine Central railroad; thence by said railroad northwesterly to the point of beginning. All roads and the Maine Central railroad right-of-way that serve to bound said Standish Game Sanctuary are a part of said sanctuary. For provisions relating specifically to Standish Sanctuary, see section 12707, subsection 5;

EE. Stanwood Wildlife Sanctuary: Beginning on Route 3 in Ellsworth at the northeast corner of the Stanwood Wildlife Sanctuary and the southeast corner of the Animal Medical Center; thence southerly 795 feet on the highway to an iron pipe, being the northeast corner of the Luchini lot; thence westerly 363 feet along Luchini's north line to an iron pipe; thence S 6° 40' W 716 feet to an iron pipe, abutting Luchini, Grossman's Lumber, and the Ellsworth Water Company water tower; thence N 81° 23' W 1699 feet, abutting the Jordan brothers' lot to a stake; thence N 6° 40' E 511 feet to a stake, abutting Khanbegian; thence N 79° 59' W 1432 feet to a stake, abutting Khanbegian; thence westerly 330 feet to a stake, abutting John Dorgan; thence S 79° 59' E 720 feet to an iron pipe, abutting John E. Partridge; then 10° 6' E 659 feet to an iron pipe, abutting John E. Partridge and Beatrice Jones; thence S 79° 59' E 1342 feet to an iron pipe, abutting Harry S. Jones, III; thence N 6° 08' E 326 feet to an iron pipe, abutting Harry S. Jones, III; thence N 80° 45' E 60 feet to an iron pipe, abutting the Maine Coast Mall; thence S 6° 08' W 87 feet to an iron pipe, abutting Dow Pontiac; thence N 69° 50' E 340 feet to an iron pipe, abutting Dow Pontiac; thence S 31° 04' E 371.75 feet to an iron pipe, abutting Ellsworth Agway and Branch Pond Marine; thence N 80° 42' E 84.5 feet to an iron pipe, abutting Ellsworth Car Wash; thence S 4° 45' W 219.8 feet to an iron pipe, abutting Animal Medical Center; thence N 69° 50' E 345 feet to an iron pipe, abutting Animal Medical Center and being the point of beginning, containing 100 acres more or less. The commissioner may add adjacent property to the game sanctuary upon application of the adjacent property owners;

FF. Thorncrag Bird Sanctuary: The following described territory: A certain parcel of land situated in Lewiston, and bounded as follows, to wit, beginning on the northeasterly side of the road

leading from Barker Mills to the Thorne Corner Schoolhouse so-called, at the corner of the late Benjamin Thorne's land; thence running northeasterly about one hundred and seventy (170) rods to the corner of the late Phineas Wright and Dutton lot, so-called, thence northwesterly on said Wright lot about forty-six (46) rods to land owned by David Nevens; thence southwesterly on the line of said Neven's land to the above mentioned road, thence on the line of said road to the first mentioned bounds, containing forty-five acres (45) more or less. A certain lot or parcel of land, situated in Lewiston, in said County of Androscoggin, and bounded and described as follows: Bounded southwesterly by a line commencing at a point in the southeasterly line of land of The Stanton Bird Sanctuary, six hundred eighty (680) feet northeasterly from the northeasterly line of said Montello Street, thence southeasterly and parallel with said Montello Street to a point six hundred eighty (680) feet northeasterly from said Montello Street to land formerly of George E. Ridley; bounded southeasterly by land formerly of said George E. Ridley; bounded northeasterly by land formerly of George H. Field; and bounded northwesterly by land of The Stanton Bird Club. A certain lot of land situated in said Lewiston, bounded and described as follows, to wit: Beginning at a stake and stones at the northeast corner of lot numbered thirteen (13); thence southwesterly on line of land now or formerly of Catherine Lynch and land formerly owned by George Bubier to the northeast corner of land formerly owned by Phineas Wright; thence northwesterly along said Wright land sixty-two (62) rods and five (5) links to stake in the corner of land now or formerly owned by William B. Kilbourne; thence north fifty degrees (50°) east on line of said Kilbourne land seventy (70) rods to stake standing on the southerly line of lot numbered twelve (12), formerly owned by James Lowell; thence southeasterly on said last mentioned line sixty-two (62) rods and five (5) links to point of commencement. Containing twenty-six (26) acres and one hundred fifty-seven (157) rods. A certain lot or parcel of land adjoining the lot above described and bounded and described as follows, to wit: Commencing on the westerly side of the road leading from Thorne's Corner by the residence now or formerly owned by Henry C. Field to Greene at the northeasterly corner of land owned by said Field, now or formerly; thence northwesterly on line of said Field land to land now or formerly of Frye and Dill; thence northeasterly on line of said Frye and Dill land and lot above described to land now or formerly owned by Catherine Lynch; thence southeasterly on line of said Lynch land to the aforesaid road; thence

southwesterly by said road to point of commencement. Also another piece or parcel of land situated in said Lewiston, being a part of the Homestead Farm of Phineas Wright and bounded and described as follows: Beginning at the westerly corner of the Homestead Farm of Jarius Carville; thence southwesterly on said Carville land and land of Henry Field about fifty-seven (57) rods; thence at right angles northwesterly about sixty-nine and one-half (69 1/2) rods to the stone wall between the field and pasture on said Homestead Farm; thence by said wall northeasterly to the land of the late Dr. William Kilbourne; thence southeasterly on said Kilbourne land and land of Jarius Carville seventy-five (75) rods to point of beginning, containing twenty-seven (27) acres. A certain lot or parcel of land, situated in Lewiston in said County of Androscoggin and bounded and described as follows: Commencing at a point in the northeasterly line of Montello Street where the southeasterly line of land conveyed to the Stanton Bird Club by Alfred Williams Anthony by deed dated Jan. 18, 1922 and recorded in the Androscoggin Registry of Deeds, Book 315, page 447, intersects said street; thence northeasterly by southeasterly line of said land of said Stanton Bird Club, six hundred eighty (680) feet to land of said Stanton Bird Club; thence southeasterly and parallel with said Montello Street to a point six hundred eighty (680) feet northeasterly from said Montello Street and land formerly of George E. Ridley; thence southwesterly by said Ridley land six hundred eighty (680) feet to said Montello Street; thence northwesterly along the northeasterly side of said Montello Street to point of commencement. Also a certain other lot or parcel of land, situated in said Lewiston, bounded as follows: Westerly by the Highland Spring Road, northerly by the Thorne road, so-called, easterly by land of one A.D. Ames, and southerly by lands of Daniel Conley and A.W. Taylor, the same containing six and two-tenths (6.2) acres more or less. A certain lot or parcel of land situated northeasterly from the northeasterly end of East Avenue in said Lewiston, bounded and described as follows, to wit: Beginning at the corner of the Field, Wood, and Thorncrag lots, so-called, near the Miller Fireplace, thence running northwesterly one hundred fifty (150) feet about 9.03 rods, along the stone wall between the Thorncrag and Wood lots, so-called, to a stake and stones; thence at right angles northeasterly about 42.7 rods to a stake and stones on the line dividing the old Frye and Dill lot, now owned by the Stanton Bird Club, and the old Phineas Wright Homestead now owned by this Grantor; thence at nearly right angles along said line two hundred twenty (220) feet (13 1/3 rods) to the corner of

the three lots commonly called the Frye and Dill, Henry Field and Phineas Wright, now owned by this Grantor, lots; thence 42.7 rods at right angles southwesterly along the Field line to the point of beginning; containing three (3) acres more or less. A certain lot or parcel of land situated in said Lewiston, bounded and described as follows: Beginning at an iron stake set in the ground in a stone wall on the northeasterly line of land of said Stanton Bird Club, said stake being one hundred fifty (150) feet from the northwesterly corner of land of Raymond R. Field; thence northwesterly along the northeasterly line of land of said Stanton Bird Club one hundred twenty-five (125) feet to an iron stake set in the ground; thence at right angles northeasterly three hundred (300) feet to an iron stake set in the ground; thence at right angles northwesterly twenty-five (25) feet to an iron stake set in the ground; thence at right angles northeasterly three hundred seventeen (317) feet, more or less, to a stake set in the ground on the southeasterly line of land of the Stanton Bird Club one hundred fifty (150) feet to an iron stake set in the ground on the northwesterly line of land of said Stanton Bird Club; thence southwesterly along the northwesterly line of land of said Stanton Bird Club to the point of beginning; containing two (2) acres, more or less. A certain lot or parcel of land situated in Lewiston, bounded and described as follows: Beginning at a point on the southeasterly line of the original Stanton Bird Club Sanctuary, three hundred sixty-four (364) feet northeasterly from the northeasterly line of Montello Street; thence in a northeasterly direction by land now or formerly of the Stanton Bird Club, three hundred and sixty-eight (368) feet; thence in a southeasterly direction, parallel with the said northeasterly line of Montello Street, two hundred and forty (240) feet; thence in a southwesterly direction parallel with the first described line, three hundred sixty-eight (368) feet; thence in a northwesterly direction parallel with the said northeasterly line of Montello Street, two hundred forty (240) feet to the point of beginning, containing two (2) acres more or less. A certain lot or parcel of land situated in said Lewiston, it being the southwest end of Lot #13 bounded southeasterly on Lot #33 and southwesterly and northwesterly on a four (4) rod way as laid down on the plan of said township of said Lewiston. Containing fifty (50) acres, more or less, and being the homestead farm of the late Elizabeth S. Wood, deceased, and the premises being the same conveyed to her by the name of Elizabeth S. Haley by Dorcas G. Wright by deed dated April 12, 1866, and recorded in the Androscoggin County Registry of Deeds in Book 43, Page 114. A certain lot or parcel of land situated

in said Lewiston, bounded and described as follows, viz: Commencing at a point on the westerly line of land now or formerly of H. Osmond Wood and Mabel V. Wood (formerly Dorcas Wright) where the northerly line of land of A. W. Anthony (formerly of Ephriam Wood) intersects said H. Osmond and Mabel V. Wood's west line; thence northerly nine hundred ninety-nine (999') feet on said H. Osmond and Mabel V. Wood's westerly line to land now or formerly of Charles W. Benson (formerly of O. K. Douglass); thence at right angles westerly one thousand two hundred twenty (1220') feet on said Benson's southerly line to a point in a rock wall; thence southeasterly on line of land now or formerly of George H. McGibbon and Mathilda G. McGibbon, one thousand two hundred thirty (1,230') feet to a point in the rock wall on the northerly line of said Anthony's land, one thousand nine hundred forty-six (1,946') feet from the point of commencement; thence easterly along the northerly line of land of said Anthony, one thousand nine hundred forty-six (1,946') feet to the point of beginning. Deacon Davis Bird Refuge: The following described territory: A certain parcel of land situated in the city of Lewiston, in the county of Androscoggin, and bounded as follows: The most northerly corner of land of the estate of George K. Davis, bounded and described as follows, to wit: On the northwest by land of the so-called Ham Farm; on the northeast by Pleasant Street; on the southwest by land of Joseph Breault; and on the southeast by a line extending northeasterly from the easterly corner of said Breault's land, and being a continuation of the southeast boundary of said Breault's land, containing 2 acres, more or less. Woodbury Sanctuary: The following described territory: A certain parcel of land situated in the towns of Litchfield and Monmouth in the county of Kennebec and bounded as follows: The westerly side of Whippoorwill Road, so called. Being all the land conveyed to the Stanton Bird Club by Louise S. Drew and Clara B. Dana by deed dated July 2, 1929 and recorded in Kennebec County Registry of Deeds in Book 669-Page 210;

GG. Tomhegan Game Sanctuary: The following territory in Township 1, Range 2, N. B. K. P., commonly known as Tomhegan Town, in the County of Somerset, described as follows: Beginning at a cedar post and stones, the post being marked PRESERVE C/W 1931, standing on the line which is the division line between the land owned by the Great Northern Paper Company and that owned by the trust estate of F. W. Rollins, standing on the westerly shore of Soctean Bay in Moosehead Lake; thence westerly on said division line 1 mile and 160 rods to a ce-

dar post and stones, the post being marked PRESERVE C 1931; thence southerly at right angle to said division line 250 rods to a cedar post and stones, the post being marked PRESERVE C/W 1931 and standing on the northerly shore of Tomhegan Bay in Moosehead Lake; thence easterly and northerly along the shore of Moosehead Lake around Socatean Point, so called, to the point of beginning and containing 700 acres, more or less;

HH. Wells Sanctuary: The following described tract or territory, situated in the Town of Wells, in the County of York: a certain tract of land, bounded and described as follows: On the east by the Atlantic Ocean; on the south by the Drake Island Road, so called; on the west by the U. S. Number 1 highway, so called; on the north by the town line of Kennebunk and Wells;

II. Wells and York Game Sanctuary: The following described territory situated in the Towns of Wells and York in York County; beginning at a point on highway No. 1 where the Josias River meets said highway No. 1 in the Town of Wells, thence southwesterly along said Josias River to the Maine Turnpike in the Town of York, thence northerly along said Maine Turnpike to the Agamenticus Road overpass; thence westerly across said overpass by Agamenticus Road to the North Village Road; thence northerly along said North Village Road to Ogunquit-North Berwick Road, thence easterly along said Ogunquit-North Berwick Road to highway No. 1 in the Town of Wells, thence southerly along highway No. 1 to the point of beginning in the Town of Wells;

JJ. Willow Water Game Sanctuary: The following named territory, on the following described properties, located in the Town of Perry:

(1) Beginning on the county road on the westerly line of the Reed Farm, so called, now or formerly owned by Mrs. J. Abiah McPhail, and thence running north 4` east, following said line, 32 rods to a marked tree; thence 75` west 20 rods to a stake; thence south 4` east 32 rods to the county road; thence easterly by the county road to the place of beginning. The same being the building lot formerly owned by the late John W. Trott and containing 4 acres, more or less;

(2) Any one other lot or parcel of land lying and being on the northerly side of the county road leading from the Eastport-Perry Bridge to Pembroke and bounded and described as follows, to wit: Beginning at the southwest corner of land formerly of the

John W. Trott estate and thence running northerly on the west line of said Trott land to the northwest corner thereof; thence easterly on the north line of said Trott land to land now or formerly of Mrs. J. Abiah McPhail, formerly of John Reddington; thence north 1` east along the west line of said McPhail land to land now or formerly of the Charles J. Trott estate; thence westerly on the south line of said Trott land 62 rods; thence northerly on the westerly line of said Trott land 48 rods to the Morrison lot, so called; thence westerly on the said Morrison lot to land now or formerly of W. W. Brown; thence south 1/2` west 200 rods to the county road; thence easterly on said county road 77 rods to the place of beginning, containing in all 107 acres, more or less, being part of lots numbered 29 and 30 according to the plan of the Town of Perry;

(3) Any one other lot or parcel of land known as the pasture lot formerly the Wm. H. Brown Farm, bounded generally as follows, to wit: On the north by land formerly of S. Frost; on the east by land of Trott, on the south by the county road leading to Pembroke and on the west by land of M. Conley and land of others, names unknown, the above described lots being known as the Elijah Loring Farm in said Perry;

(4) A certain lot of land bounded on the north by land of the late John McCarty; on the east by Frost's Cove; on the south by lands formerly of Lucinda Frost and of Lewis D. Frost; and on the west by lands of the late John Morrison, William Anderson and the late John McCarty, containing 75 acres, more or less;

(5) One other lot or parcel of land bounded and described as follows, to wit: On the east by lots numbered 19 and 20; southerly by land of the late John Loring and the Russell lot, so called; westerly by lots numbered 10 and 11; and northerly by the William Anderson lot, and land formerly owned by the late Aaron Frost;

(6) One other certain lot or parcel of land bounded and described as follows, to wit: Bounded on the north by road leading from county road, to the field on the west; on the east by the county road leading from Eastport to Calais, on the south and the west by land of Lucinda Frost, afterwards conveyed to Jennie Frost; said lot being 10

rods on the county road and 8 rods back from the road; and

(7) One other certain lot or parcel of land bounded and described as follows, to wit: On the east by the county road leading from Eastport to Robbinston; on the south by land formerly owned by John A. Frost, on the west by land formerly of Sidney S. Frost and on the north by land formerly of Sidney S. Frost.

The owner of the properties included within the Willow Water Game Sanctuary shall enclose the same with a suitable fence and shall cause the erection of suitable signs on or near said sanctuary indicating that no hunting is permitted thereon. Near the center of said game sanctuary such owner is authorized to construct a 15-acre pond for the propagation of waterfowl, principally wood duck, teal and blacks. For provisions relating specifically to Willow Water Game Sanctuary, see section 12707, subsection 2, paragraph A; and

KK. York Game Sanctuary, in the County of Franklin: The following named territory; on the property of the following named persons, to wit: On land of J. Lewis York and on land of Yorks; said game sanctuary being in the northwest corner of Dallas Plantation, and bounded as follows, to wit: West by the east line of the Town of Rangeley; north by the south line of Lang Plantation; east by the west line of the public lot in Dallas Plantation; and south by land of Furbish, Goodspeed Company and land of the heirs of Henry Bliss, containing 539 acres, more or less. This game sanctuary is called the York Game Sanctuary.

For provisions relating specifically to York Game Sanctuary, in the County of Franklin, see section 12707, subsection 2, paragraph B.

2. Temporary wildlife sanctuaries. The following provisions apply to temporary wildlife sanctuaries.

A. The commissioner may, upon the written consent of landowners, create from any lands within the State, not to exceed 1,000 acres, a sanctuary or sanctuaries for the purpose of liberating tame deer.

B. The commissioner may release all or any part of lands from the restrictions of a sanctuary or sanctuaries, whenever the commissioner considers it expedient.

§12707. Unlawful activity in wildlife sanctuary; general prohibitions and exceptions

Except to the extent permitted by the commissioner under section 12701, activities listed in this section are prohibited in a wildlife sanctuary.

1. Unlawful activity in wildlife sanctuary.

Except as provided in subsection 2, a person may not:

A. Trap or hunt any wild animal or wild bird at any time within a wildlife sanctuary as designated in section 12706; or

B. Possess any wild animal or wild bird taken in violation of paragraph A.

2. Exceptions. The prohibitions in subsection 1 are subject to the exceptions and limitations listed in this subsection.

A. Subsection 1 does not apply to crows and skunks in the Willow Water Game Sanctuary.

B. A person residing within the limits of the York Game Sanctuary in the County of Franklin may kill any wild bird, except grouse, or any wild animal, except beaver, when found destroying that person's property.

C. A person residing within the limits of Prout's Neck, Richmond's Island and Cape Elizabeth Sanctuary may kill any wild bird, except ruffed grouse or Hungarian partridge, or any wild animal, when found destroying that person's property.

D. A person may trap any wild animal except moose, caribou, deer and elk within Fairfield Sanctuary, Narragansett Game Sanctuary and Prout's Neck, Richmond's Island and Cape Elizabeth Sanctuary in accordance with the general laws of the State.

E. If the commissioner determines that the public health and safety are threatened by diseased animals within Rangeley Plantation Sanctuary, the commissioner may authorize the use of firearms or any other device the commissioner determines appropriate to eliminate diseased animals.

F. The Augusta Water District may use Carleton Pond in the Readfield and Winthrop Sanctuary as it determines necessary.

G. Within the Readfield and Winthrop Sanctuary, subsection 1 applies only to lands that are or may be hereafter fenced.

H. The use of firearms on Megunticook Lake and Vicinity Sanctuary is prohibited only from

the first day of April of each year to the 30th day of September following.

3. Using motorboat within Merrymeeting Bay Game Sanctuary. A person may not use a motorboat within Merrymeeting Bay Game Sanctuary, except that motorboats may be used between the Woolwich shore on the east and a line on the west designated by a series of red markers adjacent to the edge of the grassy marsh area from Kelly's Point to the southern boundary of the Merrymeeting Bay Game Sanctuary.

4. Carrying loaded firearm on bounds of Limington, Hollis and Waterboro Sanctuary. A person may not carry a loaded firearm on any of the roads bounding the Limington, Hollis and Waterboro Sanctuary.

5. Carrying loaded firearm on bounds of Standish Sanctuary. A person may not carry a loaded firearm on any road or on the Maine Central Railroad right-of-way that bounds the Standish Game Sanctuary.

6. Fishing in Carleton Pond. A person may not fish in Carleton Pond in the Readfield and Winthrop Sanctuary.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12708. Wildlife management areas and public access sites

1. Designation and classification of wildlife management areas. The following areas are classified as wildlife management areas.

A. The following described territories are classified as wildlife management areas to be managed by the commissioner in accordance with the principles of wildlife management, as defined in section 10001, subsection 73, and subject to the commissioner's authority under section 12701:

(1) Bartlett's Island in Hancock County;

(2) Colby College Area: The Mayflower Hill Campus of Colby College comprising approximately 640 acres of land. It is located west of the center of Waterville bounded in general as follows:

From a stone marker on the west bank of Messalonskee Stream, said marker located across the stream from a point approximately 400 feet north of Riverview Avenue. Runs north along bank of Messalonskee Stream to a point approximately 2,000 feet north of Cedar Bridge (North Street),

thence in a northeasterly direction to a cement marker on the Second Rangeway at a point approximately 900 feet northeast of intersection with Rice Rips Road, thence in a southwesterly direction to Rice Rips Road, thence east approximately 300 feet, thence southwesterly again approximately parallel to and west of the Second Rangeway for approximately 1,800 feet to a cement marker, thence easterly to the Second Rangeway, thence in a southerly direction on east side of Second Rangeway for approximately 1,900 feet to a cement marker and college sign; thence southeast approximately 5,400 feet to Mt. Merici property line post and cement marker; thence in easterly direction to and across Mayflower Hill Drive in offset manner (east offset marked with stone or cement marker post) to and across Maine Central railroad to the point of beginning on west bank of Messalonskee Stream;

(3) Deer Isle and Stonington: The Towns of Deer Isle and Stonington, Hancock County;

(4) Lake Christopher: Beginning at a boundary marker on the most easterly point of South Pond, Town of Greenwood, Oxford County, where the Grand Trunk Canadian Railway meets South Pond; thence extending southerly to the most southern tip of South Pond; thence southerly to road which runs from Locke Mills to Greenwood City; thence southerly and easterly to Rowe Hill Road; thence southerly and easterly along the Rowe Hill Road to the intersection of Rowe Hill Road and Grand Trunk Railroad; thence northerly and westerly along said railroad to the point of beginning, excepting from the above description such of the area as is within 500 feet of said South Pond beginning at a boundary marker on the Rowe Hill Road; thence in a northerly direction to a boundary marker on the Old Bryant Road and thence northeasterly following this road to the boundary marker at the intersection of the Grand Trunk Railroad;

(5) Long Lake Wildlife Management Area, Aroostook County: within the following boundaries in the Towns of St. Agatha and Madawaska, Aroostook County: Beginning in the Village of St. Agatha at the junction of Route 162 and road that is near the northwesterly shore of Long Lake, easterly and northerly along said road to its junction with another road near Brishlotte Lake

outlet stream, thence easterly along said road to its junction with the road that is along the easterly side of said Long Lake, thence southerly along said road to its junction with the road leading westerly to Birch Point, so called, thence along said road to its nearest point to said Long Lake, thence westerly to a red painted stake on the east shore of said Long Lake, thence southwesterly across said Long Lake to a red painted stake on the west shore of said Long Lake, thence in the same direction until this line intersects Route 162, thence northwesterly along said Route 162 to the point of beginning. This is intended to include the large and smaller islands in the northerly end of said Long Lake;

(6) Lowell E. Barnes Wildlife Management Area: Certain lots or parcels of land situated in Hiram, County of Oxford, State of Maine, bounded and described as follows:

(a) A parcel of land containing 700 acres more or less bounded northerly by land now or formerly of Lusanna Hubbard, Lemuel Cotton and M.L. Wardsworth; easterly by land now or formerly of James Edgecomb; southerly by land now or formerly owned or occupied by Llewellyn A. Wardsworth, Asbury Huntress and Orison Adams; and westerly by land now or formerly of James Ayer, Harrison Sanburn, James Ayer again, the George F. Brooks place, so called, being the lot next below described and land now or formerly of Fred Small, Seth Spring and Freeman Flye;

(b) A parcel of land containing 25 acres, more or less, situated westerly of the above described lot and known as the George F. Brooks place; and

(c) A parcel of land containing 70 acres, more or less, situated adjacent to the first parcel above described and bounded north, east and west by said first above described parcel and southerly by land now or formerly of James Ayer and Elmer Hodgdon. Said parcel is known as the Dennis Stanley place;

(7) Marsh Island: Marsh Island in Penobscot County; and

(8) Oak Grove: The campus and land of Oak Grove School, in the Town of Vassal-

boro, County of Kennebec, situated on the east side of Route No. 100; and all the land of said school situated on the west side of Route No. 100. Sebago Lake Basin Wildlife Management Area: All that portion of Sebago Lake commonly known as Sebago Lake Basin lying below the high water mark in the Towns of Standish and Windham.

B. The following areas are classified as state-owned wildlife management areas, or "WMAs":

(1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS - Piscataquis County;

(2) Brownfield WMA - Brownfield, Denmark, Fryeburg - Oxford County;

(3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec County;

(4) Caesar Pond WMA - Bowdoin - Sagadahoc County;

(5) Chesterville WMA - Chesterville - Franklin County;

(6) Coast of Maine WMA - all state-owned coastal islands that are owned or managed by the Department of Inland Fisheries and Wildlife;

(7) Dickwood Lake WMA - Eagle Lake - Aroostook County;

(8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot County;

(9) Fahi Pond WMA - Embden - Somerset County;

(10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock County;

(11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor - Kennebec County;

(12) Great Works WMA - Edmunds Township - Washington County;

(13) Jamies Pond WMA - Manchester, Farmingdale - Kennebec County;

(14) Jonesboro WMA - Jonesboro - Washington County;

(15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;

(16) Kennebunk Plains WMA - Kennebunk - York County;

(17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft, Garland - Penobscot County and Piscataquis County;

(18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill - Waldo County;

(19) Long Lake WMA - St. Agatha - Aroostook County (all of Long Lake within the Town of St. Agatha);

(20) Madawaska WMA - Palmyra - Somerset County;

(21) Mainstream WMA - Cambridge - Somerset County;

(22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus - Aroostook County;

(23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York County;

(24) Mercer Bog WMA - Mercer - Somerset County;

(25) Merrymeeting Bay WMA - Dresden, Bowdoinham - Lincoln County and Sagadahoc County;

(26) Morgan Meadow WMA - Raymond - Cumberland County;

(27) Mt. Agamenticus WMA - York, South Berwick - York County;

(28) Muddy River WMA - Topsham - Sagadahoc County;

(29) Narraguagus Junction WMA - Cherryfield - Washington County;

(30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;

(31) Orange River WMA - Whiting - Washington County;

(32) Peaks Island WMA - Portland - Cumberland County;

(33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;

(34) Steve Powell WMA - Perkins Township - Sagadahoc County (being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island, formerly known as Alexander Islands);

(35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;

(36) Ruffingham WMA - Montville, Searsmont - Waldo County;

(37) St. Albans WMA - St. Albans - Somerset County;

(38) Sandy Point WMA - Stockton Springs - Waldo County;

(39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland County and York County;

(40) Steep Falls WMA - Standish, Baldwin - Cumberland County;

(41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;

(42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;

(43) Weskeag Marsh WMA - South Thomaston, Thomaston, Rockland, Owl's Head - Knox County; and

(44) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas.

2. The Public Boat Launch Access Program.

The Public Boat Launch Access Program, referred to in this subsection as the "program," is established in the department. The purpose of the program is to provide anglers, boaters and other persons fair and equitable public access to public waters that offer recreational fishing opportunities by acquiring lands adjacent to those waters and providing appropriate opportunities to access those waters. The commissioner may establish program priorities based on fishery management or other resource management objectives and may use for these purposes any funds received through federal programs intended to aid in the restoration of sport fishing and other revenues available for providing access to public waters.

SUBCHAPTER 2**FISH MANAGEMENT AND RESEARCH****§12751. Commissioner's authority relating to culture and research**

1. Setting apart waters. The commissioner may by rule, pursuant to section 10104, subsection 1, set apart, for a term not to exceed 10 years, any inland water for the use of the State in the prosecution of the work of fish culture and scientific research relative to fish.

In the waters so set apart, the commissioner and persons acting under the commissioner's authority in their respective fish culture and scientific work may take fish at any time or in any manner and erect and maintain any fixtures necessary for these purposes. In no instance may the commissioner permit the taking of fish by explosive, poisonous or stupefying substances, except for the use of registered fish toxicants for reclamation purposes.

2. Taking of certain fish. After a hearing pursuant to section 10104, subsection 1, the commissioner may permit the taking of pickerel, perch and other fish in specified waters, subject to conditions the commissioner may prescribe, whenever it appears that those fish seriously injure the propagation of or the fishing for any game fish.

§12752. United States Fish and Wildlife Service

The United States Fish and Wildlife Service and its duly authorized agents may conduct fish culture operations and scientific investigations in the waters of this State in such manner and at such times as the service and its agents consider necessary and proper.

§12753. Screens

1. Commissioner's authority. The commissioner may:

A. Authorize, alter and remove the screening of any inland waters; and

B. Prohibit fishing within 500 yards of any screen installed by authority of the commissioner or the Legislature.

2. Tampering with screen. A person may not take up, destroy or injure any screen installed pursuant to this section, unless the person is duly authorized by the commissioner.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12754. Fish spawning areas

1. Commissioner's authority. The commissioner may by rule, pursuant to section 10104, subsection 1, designate any inland waters of the State as fish spawning areas.

2. Hearing. The commissioner shall institute a public hearing, in conformity with the Maine Administrative Procedure Act, if so requested by any state agency.

§12755. Tampering with department dam

1. Prohibition. A person without authority from the commissioner may not:

A. Tamper with a department dam;

B. Open or close gates or sluiceways of a department dam;

C. Add or remove flashboards of a department dam; or

D. Otherwise damage or destroy a department dam.

For purposes of this subsection, "department dam" means a dam owned or operated by the department, including dams in a fish hatchery or rearing station.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12756. Tampering with fishway

1. Prohibition. A person without authority from the commissioner may not:

A. Tamper with a fishway;

B. Close a fishway to fish migration;

C. Introduce foreign objects into a fishway; or

D. Damage or destroy a fishway.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12757. Management of brook trout and landlocked salmon

Notwithstanding any other provision of this Part, any rule that includes a proposal to establish or amend the time, place or manner in which a person may fish for brook trout or landlocked salmon on inland waters is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A. The department shall provide the information in subsections 1 to 3 to any person upon request and at all hearings or meetings that relate to the time, place or manner in which a person may

fish for brook trout or landlocked salmon on inland waters:

1. Information. Information and interpretation leading to rule proposals including alternative proposals that staff have considered but not proposed;

2. Assessment of biological potential. An assessment of the biological potential of the waters affected and management goals for those waters, including the best scientific judgment of the probable outcome and the probability of success of the plan relating to the management of brook trout and landlocked salmon; and

3. Assessment of ability to evaluate success. A realistic assessment of the ability of fisheries staff to evaluate success of the management through future surveys.

§12758. Fish stocking

1. Public comments. When the Bureau of Resource Management determines that there is a need to consider changing the long-term management objectives on a water or group of waters that supports a major fishery or major fisheries, the department shall provide information regarding the proposed change to any person at that person's request. The bureau shall conduct department-sponsored meetings to solicit public comments on those management objectives.

2. Department-sponsored meetings. Regional fisheries biologists must be available at department-sponsored meetings held pursuant to subsection 1 to review the management opportunities presented by the proposals to change long-term management objectives, as well as the information used to assess the opportunities, and to receive public comments concerning the proposals.

§12759. Stocking alewives

1. Prohibition. A person may not stock alewives in Hogan Pond or Whitney Pond in the Town of Oxford or any waters that drain into or out of those ponds.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12760. Fishways in dams and other artificial obstructions

1. Commissioner's authority. In order to conserve, develop or restore anadromous or migratory fish resources, the commissioner may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within inland waters

frequented by alewives, shad, salmon, sturgeon or other anadromous or migratory fish species.

2. Examination of dams. The commissioner shall periodically examine all dams and other artificial obstructions to fish passage within the inland waters in order to determine whether fishways are necessary, sufficient or suitable for the passage of anadromous or migratory fish.

3. Monitoring program. The commissioner shall, in cooperation with the Department of Marine Resources and the Atlantic Salmon Commission, establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. The commissioner has sole authority to take corrective action at fishways as prescribed under this section.

4. Initiation of fishway proceedings. The commissioner shall initiate proceedings to consider construction, repair or alteration of fishways in existing dams or other artificial obstructions whenever the commissioner determines that one or more of the following conditions may exist:

A. Fish passage at the dam or obstruction in issue, whether alone or in conjunction with fish passage at other upriver barriers, will improve access to sufficient and suitable habitat anywhere in the watershed to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or

B. Fish passage at the dam or obstruction in issue is necessary to protect or enhance rare, threatened or endangered fish species.

5. Adjudicatory proceedings. A fishway proceeding must conform to the following requirements.

A. A fishway proceeding must be an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a hearing is not required unless requested in accordance with paragraph B. Notice of the proceeding must be given in accordance with Title 5, section 9052 and the following requirements:

(1) Personal notice must be given to the dam owner, lessee or other person in control of the dam or artificial obstruction, informing that person that a proceeding has been undertaken and informing that person of that person's right to request a hearing; and

(2) Notice to the public, in newspapers of general circulation in the areas affected, must be given notifying the public of the

initiation of the proceedings and of the public's opportunity to request a hearing.

B. If any interested person requests a public hearing, the commissioner shall, within 30 days, either notify the petitioners in writing of the commissioner's denial, stating the reasons for the denial, or schedule a public hearing. The commissioner shall hold a public hearing whenever:

(1) The commissioner is petitioned by 50 or more residents of the State; or

(2) The owner, lessee or other person in control of the dam or artificial obstruction requests a hearing.

C. The commissioner shall accept testimony from the owner, lessee or other person in control of the dam or artificial obstruction on alternate fishway designs to those proposed by the commissioner for that dam or artificial obstruction.

6. Decision. In the event that the commissioner decides that a fishway should be constructed, repaired, altered or maintained pursuant to this section, the commissioner shall issue final orders with specific plans and descriptions of the fishway construction, alteration, repair or maintenance requirements, the conditions of the use of the fishway and the time and manner required for fishway operation. The commissioner may issue a decision requiring the owners, lessees or other persons in control of the dam or obstruction to construct, repair, alter or maintain a fishway. Such a decision must be supported by a finding based on evidence submitted to the commissioner that either of the following conditions exist:

A. One or more species of anadromous or migratory fish can be restored in substantial numbers to the watershed by construction, alteration, repair or maintenance of a fishway and habitat anywhere in the watershed above the dam or obstruction is sufficient and suitable to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or

B. The construction, alteration, repair or maintenance of a fishway is necessary to protect or enhance rare, threatened or endangered fish species.

In the event that the commissioner decides that no fishway should be constructed, the commissioner shall specify in that decision a period subsequent to that decision during which no fishway may be required to be constructed. That period may not exceed 5 years.

7. Compliance. The owner, lessee or other person in control of a dam or other artificial obstruction is

jointly and severally liable for the costs of fishway design, construction, repair, alteration or maintenance, and for full compliance with a decision issued pursuant to subsection 6.

A. If the owner, lessee or other person in control of a dam or other artificial obstruction refuses to comply or does not fully comply with the commissioner's decision issued pursuant to subsection 6, the commissioner shall initiate a civil action to enjoin the owner, lessee or person in control of the dam to comply fully with the commissioner's order or to restrain the violation of an order. In the proceeding, the court may not review the legality of the commissioner's order, except when the owner, lessee or person in control of the dam or artificial obstruction has brought a timely petition for judicial review pursuant to Title 5, chapter 375, subchapter 7.

B. The court may render judgment against and order the sale of the dam or other artificial obstruction, the land on which it stands and a right-of-way to the dam or artificial obstruction, in order to secure the costs of fishway construction, repair, alteration or maintenance, the costs of the court-ordered sale and the costs incurred by the department for fishway design. The purchaser of the dam or other obstruction is subject to the commissioner's decision issued pursuant to subsection 6.

8. Privileged entry. The commissioner, the commissioner's agents or subcontractors may enter upon any private land in order to examine, at least annually, fishways in dams or other artificial obstructions and dams as provided in subsection 2. The commissioner shall notify the landowner, lessee or other person in control of the dam when the examination will take place and the time required to complete the examination. The commissioner shall make every effort to preserve private land and shall restore surrounding lands to the grade and condition existing prior to entry, if economically feasible.

§12761. Construction of new dams or other artificial obstructions

1. Notice required. Prior to construction or prior to authorizing construction of a new dam or other obstruction in the inland waters, the owner, lessee or other person in control of the dam or other artificial obstruction shall provide written notice to the commissioner, supplying information on construction plans, proposed location and date of construction of the dam or other artificial obstruction.

2. Initiation of fishway proceedings. Within 30 days of receipt of the construction notice pursuant to subsection 1, the commissioner shall review the

plans in order to determine whether fishway construction or alteration of proposed fishway construction plans may be required pursuant to the criteria set forth in section 12760, subsection 4. If the commissioner determines that the construction or alteration may be necessary, the commissioner shall initiate fishway proceedings and follow the procedures prescribed in section 12760.

3. Unlawful building of dam. A person may not build any dam or other obstruction in any of the rivers, streams or brooks of this State without first filing written notice with the commissioner pursuant to subsection 1. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12762. Fish kills; violations; fines; rules; definition

If a fish kill results from the improper operation of a fishway required pursuant to this subchapter, the department may assess an administrative fine equivalent to the value of the fish killed but not more than \$10,000 for each day of that violation.

The department and the Department of Marine Resources shall jointly make rules defining "fish kill."

§12763. Use or possession of gill net; Penobscot Nation research

1. Prohibition. Except as otherwise allowed under this section, a person, including any agent of the State, may not use or possess a gill net.

A person who violates this subsection commits a Class E crime. The court shall also impose a fine of \$20 for each fish unlawfully possessed, none of which may be suspended.

2. Penobscot Nation research. Under the direction of its director, the staff of the Department of Natural Resources of the Penobscot Nation may use gill nets for the purpose of scientific fisheries research and management on any waters within, flowing through or adjacent to Penobscot Indian territory as defined in Title 30, section 6205, subsection 2.

A. The authority granted under this subsection is subject to the following constraints.

(1) Both ends of the gill net must be marked with buoys that are clearly visible from a distance of 300 feet and that identify the Department of Natural Resources of the Penobscot Nation as the owner of the net.

(2) The results of each netting must be forwarded on a weekly basis to the office of

the commissioner where the results must be available for public inspection.

A person may not fail to comply with any provision of this paragraph.

A person who violates this paragraph commits a Class E crime.

3. Use of gill nets by department personnel. Department personnel may use gill nets pursuant to this subsection.

A. The department may use gill nets in inland waters provided that:

(1) When requested by another agency to undertake a gill netting project, the department is reimbursed by that agency for all costs relating to the gill netting project;

(2) Both ends of the net are marked with buoys that are clearly visible from a distance of 300 feet and that identify the department; and

(3) The results of each netting are forwarded on a weekly basis to the office of the commissioner. The records of the results must be available for public inspection at the office of the commissioner.

B. A person may not fail to comply with the restrictions established under this subsection.

C. The department shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters no later than March 1st of each year on the use of gill nets by department personnel. The report must include a summary of each use of gill nets, indicating the following:

(1) The specific purpose for which the gill nets were used;

(2) The date of each use;

(3) The location of each use by water body, town and county; and

(4) The number and mortality of each species of fish taken by gill nets.

4. Permits allowing use of gill nets by other state agencies. The department may authorize the use of gill nets by other state agencies for purposes of scientific research or public safety projects.

A. The authority granted to the department under this subsection is subject to the following constraints.

(1) Any authorization by the department for another state agency to utilize gill nets must be given through written permit.

(2) Both ends of the gill net must be marked with buoys that are clearly visible from a distance of 300 feet and that identify the state agency responsible for setting the net.

(3) The results of each netting must be forwarded on a weekly basis to the department, and the records of the results must be available for public inspection at the department.

SUBCHAPTER 3

ENDANGERED SPECIES; MANAGEMENT AND RESEARCH

§12801. Declaration of purpose

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend.

§12802. Commissioner's authority, investigations and programs

1. Investigations. The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any resident species of fish or wildlife, whether endangered or not.

2. Programs. The commissioner may develop programs to enhance or maintain the populations described in subsection 1.

§12803. Designation of endangered species

1. Standards. The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:

A. The present or threatened destruction, modification or curtailment of its habitat or range;

B. Overutilization for commercial, sporting, scientific, educational or other purposes;

C. Disease or predation;

D. Inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence within the State.

2. Commissioner's duties. In recommending a species to be listed as endangered or threatened, the commissioner shall:

A. Make use of the best scientific, commercial and other data available;

B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and

C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened.

3. Legislative authority. The Legislature, as sole authority, shall designate a species as state endangered or state threatened species. The list of state endangered or state threatened species is as follows:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
<u>Least Tern</u>	<u>Sterna albifrons</u>	<u>Endangered</u>
<u>Golden Eagle</u>	<u>Aquila chrysaetos</u>	<u>Endangered</u>
<u>Piping Plover</u>	<u>Charadrius melodus</u>	<u>Endangered</u>
<u>Sedge Wren</u>	<u>Cistothorus platenis</u>	<u>Endangered</u>
<u>Grasshopper Sparrow</u>	<u>Ammodramus savannarum</u>	<u>Endangered</u>
<u>Box Turtle</u>	<u>Terrapene carolina</u>	<u>Endangered</u>
<u>Black Racer</u>	<u>Coluber constrictor</u>	<u>Endangered</u>
<u>Roseate Tern</u>	<u>Sterna dougallii</u>	<u>Endangered</u>
<u>Northern Bog Lemming</u>	<u>Synaptomys borealis</u>	<u>Threatened</u>

<u>Loggerhead Turtle</u>	<u>Caretta caretta</u>	<u>Threatened</u>
<u>Blanding's Turtle</u>	<u>Emydoidea blandingii</u>	<u>Endangered</u>
<u>Black Tern</u>	<u>Chlidonias niger</u>	<u>Endangered</u>
<u>American Pipit</u>	<u>Anthus rubescens</u>	<u>Endangered</u>
<u>Peregrine Falcon</u>	<u>Falco peregrinus</u>	<u>Endangered</u>
<u>Flat-headed Mayfly</u>	<u>Epeorus frisoni</u>	<u>Endangered</u>
<u>Ringed Boghaunter</u>	<u>Williamsonia lintneri</u>	<u>Endangered</u>
<u>Clayton's Copper</u>	<u>Lycaena dorcas claytoni</u>	<u>Endangered</u>
<u>Edwards' Hairstreak</u>	<u>Satyrium edwardsii</u>	<u>Endangered</u>
<u>Hessel's Hairstreak</u>	<u>Mitoura hesseli</u>	<u>Endangered</u>
<u>Katahdin Arctic</u>	<u>Oenis polixenes katahdin</u>	<u>Endangered</u>
<u>Spotted Turtle</u>	<u>Clemmys guttata</u>	<u>Threatened</u>
<u>Bald Eagle</u>	<u>Haliaeetus leucocephalus</u>	<u>Threatened</u>
<u>Razorbill</u>	<u>Alca torda</u>	<u>Threatened</u>
<u>Atlantic Puffin</u>	<u>Fratercula arctica</u>	<u>Threatened</u>
<u>Harlequin Duck</u>	<u>Histrionicus histrionicus</u>	<u>Threatened</u>
<u>Arctic Tern</u>	<u>Sterna paradisaea</u>	<u>Threatened</u>
<u>Upland Sandpiper</u>	<u>Bartramia longicauda</u>	<u>Threatened</u>
<u>Swamp Darter</u>	<u>Etheostoma fusiforme</u>	<u>Threatened</u>
<u>Tidewater Mucket</u>	<u>Leptodea ochracea</u>	<u>Threatened</u>
<u>Yellow Lampmussel</u>	<u>Lampsilis cariosa</u>	<u>Threatened</u>
<u>Tomah Mayfly</u>	<u>Siphonisca aerodromia</u>	<u>Threatened</u>

<u>Pygmy Snaketail</u>	<u>Ophiogomphus howei</u>	<u>Threatened</u>
<u>Twilight Moth</u>	<u>Lycia rachelae</u>	<u>Threatened</u>
<u>Pine Barrens Zanclognatha</u>	<u>Zanclognatha martha</u>	<u>Threatened</u>

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

5. Designation by Legislature. The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

§12804. Conservation of endangered species

1. Conservation of nongame and endangered species. The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:

A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat;

B. Propagation;

C. Live trapping;

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the Atlantic Salmon Commission, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

E. In the extraordinary case where population pressures within a given group ecosystem can not be otherwise relieved, regulated taking.

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may, by rule, pursuant to Title 5, chapter 375, identify areas currently or historically providing physical or biological features essential to the conser-

vation of the species and that may require special management considerations.

3. Protection guidelines. The commissioner may, by rule, pursuant to Title 5, chapter 375, develop guidelines for the protection of species designated as endangered or threatened under this subchapter.

4. Annual report. The commissioner shall submit a written report by January 1st of each year to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters describing the status of all current and planned programs, activities and rules of the department pertaining to the conservation or management of endangered or threatened species. When appropriate, this report may be combined with any transplantation report required under subsection 1, paragraph D.

§12805. Cooperative agreements

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered or threatened species and may receive all federal funds allocated for obligations to the State pursuant to these agreements.

§12806. State and local cooperation

1. Review. A state agency or municipal government may not permit, license, fund or carry out projects that will:

A. Significantly alter the habitat identified under section 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or

B. Violate protection guidelines set forth in section 12804, subsection 3.

The commissioner shall make information under section 12804 available to all other state agencies and municipal governments for the purposes of review.

2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and

B. A public hearing is held on the proposed action.

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section

12804, subsections 2 and 3 are governed by this section.

§12807. Introduction of wolves to State; approval

A person may not release a wolf in the State for the purpose of reintroducing that species into the State without the prior approval of both Houses of the Legislature and the commissioner.

A person who violates this section commits a Class E crime.

§12808. Misuse of endangered or threatened species

For the purposes of this section, "to take," "take" and "taking" mean the intentional or negligent act or omission that results in the death of any endangered or threatened species.

1. Misuse of endangered or threatened species. Except as provided in subsections 2 and 3, a person may not:

A. Import into the State or export out of the State any endangered or threatened species;

B. Hunt, take, trap or possess any endangered or threatened species within the State;

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species; or

D. Deliberately feed, set bait for or harass any endangered or threatened species, except as allowed under subsection 2, paragraph A. A warning must be issued for the first violation. The 2nd violation is punishable as a Class E crime.

A person who violates this subsection commits a Class E crime.

2. Exceptions for certain purposes. Notwithstanding subsection 1 or section 10602 as it applies to rules adopted in accordance with this subchapter, the commissioner may:

A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and

B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State

and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit.

3. Exceptions; incidental take plan. Notwithstanding subsection 1, the commissioner may:

A. Permit the taking of any endangered species or threatened species if:

(1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;

(2) The taking will not impair the recovery of any endangered species or threatened species; and

(3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or threatened species pursuant to paragraph B; and

B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:

(1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;

(2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;

(3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;

(4) The procedures for monitoring the effectiveness of the recovery measures in the plan;

(5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and

(6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be

necessary for the recovery of species consistent with this section.

The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.

If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.

§12809. Judicial enforcement

1. General. In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the department.

2. Restoration. The court may order restoration of any area affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:

A. A threat to public health and safety;

B. Environmental damage; or

C. A substantial injustice.

SUBPART 5

GUIDES, OUTFITTERS AND TAXIDERMISTS

CHAPTER 927

GUIDES AND TRIP LEADERS

§12851. Commissioner's authority to adopt rules

The commissioner shall, pursuant to Title 5, chapter 375, with the advice and consent of the Advisory Board for the Licensing of Guides, adopt rules necessary to administer this chapter. The commissioner shall establish safety standards to provide the clients of guides reasonable protection from hazards. The commissioner may adopt rules in the following areas.

1. Alcohol; drugs. The commissioner may require applicants to state whether they use alcohol or other drugs in a way that would interfere with their competence as guides.

2. Failure to meet party. The commissioner may require applicants who have previously held a guide license to state that they have not received and retained a guiding fee from a party and then failed to meet that party as agreed or failed to provide the services as agreed.

3. Competency. The commissioner may establish standards of competency that must be provided to each applicant.

4. Watercraft. The commissioner may establish standards for the use of watercraft by a guide to ensure that the watercraft is safe for the use intended, that sufficient safety equipment is provided to each passenger and that the operator is competent to use watercraft.

5. Classification. The commissioner may establish classifications of guide licenses, including general guides and specialized categories.

6. Other. The commissioner may establish rules in any area as the commissioner considers necessary to administer this chapter, except that the commissioner may not require an applicant to demonstrate certification in cardiopulmonary resuscitation.

§12852. Rule violations; licensed guides and trip leaders

Notwithstanding section 10602, a person who violates a rule regulating licensed guides or camp trip leaders and course instructor certificates commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12853. License, fees and requirements; camp trip leader exception

1. Requirement. Except as provided in subsection 7, a person may not act as a guide without a valid license issued under this chapter. A person violates this subsection each day the person acts as a guide without a valid license issued under this chapter.

2. Violation. A person who violates subsection 1 commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of 3 days, none of which may be suspended. The court shall also impose a fine of \$1,000, none of which may be suspended.

3. New applications. A person wishing to be licensed as a guide shall submit an application to the commissioner.

A. The commissioner shall provide application forms that request all relevant information the commissioner considers necessary.

B. Failure or refusal to satisfactorily answer any question in the application is a basis for the commissioner not to accept the application.

C. The commissioner shall decide whether the application is acceptable within 5 working days of receipt.

D. The commissioner shall notify each applicant at least 2 weeks prior to the examination required under section 12855.

4. Qualifications. In order to qualify for a guide license, a person must:

A. Be at least 18 years of age;

B. Pass the guide examination in accordance with section 12855;

C. If a first-time applicant, be currently certified in first aid through completion of any standard first aid course that meets the criteria established by rule of the commissioner;

D. If not a first-time applicant, submit satisfactory evidence, as determined by the commissioner, of having held a guide license in this State; and

E. Meet all requirements established by rules of the commissioner.

For purposes of this subsection, "first-time applicant" means an applicant who has not previously been issued a guide license in this State.

5. Fee. The fee for a 3-year guide license is \$79.

6. Term of license. A guide license entitles a person to act as a guide through December 31st of the 2nd complete year following the year of issuance.

7. Exception. A person holding a camp trip leader permit under section 12860 may, without a guide license, conduct trips including adults under the auspices of the boys and girls camp that employs those adults, subject to all the requirements of section 12860.

§12854. Guides carrying passengers for hire

A guide carrying passengers for hire must be certified in the area of watercraft safety. A guide who has been certified in watercraft safety through the guide license examination process is authorized, without further licensing requirements, to operate a motorboat carrying passengers for hire pursuant to section 13063, subsection 2. A guide license issued to a guide who has been certified in watercraft safety must clearly indicate that the licensee is authorized to operate a motorboat carrying passengers for hire.

§12855. Examination

1. Requirement. In order to qualify for a guide license, a person who has not held a valid guide license within the previous 3 years must pass an examination pursuant to this section.

2. Form. The commissioner shall determine the form and content of the examination.

3. Location. The commissioner shall designate locations where the examination will be held, except the examination must be held in one of the Inland Fisheries and Wildlife regions if at least 10 applicants reside in that region.

4. Reexamination. The commissioner may require a guide to be examined or reexamined if the commissioner receives a written complaint and, upon investigation, believes that the guide no longer meets the guide qualifications.

5. Fee. The examination fee is \$100. An applicant may retake the examination once without paying an additional fee. The fee is nonrefundable.

6. Oral examination. If an oral examination is administered, the examination must be conducted by at least 2 trained examiners designated pursuant to section 10153, subsection 2, paragraph D who are approved by the commissioner or members of the Advisory Board for the Licensing of Guides.

§12856. Approved curriculum for licensed Maine guides

The commissioner shall approve a curriculum designed to prepare persons for the guide examinations. This curriculum must cover practical skills, fisheries and wildlife laws and other aspects important for the guiding profession. The commissioner shall convene an ad hoc advisory board, as defined under Title 5, section 12008, to develop the curriculum. Nonagency members must be compensated according to Title 5, chapter 379. The commissioner also shall consult with the Department of Education in developing the curriculum.

§12857. Hiring guide

1. Prohibition. A person may not hire another person as a guide if the hiring person has knowledge that the person does not hold a valid guide license.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12858. Guide license violations

1. Guide license violations. A person licensed as a guide:

A. May not knowingly assist a client in violating any of the provisions of this Part;

B. Who has knowledge that a client has violated the provisions of this Part shall, within 24 hours, inform a person authorized to enforce those chapters. Failure to report the violation is a violation of this paragraph; or

C. May not take a party of more than 12 people out on any lake, stream or waterway in the State at any time.

2. Civil violations. A person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged if:

A. That person violates subsection 1, paragraph A and the violation committed by the client is a civil violation; or

B. That person violates subsection 1, paragraph B or C.

3. Criminal violations. A person who violates subsection 1, paragraph A, if the violation committed by the client is a criminal violation, commits a Class E crime.

§12859. Junior Maine guides

1. Eligibility. To qualify as a junior Maine guide, a person must be at least 14 years of age and under 18 years of age, meet the requirements established by the commissioner and pass the required examinations.

2. Restrictions. A junior Maine guide is not authorized to provide guiding services.

§12860. Trip leader permit

1. When permit required. Boys and girls camps licensed by the Department of Human Services, or located in another state and licensed in a similar manner, if the laws of the other state so require, conducting trip camping shall:

A. Provide at least one staff member over 18 years of age for each 6 campers; and

B. Ensure that the staff member in charge of the trip holds a valid trip leader permit.

2. Application. A person wishing a trip leader permit shall submit an application on forms provided by the commissioner and shall pay the application fee.

3. Qualifications. To qualify initially for a trip leader permit, an applicant must:

A. Show successful completion of an approved trip leader safety course or complete an application provided by the commissioner outlining in detail the applicant's experience and training as a trip leader; and

B. Meet any other requirements established by rule by the commissioner.

4. Special waiver. Waiver of the course requirement by the commissioner on the basis of the applicant's experience and payment of the application fee qualifies the applicant for a trip leader permit.

5. Curriculum. With the advice of the Junior Maine Guides and Trip Leaders Curriculum Advisory Board, the commissioner shall review and adopt a trip leader safety course curriculum that includes, but is not limited to:

A. Training in first aid;

B. Training in water safety, including lifesaving techniques as appropriate; and

C. Trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum adopted or approved by the Junior Maine Guides and Trip Leaders Curriculum Advisory Board and a current list of courses, with the approved curriculum, by name and address.

6. Fee. The initial qualifying fee for a trip leader permit is \$18. The permit may be renewed upon payment of \$13 if requirements of the department are met.

7. Enforcement. Wardens of the department, the rangers of the Bureau of Forestry and rangers of the Department of Conservation, Bureau of Parks and Lands may enforce this section and may terminate any trip that is considered unsafe or in violation of this section. The commissioner shall adopt standards for what is considered an unsafe trip. The commissioner shall consider previous violations of this section when issuing or reissuing trip leader permits.

CHAPTER 929

WHITEWATER RAFTING

§12901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Affiliated group. "Affiliated group" means one or more affiliated outfitters and the outfitter or outfitters with which they are affiliated.

2. Affiliated outfitter. "Affiliated outfitter" means:

A. An outfitter who owns directly, indirectly or through a chain of successive ownership 10% or more of the financial interest in any other outfitter;

B. An outfitter, 10% or more of whose financial interests are owned directly or indirectly or through a chain of successive ownership by any other outfitter;

C. An outfitter, 10% or more of whose financial interests are owned directly or indirectly or through a chain of successive ownership by a person who owns 10% or more of the financial interest in another outfitter; or

D. An outfitter who, in the year 1982 or thereafter:

(1) Purchases, leases, borrows, accepts, receives or otherwise obtains on a nonarms-length basis from another whitewater outfitter, either directly or indirectly, more than 1/2 of its real or personal property; or

(2) Receives from another outfitter on a nonarms-length basis more than 1/2 of the ordinary services related to the business of whitewater outfitting, including, but not limited to, mail, telephone, reservations, repair, maintenance, personnel training and management.

A person may not be found to be an affiliated outfitter solely because of blood relationship, marriage or previous employment. If the department transfers a selling outfitter's allocation to a buying outfitter or outfitters, pursuant to section 12907, subsection 7, these transferred allocations must be added to the buyer's allocations and may not be considered as affiliated.

3. Allocation. "Allocation" means the privilege of taking a specified number of passengers per day on whitewater trips on a particular river, as specified annually.

4. Commercial. "Commercial" means for financial compensation or other remuneration.

5. Commercial whitewater outfitter; outfitter. "Commercial whitewater outfitter" or "outfitter" means a person who conducts commercial whitewater trips or who collects dues or fees or receives any form

of compensation for providing whitewater rafting services or for operating a whitewater rafting organization.

6. Demonstrated use. "Demonstrated use" means for a given outfitter for a given river the average number of passengers carried on the 10 Saturdays or Sundays with greatest use during the year.

7. Financial interest. "Financial interest" means any voting or nonvoting security, partnership interest whether limited or general, trust interest, joint venture interest or any other beneficial interest in any form of business association.

8. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

9. Rapidly flowing river. "Rapidly flowing river" means a river or stretch of a river with rapids classified as class IV or higher by the department according to the International River Classification System or a river or stretch of a river designated by the department by rule on the basis of public safety, including, but not limited to, the Kennebec River between Harris Station and West Forks and the West Branch Penobscot River between McKay Station and Pockwockamus Falls.

10. Whitewater craft. "Whitewater craft" means any raft, dory, bateau or similar watercraft that is used to transport passengers along rapidly flowing rivers but does not include canoes or kayaks.

11. Whitewater guide. "Whitewater guide" means a person who receives any remuneration for accompanying, assisting or instructing passengers on the river on whitewater trips and who holds a current whitewater guide's license.

12. Whitewater trip. "Whitewater trip" means a commercial effort to transport passengers by means of a whitewater craft on rapidly flowing rivers, except commercial efforts by guides licensed under section 12853 to transport clients by means of a whitewater craft on rapidly flowing rivers while principally engaged in fishing.

§12902. Legislative findings

The Legislature finds that the recreational use of watercraft on rapidly flowing rivers in this State has become an increasingly popular sport. Many members of the public rely on commercial whitewater outfitters to provide safe and enjoyable trips on these rivers. This sport may pose significant risks to the users of these rivers if outfitters are not skilled and knowledge-

able in the navigation of those rivers and are not properly regulated.

The Legislature further finds that increased use of the State's rapidly flowing rivers has increased the environmental, physical and social burdens on that resource.

The Legislature further finds that it is in the public interest for the State, as trustee of the public waters, to regulate commercial whitewater rafting, pursuant to: the State's authority to protect the health, safety and welfare of its citizens; the State's authority to protect its natural resources or rapidly flowing rivers; and the State's authority over the care, supervision and protection of navigation.

The Legislature further finds that, in exercising this authority, it is in the public interest for the State to adopt measures to ensure the competence of commercial whitewater outfitters; to adopt recreational use limits; and to allocate the privilege of commercial use where necessary to meet the objectives and goals of this chapter.

The Legislature further finds that it is in the public interest to allow stable, well-qualified outfitters who are providing excellent service and meeting the conditions of their allocations to continue to do so, subject to periodic review.

§12903. River management objectives

The following objectives are established for management of rapidly flowing rivers for the benefit of the people of the State:

1. Safety and health requirements. To ensure that safety and health requirements are met by all river users;

2. Minimize environmental impact. To minimize environmental impact on the rivers and the river corridors, including access roads;

3. Recreational use. To allow a reasonable level of recreational use;

4. Quality wilderness experience. To maintain a quality wilderness experience on the rivers;

5. Multiple uses. To minimize conflicts between different uses of the rivers in order to allow for multiple use;

6. Diversity of whitewater experiences and services. To encourage a diversity of whitewater trip experiences and services;

7. River use and impact. To monitor river use and its impact;

8. Communication. To encourage open communication with all river users, both groups and individuals, on river management matters; and

9. System of allocating river use. To provide a system of allocating river use that is simple and fair and that meets the specific goals of section 12913.

§12904. Exceptions

This chapter does not apply to the operation of canoes or kayaks. This chapter does not apply to guides or camp trip leaders licensed under chapter 927 or motorboat operators licensed under chapter 935, unless those persons are in the business of conducting commercial whitewater trips.

§12905. General penalty

Except as otherwise specified, a violation of this chapter is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

The penalty for failure to comply with or for providing false information under this chapter includes nonrenewal, revocation or suspension of an outfitter's or whitewater guide's license or allocation or both, subject to the procedures of Title 5, chapter 375.

§12906. Rule violations; whitewater rafting

Except as provided in section 12910 and notwithstanding section 10602, a person who violates a rule regulating commercial whitewater rafting commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12907. Commercial whitewater outfitters; license and requirements

1. Requirement. Every commercial whitewater outfitter must have a commercial whitewater outfitter's license. An outfitter may not operate a commercial whitewater trip without a license. A person who violates this subsection commits a Class E crime.

2. Issuance; term. The commissioner may issue a commercial whitewater outfitter's license to conduct commercial whitewater trips. A license is issued for the calendar year.

3. Insurance requirements. An outfitter shall carry liability insurance covering the operation of whitewater trips and motor vehicles carrying passengers. The department shall establish, by rule, the minimum limits of liability insurance.

4. Fee. The annual basic fee for a commercial whitewater outfitter's license must be set by the department and adjusted biennially by rule to reflect

the actual cost of administering the license program. The fee for reissuance of a license is equal to the annual basic fee for a license.

5. Nonrenewal, suspension or revocation. A commercial whitewater outfitter's license is subject to nonrenewal, suspension or revocation for good cause shown, including, but not limited to, unsafe practices, falsifications of reports or serious or continued violation of this chapter, subject to Title 5, chapter 375.

6. Sale of business. When a licensed outfitter's business is sold, the commercial whitewater outfitter's license must be returned to the department. On application, the license must be reissued to the purchaser, as long as the purchaser meets the licensing requirements of the department and pays the license fee. A person may not profit on the return and reissuance of the license itself, but nothing in this chapter may be construed to prohibit profit on the sale of any of the assets of a business. The license is not an asset and may not be transferred as part of a sale or transaction. The department may require an affidavit from the purchaser to aid in enforcement of this provision.

7. Sale of business; allocations. When a licensed outfitter's business is sold, the selling outfitter's allocations or portions of the allocations subject to the sale must be returned to the department. An outfitter who purchases the business of another outfitter whose commercial whitewater outfitter's license has been returned to the department as provided in subsection 6 has 60 days from the date of sale to submit an affidavit applying for the selling outfitter's allocation, ensuring that the level and quality of services of the selling outfitter will be maintained. On application to the department, allocations may be reissued to the purchaser, as long as the purchaser meets the licensing and allocation requirements of the department and pays the license and allocation fees. The allocations are not assets of a business. Allocations or portions of the allocations may be transferred, pursuant to this chapter, from a selling outfitter to one or more purchasers only if the selling outfitter's allocations or portions of the allocations subject to the sale are returned to the department. An outfitter may not receive more than the maximum allocations allowed under section 12913, subsection 3. When allocations are forfeited or when new allocations become available as a result of increases in the commercial use limits on an allocated river, the department shall sell those allocations at public auction to qualified recipients. Net proceeds from the sale of allocations must be paid to the Whitewater Rafting Fund established under section 10259.

8. Affiliated outfitters. An affiliated outfitter may be licensed, but is subject to additional allocation

restrictions. An application for allocations must contain a declaration of the extent of affiliation, as defined in section 12901, subsection 2, or a declaration of nonaffiliation and a statement disclosing any relationship with other licensed outfitters, including the giving or receipt of equipment, materials or other assistance. The department may require submission of any books, memoranda, papers or accounts it reasonably believes necessary to determine whether a person seeking an allocation is an affiliated outfitter. Any books, memoranda, papers or accounts submitted pursuant to this subsection are confidential and may be made available only to persons involved in determining affiliation and only for that purpose, unless they are submitted for another purpose.

9. Limitation. This chapter may not be construed as revoking any right of passage or access created by statute, contract or operation of law or as creating any such right for any outfitter or any associates or customers of any outfitter upon the project or project works of any licensee of the Federal Energy Regulatory Commission, as the terms "project" and "project works" are defined in United States Code, Title 16, Section 796 (11) and (12), respectively.

§12908. Noncommercial organization that collects dues or fees

Notwithstanding section 12901, subsection 5, an organization that collects dues or fees may conduct rafting trips on rapidly flowing rivers without obtaining a commercial whitewater outfitter's license if the commissioner determines under this section that the organization is a noncommercial organization. An organization is a "noncommercial organization" if the commissioner determines that the organization is:

1. Tax-exempt nonprofit corporation formed before March 1, 1996. A nonprofit corporation incorporated before March 1, 1996, including any council, troop or other organized local group affiliated with the corporation, that collects dues or fees from its members and for which conducting whitewater rafting is incidental to the purpose of the corporation. The organization wishing to conduct a rafting trip on a rapidly flowing river without a commercial whitewater outfitter's license under this subsection shall file a written request with the commissioner at least 15 days before conducting that trip. The request must include the name of the organization conducting the trip and the time, location and number of persons participating in the trip. The commissioner may request any additional information from the organization necessary to make a determination under this subsection. Notwithstanding any other provision of this section, the commissioner may not allow any council, troop or other organized local group affiliated with the corporation to conduct more than 2 whitewater rafting

trips in any one calendar year without obtaining a commercial whitewater outfitter's license; or

2. Noncommercial whitewater rafting club. A qualifying noncommercial whitewater rafting club. A "qualifying noncommercial whitewater rafting club" is a group that collects dues or fees from its members and that the commissioner determines to be organized solely to provide noncommercial whitewater rafting opportunities to its members. To be considered under this subsection, a club must provide to the commissioner the following information before January 1st of each year:

A. A list that includes the name, legal residence and home telephone number of each dues-paying member of the club. That list must identify a member as the president of the club and must identify any other officers or board members of the club. An officer or a board member of the club may not be a commercial whitewater outfitter or a licensed whitewater guide. The commissioner may not accept more than one amended membership list from a club between April 1st and November 1st;

B. A statement signed by all board members, if any, and all officers of the club swearing that:

(1) The sole purpose of the club is to provide noncommercial whitewater rafting opportunities to its members;

(2) No member of the club, including officers and board members, receives any form of compensation from the club at any time, either while a member of the club or afterwards;

(3) The club will use its own rafting equipment, and all fees or dues collected from club members are used only to provide insurance and to purchase and maintain rafting equipment for use solely by the club; and

(4) The club will not employ or otherwise compensate any person for any service relating to rafting or accept any gifts of products or services from any commercial whitewater outfitter or licensed whitewater guide; and

C. Any other information the commissioner determines necessary. If the club is an incorporated entity, the commissioner shall require the club to submit a copy of the club's articles of incorporation. The commissioner may not consider any incorporated entity other than a tax-exempt, nonprofit corporation as a noncommercial whitewater rafting club.

When authorizing a noncommercial organization under this section to conduct whitewater rafting trips without a commercial license, the commissioner shall, when the commissioner determines necessary, place limits on that organization's whitewater rafting activities, including limits on the time and location of rafting activities, the number of persons that may participate in those rafting activities and the safety equipment required for rafting trips. The commissioner may reject a request under this section if the commissioner determines that granting the request would conflict with the river management objectives set forth in section 12903.

§12909. Whitewater guide license

1. Eligibility. A person may not act as a whitewater guide unless that person is 18 years of age or older and has procured a license from the commissioner pursuant to this section.

2. Rules. The commissioner shall by rule establish the requirements for a whitewater guide's license.

3. Examination. All initial applicants for a whitewater guide's license are required to pass an examination developed and administered by the commissioner.

4. Fee. The fee for an examination is \$100 and is not refundable. An applicant may retake the examination once without paying an additional examination fee. A whitewater guide's license is a 3-year license. The fee for a whitewater guide's license is \$87.

5. Renewal. A whitewater guide whose license is not suspended or revoked may renew that license upon the payment of the license fee. An examination is required for any person who has not held a valid whitewater guide's license within the previous 3 years.

§12910. Safety; order of launch; safety committee

1. Whitewater trip safety restrictions. The commissioner shall by rule establish safety restrictions for whitewater trips. A person who violates safety restrictions established pursuant to this subsection commits a Class E crime.

2. Order of launch. Launch order of commercial whitewater outfitters on a particular river or portion of river may be determined and enforced by the department to protect public health and safety. The department shall provide for the outfitters to choose, in the order of their first documented dates of continuous commercial operation on the particular river or portion of river, their preferred launch positions. To facilitate that determination, each outfitter shall submit a sworn affidavit to the depart-

ment stating the date the outfitter first began continuous commercial operation.

3. Whitewater Safety Committee. The Whitewater Safety Committee established by Title 5, section 12004-I, subsection 70 shall advise the commissioner in establishing and reviewing safety requirements for whitewater trips, developing a safety information program and reviewing the safety record of whitewater guides and outfitters. The committee shall submit a written report annually on each outfitter's safety record to the commissioner.

A. The Whitewater Safety Committee is composed of 8 members: 2 members of the Advisory Board for the Licensing of Whitewater Guides designated by the board; 2 commercial whitewater outfitters and 2 whitewater guides designated by the Governor; and 2 members from the general public, one designated by the President of the Senate and one designated by the Speaker of the House of Representatives.

B. Terms of members of the Whitewater Safety Committee are for 2 years, expiring on December 31st, except that initially the members shall draw lots for a one-year or a 2-year term. Terms must be staggered so that the term of one member in each category expires each year. Members serve until their successors are nominated and qualified. Members appointed to fill a vacancy created by the resignation, death or incapacity of a member shall complete the term of the vacancy and be eligible for reappointment. Members are entitled to be compensated as provided in Title 5, chapter 379 for no more than 4 meetings a year.

4. Safety reports. Each commercial whitewater outfitter shall submit safety reports on forms provided by the commissioner as follows:

A. A written report of any accident occurring in connection with a whitewater trip conducted by that outfitter resulting in the death of a person, a person's losing consciousness or receiving medical treatment, a person's becoming disabled for more than 24 hours, a person's disappearance from a whitewater craft under circumstances indicating death or injury or damage to the whitewater craft or other property of more than \$100; and

B. A written report of such other dangerous accidents and occurrences as the department may, by rule, require.

§12911. Recreational use limits

1. Findings and goals. Increased use has resulted in increased environmental impact on the Kennebec River and the West Branch Penobscot

River, as well as on their valleys, nearby roads and the social structure of the areas. Recreational use limits are necessary to allow for rafting use and other competing uses, such as fishing, camping and canoeing, while minimizing detrimental impacts and maintaining the opportunity for a quality wilderness experience for rafters and for other users.

2. Kennebec River. The recreational use limit on the Kennebec River between Harris Station and West Forks is 1,000 commercial passengers per day. Noncommercial recreational use is not limited.

3. West Branch Penobscot River. In order to allow free time for other uses, whitewater craft are only allowed on the West Branch Penobscot River between McKay Station and Pockwockamus Falls between 8:30 a.m. and 5:00 p.m.

The recreational use limit of the West Branch Penobscot River between McKay Station and Pockwockamus Falls is 560 commercial passengers per day. Noncommercial recreational use is not limited.

§12912. Rapidly flowing rivers

1. User fee. Each outfitter shall pay a user fee of \$1 per passenger, excluding guides, carried by the outfitter on any rapidly flowing river. This fee must be paid by the 30th day of the month following the month in which the passengers were carried.

2. Reporting. Each outfitter shall report monthly to the department the number of passengers carried each day on each rapidly flowing river. This report must be accurate and be submitted by the 30th day of the month following the month in which the passengers were carried.

3. Passenger limitation. Except as provided in this subsection, an outfitter may not carry on any rapidly flowing river more than 92 passengers per day or more than the allocations for that outfitter's largest single day on that river, whichever number is greater. On allocated days, that limit may be exceeded only as provided in section 12913, subsection 7, paragraph C. On unallocated days, an outfitter may occasionally carry up to 4 additional passengers to accommodate problems in booking. Abuse of this privilege results in its loss.

§12913. Allocation system

1. Goals. The goals of the allocation system are:

A. To encourage a wide diversity of whitewater trip experiences and services;

B. To provide a fair distribution of river use among existing and future users;

C. To maximize competition within the recreational use limits;

D. To allow for reasonable business stability for outfitters by allowing stable, well-qualified outfitters who are providing excellent service and meeting the conditions of their allocations to continue to do so, subject to periodic review;

E. To encourage efficient use of the allocation system;

F. To be flexible enough to adapt to changes in river use or river conditions;

G. To prevent evasion of the system; and

H. To provide opportunity for public access.

2. Allocation required; affiliated outfitters restricted. Except as provided in subsection 7, a person may not operate a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls without an allocation or in excess of an allocation. An allocation is not required for other rivers or for other stretches of those rivers. Not more than one member of an affiliated group may conduct whitewater trips on any river or stretch of river for which a specific allocation is required, including on days for which an allocation is not required.

Three or more years after the period of affiliation, the department may, in its discretion, consider requests by any former member of an affiliated group to run passengers on allocated rivers. The burden rests on the former member of an affiliated group to demonstrate that the reasons for any finding of affiliation have so diminished in effect that the public interest will be served by considering the former member's request to run passengers on an allocated river.

3. Allocations, maximum, minimum. The department may allocate the privilege to conduct whitewater trips to licensed outfitters. The maximum allocation for an outfitter is 120 passengers per day. The minimum allocation to be awarded is 10 passengers per day on the Kennebec River and 16 passengers per day on the West Branch Penobscot River. The total number of allocations issued for an allocated day may not exceed the recreational use limits established in section 12911. The department may declare a day to be an allocated day when the department determines that the regular and persistent use of the river on that day from year to year may exceed the recreational use limits for that day.

4. Conditions for holding allocations. Allocations are a privilege extended by the State for the use of a limited public resource. The department may suspend, revoke or reduce the number of allocations when it is advisable to do so for better management of the resource or for protection of public safety and welfare. An outfitter's allocations are subject to forfeiture or suspension by the department if the outfitter fails to maintain the conditions of its license, fails to continue using its allocations productively or fails to maintain a quality of service consistent with the public interest.

5. Allocation criteria. The department may adopt rules specifying a schedule for reviewing outfitters who hold allocations and setting forth the criteria for awarding allocations. An outfitter shall submit periodic public reports to the department documenting river use for both allocated and unallocated days. If the department determines that additional allocated days are required, the allocation of trips on any such additional day must be distributed among existing licensed outfitters, upon payment of the appropriate allocation fee, in accordance with their percentage of total use averaged over the rafting season on that rapidly flowing river on that particular day, up to the limit on allocations established in subsection 3.

6. Allocation fee. An outfitter shall pay the department an annual allocation fee, for either river when allocations are required, of \$250 per unit of 20 passengers or less allocated per day on either river in excess of a single unit on a single river. This may be in quarterly payments, beginning 30 days after the allocation is awarded. The maximum allocation fee is \$2,625 for the privilege of carrying 120 passengers per day on both rivers.

7. Exceptions. The following exceptions apply to allocations.

A. Allocations are required for Saturdays on the Kennebec River for the period of July 1st to August 31st. Allocations are required for Saturdays on the Penobscot River for the period of June 8th to August 31st. The commissioner may adopt rules establishing allocations for Sundays for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached other days, the department shall provide by rule for allocations.

B. Under high-water or low-water conditions on the Penobscot River, an emergency swap of an allocation may be made to the Kennebec River, as long as sufficient water is available there. Under no circumstances may a transfer of an allocation be allowed from the Kennebec River to the Penobscot River.

C. An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to accommodate problems in booking, as long as the average of the number of passengers carried on an outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed the outfitter's allocation for that river and day. Abuse of this privilege results in its loss.

D. On the several days in the months of April and May when special water releases are scheduled to be made from the Flagstaff Dam to permit whitewater rafting on the Dead River, commercial whitewater rafting trips may be transferred from the Dead River to the Kennebec River whenever high-water or low-water conditions render use of the Dead River unsafe or inappropriate for commercial whitewater rafting trips.

8. Noncommercial whitewater rafting trips; prior registration required. A person without a commercial whitewater outfitter's license using a whitewater craft on any stretch of river for which a specific allocation is required, and including days for which an allocation is not required, shall file, prior to launching the craft, a noncommercial trip registration form with the department. The form must state that the person's use of whitewater craft on this river stretch does not constitute a commercial whitewater trip as defined in section 12901 and must be signed by all persons using the craft.

A. A commercial whitewater outfitter using a whitewater craft on any stretch of river for which a specific allocation is required, including days for which an allocation is not required, and carrying a person other than a commercial passenger or commercial whitewater guide, shall file a non-commercial passenger registration form with the department before launching the craft. The form must list the persons who are not commercial whitewater guides or commercial passengers, state that the persons listed are not commercial whitewater guides or commercial passengers and be signed by each person listed.

CHAPTER 931

TAXIDERMISTS AND HIDE DEALERS

§12951. Rule violations; taxidermy

Notwithstanding section 10602, a person who violates a rule regulating taxidermy commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12952. Taxidermy; general provisions

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

A. "Board" means the Advisory Board for the Licensing of Taxidermists established by Title 5, section 12004-I, subsection 23-A.

2. Permitted activities. The holder of a taxidermist license may:

A. Possess, at the licensee's place of business, lawfully acquired fish or wildlife specimens for the sole purpose of preparing and mounting them;

B. Transport lawfully acquired fish and wildlife specimens to and from the licensee's place of business;

C. Sell lawfully acquired specimens of fish and wildlife that have been preserved through the art of taxidermy if that sale does not violate regulations of the federal Migratory Bird Treaty Act or other federal regulations;

D. Designate others to aid or assist in conducting business at the licensee's place of business; and

E. Buy, sell or barter raw, untanned hides or heads of wild animals.

3. Records. The holder of a taxidermist license shall keep a true and complete record, in such form as required by the commissioner, of all activities conducted by virtue of the taxidermist license. The record must be open for inspection by any agent of the commissioner during normal business hours. The license holder shall file a copy of the record with the commissioner no later than 10 days after the end of the year during which the license is valid.

4. Competency standards. The commissioner shall establish standards of competency for the practice of taxidermy and shall provide a copy of these standards to each applicant for a taxidermy license.

5. Rules. The commissioner may, pursuant to the Maine Administrative Procedure Act, adopt rules to implement the provisions of this section and sections 10155, 10909 and 12953.

§12953. Licensure

1. License required. In order to safeguard the life, health and welfare of the people of this State, a person may not practice the art of taxidermy for commercial purposes unless that person holds a valid taxidermist license as provided in this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. License qualifications. To be eligible for a taxidermist license issued pursuant to this section, an applicant must:

A. Satisfactorily pass a taxidermy examination, as prescribed by the commissioner by rule; and

B. Demonstrate trustworthiness and competence to practice the art of taxidermy in such a manner, as prescribed by the commissioner by rule, as to safeguard the interests of the public.

3. License application. An applicant for a license must submit a written application to the commissioner on a form prescribed by the commissioner. The commissioner may require an applicant who has previously held a taxidermist license to provide a notarized statement indicating that the person has not failed to provide services to a customer as promised through a contractual agreement with that customer.

A. The application must contain satisfactory evidence of the qualifications required of the applicant under this section and must be sworn to by the applicant.

B. Failure or refusal to provide information requested on the application form is sufficient grounds for the commissioner to reject the application.

C. The application must be accompanied by a nonrefundable fee of \$10.

D. Within 10 working days of receipt of an application for a taxidermist license, the commissioner shall notify the applicant as to the acceptability of the application and shall provide the applicant with notice at least 2 weeks prior to any examination required under this section.

4. Examination. An applicant for a license shall appear at a time and place designated by the commissioner to be examined by means of written, practical and oral tests as the commissioner determines. The commissioner shall determine the form and content of examinations.

5. Reexamination. The commissioner may require a taxidermist to be reexamined if the commissioner receives a written complaint and, upon investigation, finds that the taxidermist no longer meets the qualifications to be licensed as a taxidermist.

6. Fee. License applicants who successfully meet the qualifications set forth in this section must be issued a license upon payment of a \$65 fee. This fee is in addition to the \$10 examination fee.

7. Annual renewal of license; fees; effect of failure to renew. Licenses issued pursuant to this section run for the current year until the 30th day of June following the date of the issuance, on which date the license terminates unless sooner revoked. Subject to any revocation or suspension, the license or permit may be renewed annually upon application by the licensee accompanied by a \$75 license fee.

§12954. Hide dealer's license

1. License required. Except as provided in subsection 6 and section 12955, a person may not engage in any activity for which a hide dealer's license may be issued under subsection 2 without a valid hide dealer's license.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a hide dealer's license permitting a person to commercially:

A. Buy, sell, barter, take in trade or take in exchange for any services rendered any raw, untanned wild animal hide or head or the gall bladder from any bear; and

B. Aid or assist another in buying, selling or bartering raw, untanned hides or heads of wild animals or bear gall bladders.

3. Expiration. All licenses issued under this section are valid for one year commencing July 1st of each year.

4. Fee. The annual fees for hide dealer licenses are:

A. For a resident hide dealer, \$58; and

B. For a nonresident hide dealer, \$108.

5. Restrictions. A licensee shall keep a true and complete record, in such form as is required by the commissioner, of all heads, hides and bear gall bladders purchased. The record must be open for inspection by the commissioner or the commissioner's agent and must be filed with the commissioner on or before June 30th of each year.

6. Exception. The following are exceptions to the license requirements set forth in this section.

A. A person who lawfully possesses a deer, moose or bear or lawfully possesses a fur-bearing animal may sell, without a license, the hide, head or gall bladder of that animal.

B. An employee of a licensed hide dealer may, without a license, aid or assist the licensee in conducting business, but only at the licensee's fixed place of business.

7. Licensing violation. Each day a person violates a restriction of a license issued under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§12955. Special hide dealer's license

1. License required. A person may not engage in an activity for which a special hide dealer's license may be issued under subsection 2 without a valid special hide dealer's license unless the person holds a valid license issued under section 12954.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Issuance. The commissioner may issue a special hide dealer's license to any person who maintains a place of business for the butchering of wild animals within this State. The special hide dealer's license permits a holder commercially to sell or barter the heads or untanned hides of deer or moose that are butchered in the license holder's place of business.

3. Expiration. All licenses issued under this section are valid for a period commencing September 1st and ending December 31st of the year in which the license is issued.

4. Fee. The annual fee for a special hide dealer's license is \$10.

5. Restrictions. A licensee shall keep a true and complete record, in such form as is required by the commissioner, of all hides bartered or sold. The record must be open for inspection by the commissioner or the commissioner's agent, and must be filed with the commissioner on or before February 1st of the following year.

6. License violation. Each day a person violates a restriction of a license issued under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

SUBPART 6**RECREATIONAL VEHICLES****CHAPTER 933****GENERAL RECREATIONAL VEHICLE
PROVISIONS****§13001. Definitions**

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings.

1. Accompanied by adult. "Accompanied by an adult" means, with respect to operation of an ATV, within visual and voice contact and under the effective control of a child's parent or guardian or another person 21 years of age or older.

2. Airmobile. "Airmobile" means any vehicle propelled by mechanical power that is designed to travel upon a cushion of air on or within 2 feet of the water or land surface of the earth.

3. All-terrain vehicle or ATV. "All-terrain vehicle" or "ATV" means a motor-driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. "All-terrain vehicle" or "ATV" includes, but is not limited to, a multitrack, multiwheel or low-pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this subpart, "all-terrain vehicle" or "ATV" does not include an automobile as defined in Title 29-A, section 101, subsection 7; an electric personal assistive mobility device as defined in Title 29-A, section 101, subsection 22-A; a truck as defined in Title 29-A, section 101, subsection 88; a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

4. Alpine tundra. "Alpine tundra" means high-elevation, treeless areas beyond the timberline that are dominated by low herbaceous or shrubby vegetation and, specifically, areas that are designated as alpine tundra by the Department of Conservation by rule pursuant to Title 5, chapter 375, subchapter 2.

5. Antique snowmobile. "Antique snowmobile" means a snowmobile more than 25 years old that is registered as an antique snowmobile under section 13104, subsection 5.

6. Aquatic plant. "Aquatic plant" means a vascular plant species that requires a permanently flooded freshwater habitat.

7. Bow. "Bow" means the forward half of a watercraft.

8. Cowling. "Cowling" means the forward or rear portion of a snowmobile, usually of fiberglass or similar material, surrounding the motor and clutch assembly.

9. Division. "Division" means the Department of Inland Fisheries and Wildlife, Division of Licensing and Registration.

10. Dwelling. "Dwelling" means any building used as a permanent residence or place of domicile.

11. Federal waters. "Federal waters" means all waters that are not internal waters and are subject to the jurisdiction of the United States.

12. Freshwater marshes and bogs. "Freshwater marshes and bogs" means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Bureau of Geology and Natural Areas, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission.

13. Internal waters. "Internal waters" means waters under the exclusive jurisdiction of the State.

14. Invasive aquatic plant. "Invasive aquatic plant" means a species of aquatic plant described in Title 38, section 410-N.

15. Marina or boat yard owner. "Marina or boat yard owner" means a person who owns a facility that leases storage, docking or mooring space to watercraft.

16. Motorboat. "Motorboat" means any watercraft, including airmobiles, equipped with propulsion machinery of any type, whether or not the machinery is the principal source of propulsion, is permanently or temporarily attached or is available for propulsion on the watercraft.

17. Motorboat carrying passengers for hire. "Motorboat carrying passengers for hire" means a motorboat used for the purpose of carrying a person or persons as passengers for valuable consideration, whether directly or indirectly flowing to the owner, charterer, agent or any other person interested in the watercraft.

18. Operate. "To operate," in all its moods and tenses, means:

A. When it refers to a snowmobile, to use a snowmobile in any manner within the jurisdiction of the State, whether or not the vehicle is under way;

B. When it refers to watercraft of any type or description, to use that watercraft in any manner on the waters specified, whether or not the watercraft is under way; or

C. When it refers to an ATV, to use an ATV in any manner within the jurisdiction of the State, whether or not the vehicle is moving.

19. Operation. "Operation," when it refers to watercraft of any type or description, means the act of operating as defined in subsection 18.

20. Operator. "Operator" means the person who is in control or in charge of a watercraft while it is in use.

21. Owner. "Owner" means:

A. For the purpose of registration of a snowmobile, a person holding title to a snowmobile or having exclusive right to the use of a snowmobile for a period greater than 30 days;

B. With respect to watercraft, a person who claims lawful possession of the watercraft by virtue of legal title or equitable interest therein that entitles the person to possession; or

C. For the purposes of registration of an ATV, a person holding title to an ATV.

22. Passenger. "Passenger" includes every person carried on board a watercraft other than:

A. The owner or the owner's representative;

B. The operator;

C. Bona fide members of the crew engaged in the business of the watercraft who have not contributed consideration for their carriage and who are paid for their services; and

D. A guest on board a watercraft that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that guest's carriage.

23. Personal watercraft. "Personal watercraft" means any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons

in a sitting, standing or kneeling position. "Personal watercraft" includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. "Personal watercraft" also includes motorized watercraft whose operation is controlled by a water skier.

24. Protective headgear. "Protective headgear" means a helmet that conforms with minimum standards of construction and performance as prescribed by the American National Standards Institute specification Z90.1 or by the Federal Motor Vehicle Safety Standard No. 218.

25. Snowmobile. "Snowmobile" means a vehicle propelled by mechanical power that is primarily designed to travel over ice or snow and is supported in part by skis, belts or cleats.

26. State of principal use. "State of principal use" means the state on whose waters a watercraft is used or to be used most during a calendar year.

27. Use. "Use" means, with respect to watercraft, operate, navigate or employ.

28. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operations of the watercraft. "Watercraft" does not include a vessel, boat, canoe or craft located and intended to be permanently docked in one location and not used as a means of transportation on water.

29. Water safety zone. "Water safety zone" means the area of water within 200 feet of shoreline, whether the shoreline of the mainland or of an island.

30. Waters of this State. "Waters of this State" means all internal waters and all federal waters within the jurisdiction of the State.

§13002. Collection by commissioner

The commissioner or agents of the commissioner shall act on behalf of the State Tax Assessor to collect the use tax due under Title 36, chapters 211 to 225 in respect to any watercraft, snowmobile or ATV for which an original registration is required under this Title at the time and place of registration of that watercraft, snowmobile or ATV.

All taxes collected pursuant to this section must be transmitted forthwith to the Treasurer of State and credited to the General Fund as undedicated revenue. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section. Those administrative costs must be

verified by the Department of Administrative and Financial Services.

For purposes of this section, "original registration" means any registration other than a renewal of registration by the same owner.

§13003. Payment of sales or use tax prerequisite to registration

1. Registration of watercraft and ATV. An application for registration may not be granted in respect to any watercraft or ATV whose sale or use may be subject to tax under Title 36, chapters 211 to 225, except in the case of a renewal of registration by the same owner, unless and until one of the following conditions has been satisfied:

A. The applicant has submitted a dealer's certificate in a form prescribed by the State Tax Assessor, showing either that the sales tax due in respect to the watercraft or ATV in question has been collected by the dealer or that the sale of the watercraft or ATV is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225;

B. The applicant has properly executed and signed a use tax certificate in the form and manner prescribed by the State Tax Assessor and paid the amount of tax shown therein to be due; or

C. The applicant has properly executed and signed a use tax certificate in the form and manner prescribed by the State Tax Assessor showing that the sale or use of the watercraft or ATV in question is exempt from or otherwise not subject to tax under Title 36, chapters 211 to 225.

2. Registration of snowmobile. Prior to registering a snowmobile, an agent of the commissioner shall collect sales or use tax due. Sales or use tax is due unless:

A. The person registering the snowmobile is not a resident of this State. Nonresidents are exempt from sales or use tax on snowmobiles under Title 36, section 1760, subsection 25-B;

B. The registration is a renewal registration by the same owner;

C. The applicant possesses a dealer's certificate showing that the sales tax was collected by the dealer. The State Tax Assessor shall prescribe the form of a dealer's certificate; or

D. The snowmobile is otherwise exempt from sales or use tax under Title 36, section 1760.

§13004. Collection by State Tax Assessor

This section and sections 13002, 13003 and 13005 must be construed as cumulative of other methods prescribed in Title 36 for the collection of the sales or use tax. These sections may not be construed as precluding the State Tax Assessor's collecting the tax due in respect to any watercraft, ATV or snowmobile in accordance with such other methods as are prescribed in Title 36 for the collection of the sales or use tax.

§13005. Certificates to be forwarded to State Tax Assessor

An agent of the commissioner shall promptly forward all certificates submitted in accordance with section 13003 to the commissioner. The commissioner shall transmit all such certificates to the State Tax Assessor.

§13006. Impoundment of snowmobiles and ATVs

When a law enforcement officer issues a summons for a violation under chapter 937 or 939, the officer may impound the ATV or snowmobile operated by the person who receives the summons if, in the judgment of the officer, based on actual previous offenses by the operator or other considerations, the operator will continue to operate the ATV or snowmobile in violation of chapter 937 or 939 and that operation may be a hazard to the safety of persons or property.

The operator or owner of a snowmobile or ATV impounded under this section may reclaim the snowmobile or ATV at any time subsequent to 24 hours after the issuance of the summons upon payment of the costs of impoundment to the enforcement agency impounding the snowmobile or ATV.

CHAPTER 935

WATERCRAFT AND AIRMOBILES

§13051. Commissioner's authority to regulate watercraft

It is the Legislature's intent that any rule adopted under this section be in accord with federal regulations that are promulgated under the Federal Boat Safety Act of 1971, Public Law 92-75, as amended. The commissioner, acting jointly with the Commissioner of Marine Resources, may adopt and amend rules under the procedure provided in the Maine Administrative Procedure Act that are not inconsistent with this chapter:

1. Administrative procedure. To further establish administrative procedure under this chapter:

2. Appointment of watercraft registration agents; fees. Authorizing the commissioner to

delegate the authority to issue watercraft registrations, subject to this subsection.

A. The commissioner may appoint municipal clerks or other persons who a municipality may designate as municipal agents to issue watercraft registrations. The commissioner may appoint other agents as necessary to issue watercraft registrations. The commissioner shall determine the period when the agents are authorized to act.

B. Agents may charge a service fee of \$1 for each renewal registration issued and \$2 for each registration covered by sections 13002 to 13005. This service fee is retained by the agent. The commissioner shall charge a \$1 service fee for each registration issued by department employees.

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

(1) The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

(2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(a) Terminate the agency for the balance of the year; and

(b) Order that the agency not be renewed for the next year;

3. Safe use and operation of watercraft. Governing the use and operation of watercraft upon the waters of the State to insure safety of persons and property;

4. Safety equipment. Further governing safety equipment for watercraft, including the type, quality and quantity of that equipment;

5. Horsepower. Governing the horsepower of motors used to propel watercraft on all internal waters of this State. In adopting these rules, the commissioner shall take into consideration the area of the internal waters, the use to which the internal waters are put, the

depth of the water and the amount of water-borne traffic upon the waters and determine whether or not the rule is necessary to ensure the safety of persons and property. The adoption of rules under this subsection is governed by the Maine Administrative Procedure Act, except that such rules may be only adopted as a result of a petition from the municipal officers of the municipality or municipalities in which the waters exist or from 25 citizens of the municipalities in which the waters exist, by county commissioners of the county in which the waters exist if they are located in unorganized territory or 25 citizens of the unorganized territory in which the waters exist, requesting the issuance of such a rule for a particular body of internal water and stating the proposed horsepower limitation;

6. Restrictions for airmobiles. Restricting the operation of airmobiles in fish or wildlife preserves, conservation areas or other areas where the operation may harm the natural environment; and

7. Areas off limits to watercraft. To define areas off limits to all watercraft during time periods critical for wildlife protection.

Rules adopted pursuant to this section must be written in a clear and easy-to-understand format for educational purposes. These rules must be attached to and distributed with each watercraft registration form together with a summary of the rules and information on how to prevent water contamination and minimize wildlife disturbance.

§13052. Commissioner's powers and duties regarding watercraft

1. Register watercraft. The commissioner shall annually register watercraft and issue certificates, licenses and permits as provided in this chapter.

2. Promote safety. The commissioner shall promote safety for persons and property in connection with the use and operation of watercraft.

3. Federal grants. The commissioner may participate in such federal grants in aid as may be forthcoming to the State from the federal Boat Safety Act of 1971, Public Law 92-75, as amended.

4. Coast Guard report. The commissioner shall make an annual report to the Coast Guard as required under federal law of the certificates of number issued by the commissioner.

5. Registration list distribution. The commissioner shall distribute a list of registrations issued as follows.

A. When the legal residence of an applicant is a municipality within the State, the commissioner

shall mail annually a list of registrations to the tax collector of that municipality.

B. When the legal residence of the applicant is outside of the State and the boat is situated within a municipality in the State, the commissioner shall mail annually a list of registrations to the tax collector of that municipality.

C. In all other cases, the commissioner shall send a list of registrations annually to the Department of Administrative and Financial Services, Bureau of Revenue Services.

6. Information to federal officials or agencies.

The commissioner shall transmit any information compiled or otherwise available to the commissioner pursuant to section 13069, subsections 1 and 2 to an authorized official or agency of the United States, in accordance with any request duly made by that official or agency.

§13053. Commissioner's authority to regulate airmobiles

1. Rules. The commissioner shall adopt rules restricting the operation of airmobiles in areas where their use may be harmful. These rules must be adopted in accordance with Title 5, chapter 375 after public hearings in the areas affected.

2. Minimum conditions. Rules adopted pursuant to subsection 1 must, at a minimum, establish conditions for the use of airmobiles in fish and wildlife preserves, conservation areas, coastal and inland wetlands and great ponds.

3. Prohibitions. The commissioner shall prohibit airmobile use wherever it adversely affects fish and wildlife habitat, interferes with the operation of other watercraft, threatens public safety or adversely affects the natural environment.

§13054. Rule violations; watercraft

Notwithstanding section 10602, a person who violates a rule regarding watercraft commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13055. Violation of license, permit or certificate restriction

1. Prohibition. A person may not violate a restriction of a license, permit or certificate issued under this chapter.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13056. Certificate of number

1. Prohibition. A person may not:

A. Except as provided in subparagraph (1), operate or give permission to operate a motorboat requiring a certificate of number without a current certificate of number or a current temporary certificate of number. Only the certificate of number or temporary certificate of number as issued by the commissioner is valid. A facsimile or copy of the certificate is not valid.

(1) The certificate of number for a watercraft less than 26 feet in length and leased or rented to another for the latter's non-commercial use may be retained on shore by the owner of the watercraft or the owner's representative at the place where the watercraft departs or returns to the possession of the owner or the owner's representative, provided that the person leasing or renting the watercraft has a copy of the lease or rental agreement that shows the watercraft number thereon and the period of time for which the watercraft is leased or rented and that is signed by the owner or the owner's representative;

B. Operate or give permission to operate a motorboat without the identification number and validation stickers, assigned by the commissioner and authorized by this chapter, displayed on each side of the bow in accordance with subsection 12, paragraphs A and B or section 13059, subsection 4; or

C. Rent or lease any motorboat not covered by a current certificate of number as required by section 13064.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Motorboats requiring. Except as provided in this subsection, the owner of a motorboat, including an airmobile, used on the waters of the State as the state of principal use shall obtain a certificate of number for the motorboat from the commissioner. No certificate of number may be issued unless the owner submits proof that the watercraft excise tax, assessed under Title 36, chapter 112, has been paid or that the boat is exempt from the watercraft excise tax. The following motorboats are exempt from this subsection:

A. A watercraft that has or is required to have a valid marine document as a watercraft of the United States;

B. A motorboat already covered by a current certificate of number issued under a federally approved numbering system of another state or a

federal law, as long as the number so issued is displayed on the motorboat and as long as the motorboat has not been within this State for a period in excess of 60 consecutive days after the state of principal use has been changed;

C. Military or public watercraft, except recreational type watercraft of the United States;

D. A motorboat whose owner is the United States, a state or subdivision thereof that is used for governmental purposes and is clearly identifiable as such;

E. A ship's lifeboat;

F. A motorboat from a country other than the United States, as long as the motorboat has not been within this State for a period in excess of 60 consecutive days; and

G. A motorboat used exclusively for racing purposes that displays on its hull in a prominent manner a valid boat number issued by a recognized racing association.

3. Other watercraft may be numbered.

Nothing in this section prohibits the numbering of any watercraft upon the request of the owner. The owner shall comply with all applicable requirements of this chapter if the owner chooses to number a watercraft.

4. Application. The owner of a motorboat requiring or of a watercraft for which the owner wishes to request a certificate of number shall make application to the commissioner on forms approved by the commissioner. The application must show the legal residence of the applicant and the place where the watercraft is situated.

5. Issuance. Upon receipt of the approved application with the proper fee, the commissioner shall enter the application upon the office records and issue the applicant a pocket-sized certificate of number stating:

A. The number assigned to the motorboat;

B. Its description;

C. The name and address of the owner; and

D. Such other information as the commissioner deems appropriate.

The holder of any certificate of number issued under this chapter may obtain a duplicate validation sticker from the commissioner upon application and payment of the fee set forth in subsection 8.

6. Certificate of number; term. A certificate of number is issued to the owner of a watercraft or a

dealer for a specific calendar year and is valid through December 31st of the year for which it was issued.

7. Numbers permanent. A number once awarded under this chapter to a motorboat remains with that boat until the boat is destroyed, abandoned, permanently removed or no longer principally used in this State, except that numbers that have been inactive for at least 7 years may be reissued by the division.

8. Fees. The fees for each original or renewal certificate of number with 2 validation stickers are set out in this subsection.

A. For a watercraft requiring or whose owner requests a certificate of number and that is equipped with a motor having a manufacturer's horsepower rating of:

(1) Ten horsepower or less, the fee is \$6;

(2) Greater than 10, but not more than 50 horsepower, the fee is \$10; and

(3) Greater than 50 horsepower, the fee is \$15.

B. For a personal watercraft requiring or whose owner requests a certificate of number, the fee is \$20.

C. For a duplicate certificate of number, the fee is \$1.

D. For a duplicate validation sticker (per set), the fee is \$1.

E. For a certificate of number issued with transfer of ownership authorized in subsection 10, the fee is \$2.

F. For a registration issued for an expanded registration period authorized in subsection 11, paragraph A:

(1) Ten horsepower or less, the fee is \$7.50;

(2) Greater than 10, but not more than 50 horsepower, the fee is \$12.50;

(3) Greater than 50 horsepower, the fee is \$18.75; and

(4) Personal watercraft, the fee is \$25.00.

Validation stickers are nontransferable.

9. Renewal. The owner may renew the owner's certificate of number at expiration by stating the old number in the owner's application and paying the fee prescribed in subsection 8. The fee is the same fee the owner would pay for the original issuance.

10. Transfer of ownership. Whoever transfers ownership of a motorboat for which a certificate of number has already been issued under this chapter and applies for a certificate of number for another motorboat is entitled to a new certificate of number upon payment of a transfer fee of \$2 as set forth in subsection 8, paragraph E, provided the applicant returns to the commissioner the old certificate of number properly signed and executed, showing that ownership of the motorboat has been transferred.

11. New ownership. If there is a change of ownership of a motorboat for which a certificate of number has previously been issued under this chapter, the new owner shall apply for a new certificate of number and set forth the original boat number in the application. The new owner shall pay the regular fee for the particular motorboat involved and is not entitled to the special transfer fee set forth in subsection 10.

A. After September 30th, a person may pay 125% of the original watercraft registration fee as listed in subsection 8, paragraph F and receive a registration covering the remainder of the calendar year plus one additional year.

12. Restrictions. The following provisions must be observed.

A. The operator shall have the certificate of number available for inspection on the motorboat for which it was issued whenever the motorboat is in operation.

B. The identification number and validation stickers assigned by the commissioner and authorized by this chapter must be displayed on each side of the bow of the boat in the following manner:

(1) The identification numbers must be painted or permanently attached to the bow and be of a color that is in contrast to the color of the background so as to provide the highest degree of visibility, i.e., dark numbers on a light background or vice versa, and be plainly visible;

(2) The identification number must be displayed in 3 parts. The prefix, which is the initial letters ME, designating the State of Maine, must be separated by a hyphen or space equal to the width of a letter, other than the letter "I," from the numerals that follow it. The suffix, which consists of the ending letter or letters which appear after the numerals, must be likewise separated from the numerals;

(3) The identification number must be displayed to read from left to right, of good proportion, with vertical block character capital letters and Arabic numerals, all of which must be not less than 3 inches in height and maintained in a legible condition at all times;

(4) No number other than the assigned boat number may be displayed on the bow of such a motorboat; and

(5) The validation sticker, as issued by the division, must be displayed approximately 3 inches behind the last letter of the identification number and on a level with the number on both sides of the bow viz.: ME-123-A.

C. The owner of a certificate of number terminated or invalidated under subsection 13 shall return it within 10 days of the termination or invalidation.

D. The owner of a watercraft that has been issued a certificate of number shall notify the commissioner in writing within 10 days of:

(1) The transfer of all or any part of the owner's interest, other than the creation of a security interest, in the watercraft covered by the certificate;

(2) The permanent removal of the watercraft from the State;

(3) The destruction or abandonment of the watercraft;

(4) The theft or recovery of the watercraft; or

(5) Any change in the owner's address.

E. Upon sale or transfer of ownership of a registered watercraft, the owner or dealer shall remove and destroy any validation stickers on the craft.

F. The person whose name appears on the certificate of number as the owner of a watercraft shall remove the number and validation stickers from the craft when:

(1) The watercraft is documented;

(2) The watercraft is no longer used principally in the State;

(3) The application for a certificate of number contains false or fraudulent statements or information; or

(4) The fees for issuance of a certificate of number are not paid.

13. Termination of certificate of number.

Under any of the following conditions, the certificate of number issued by the commissioner is terminated or invalidated:

- A. Transfer of the watercraft;
- B. Documentation of the watercraft;
- C. Change in state of principal use of the watercraft;
- D. Permanent removal of the watercraft from the State;
- E. Abandonment or destruction of the watercraft;
- F. False or fraudulent information on the application for the certificate of number;
- G. Failure to pay the required fee for the certificate of number; or
- H. Involuntary loss of interest in the watercraft due to legal process.

The transfer of a partial interest that does not affect the original owner's right to operate the watercraft does not terminate or invalidate the certificate of number.

§13057. History of ownership

1. Request. The commissioner or the commissioner's designee shall provide on request a written record of the history of past ownership of any watercraft that requires a certificate of number under this chapter. The request must be made on forms provided by the commissioner.

2. Fee. The fee for providing the record pursuant to subsection 1 is \$25 and must be submitted with the request form.

§13058. Lake and river protection sticker required

1. Prohibition. A person may not operate a motorboat or personal watercraft on the inland waters of the State unless a lake and river protection sticker issued under subsection 3 is affixed to both sides of the bow above the water line and approximately 3 inches behind the validation sticker required under section 13056.

2. Violation. A person who places a motorboat or personal watercraft upon the inland waters of the State without displaying a lake and river protection sticker as required by subsection 1 commits a civil violation for which a forfeiture of not less than \$100

and not more than \$250 per violation may be adjudged, except that a citation for a violation of this subsection may not be issued to a person who is also issued a citation at the same time for a violation of any other provision of this chapter regulating watercraft, other than section 13073. A forfeiture imposed under this subsection may not be waived by the court.

3. Lake and river protection sticker. By January 1st of each year, the commissioner shall provide each agent authorized to register watercraft or issue licenses with a sufficient quantity of lake and river protection stickers for that boating season. The sticker must be in 2 parts so that one part of the sticker can be affixed to each side of the bow of a motorboat or personal watercraft. The fee for a sticker is \$20 for a motorboat or personal watercraft not registered in the State and \$10 for a motorboat or personal watercraft registered in the State. Each agent shall retain \$1 for each sticker sold by that agent for which a fee is required. A motorboat or a personal watercraft owned by the Federal Government, a state government or a municipality is exempt from the fee established in this subsection.

The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section.

§13059. Dealer's certificate of number

1. Application. Notwithstanding section 13056, subsection 2, a manufacturer or dealer of new or used motorboats who has a permanent place of business in this State for the manufacture or sale of motorboats may, instead of obtaining a certificate of number for each motorboat owned by the manufacturer or dealer, make application on forms provided by the commissioner for a dealer's certificate of number.

2. Issuance. If the manufacturer or dealer making application under subsection 1 satisfies the commissioner that the applicant is qualified for a dealer's certificate of number, the commissioner shall issue the applicant a dealer's certificate of number containing the place of business of the applicant and a general distinguishing number in such form as determined by the commissioner.

3. Fee. The fee for a dealer's certificate of number is \$15 annually from each January 1st.

4. Restrictions. The dealer or manufacturer who receives a dealer's certificate of number pursuant to this section shall display the number and validation stickers issued under the dealer's certificate of number on a motorboat being demonstrated or tested and may transfer that number from one motorboat owned by that dealer or manufacturer to another motorboat owned by that dealer or manufacturer by temporarily

attaching removable plates on which a dealer's number and validation stickers may be painted or attached to the bow of any boat covered by the dealer's certificate of number.

§13060. Twenty-day boat number and registration

1. Issuance. The commissioner may issue temporary 20-day boat numbers and registrations, referred to in this section as "20-day plates," to bona fide dealers who request them under such conditions as the commissioner considers necessary.

2. Fee. The dealer shall pay to the commissioner \$1 for each 20-day plate.

3. Use of 20-day plates. Upon the sale or exchange by a dealer of any motorboat that requires a certificate of number, the new owner may secure from the dealer a temporary 20-day plate to operate the craft for 20 consecutive days after the date of sale in lieu of a permanent certificate of number as required in section 13056, as long as the new owner applies to the commissioner on the date of sale for a certificate of number.

A. The application and fee for a certificate of number, together with a copy of the temporary registration issued by the dealer, must be forwarded by the dealer to the commissioner within 48 hours after the date of sale of the motorboat.

B. The dealer shall affix the temporary 20-day boat number to the bow of the motorboat and shall clearly mark thereon the date issued, date of expiration and the dealer's Maine dealer's number.

4. Restrictions. The following restrictions govern the use of 20-day plates.

A. The temporary 20-day boat number is non-transferable and must be conspicuously displayed on the bow of the motorboat, notwithstanding any other requirements of display of boat number.

B. The operator of a motorboat must have the temporary registration aboard at all times while the motorboat is in operation.

C. After expiration of the 20-day period, the owner shall remove and discard the temporary 20-day boat number and display the permanent boat number and validation stickers assigned by the commissioner in accordance with section 13056, subsection 12, paragraph B.

§13061. Permit to hold regatta, race, boat exhibition or water-ski exhibition

1. Permit required. A person may not hold a regatta, race, boat exhibition or water-ski exhibition without a permit from the commissioner issued under subsection 2. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Issuance. The commissioner may issue a permit to a person permitting the person to hold a regatta, race, boat exhibition or water-ski exhibition on any of the internal waters of this State.

3. Application. The person in charge of a regatta, race, boat exhibition or water-ski exhibition shall request the permit required under subsection 1 from the commissioner at least 15 days prior to the event. The request must be in writing and must set forth the date, time and location of the event. The person in charge of a proposed motorboat race shall send a letter of intent 60 days prior to the event to municipal officers of the municipality or municipalities in which the race will occur. A copy of the letter of intent must be forwarded to the commissioner with the request for a permit to hold any motorboat race.

4. Restrictions. The following restrictions apply to permits issued under this section.

A. The person obtaining the permit under subsection 2 is responsible for providing reasonable protection as prescribed by the commissioner from water traffic interference and hazards and shall take reasonable precautions to safeguard persons and property.

B. During any event authorized pursuant to subsection 1, the officials conducting it shall conspicuously display one or more orange warning flags of a size not less than 4 feet by 4 feet while the event is in progress. The officials shall remove the warning flag or flags for reasonable periods of time during the event to allow non-participating watercraft to pass through the area.

5. Unlawfully crossing event area. Except in an emergency, an operator of a watercraft may not cross the area of a regatta, race, boat exhibition authorized under subsection 1 or water-ski exhibition when the warning flag required under subsection 4, paragraph B is displayed. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13062. Certificate of number for motorboats carrying passengers for hire

1. Certificate required. A person may not operate a motorboat carrying passengers for hire without a certificate of number as required under this section. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more \$500 may be adjudged.

2. Application. Before a motorboat may carry passengers for hire, the owner of the motorboat shall apply for and obtain from the commissioner a certificate of number authorizing its use for that purpose. This section applies to all motorboats carrying passengers for hire as defined in section 13001, subsection 17, except those subject to federal inspection requirements that have or are required to have a current valid federal inspection certificate on board.

3. Issuance. Before the certificate of number required under subsection 1 is issued, the owner shall satisfy the commissioner that the boat is safe to operate and will be maintained in safe condition.

4. Examinations. The commissioner may cause a motorboat carrying passengers for hire to be examined from time to time.

§13063. Operator's license to carry passengers for hire

1. Prohibition. A person may not operate a motorboat carrying passengers for hire without an operator's license to carry passengers for hire as required in this section. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Application. Every operator of a motorboat, other than a licensed Maine guide certified in watercraft safety, carrying passengers for hire, except those operators who have been issued and have or are required to have in their possession a current valid federal operator's license, shall obtain an operator's license to carry passengers for hire from the commissioner as provided in this section before operating a motorboat carrying passengers for hire.

A. The operator shall make written application for the license to carry passengers for hire on forms provided by the commissioner.

B. The commissioner shall cause operators applying for a license to carry passengers for hire for the first time to be examined as to their qualifications.

3. Issuance. The commissioner shall issue the license to carry passengers for hire to applicants who have satisfactorily passed the examination.

4. Fee. The fee for an operator's license to carry passengers for hire is \$1.

5. Renewal. The commissioner may grant a renewal of license to carry passengers for hire upon written application and payment of the \$1 fee without examination.

6. Expiration. Every license to carry passengers for hire expires on December 31st of the year for which issued.

§13064. Certificate of number for motorboats rented or leased

Before any motorboat is rented or leased, the owner of the motorboat shall obtain a certificate of number from the commissioner under section 13056.

§13065. Personal watercraft rental agent certificate

1. Prohibition. A person may not rent or lease a personal watercraft in violation of this section. This subsection does not apply to:

A. A campground licensed by the Department of Human Services that offers the personal watercraft owned by that campground exclusively for use by campground clientele;

B. A commercial sporting camp. For the purposes of this subsection, "commercial sporting camp" means a business consisting of primitive lodging facilities that offers the public the opportunity to pursue primitive hunting, fishing, boating or snowmobiling activities;

C. A person lawfully engaged in guiding activities under section 12853 who accompanies others on guided trips that include the use of personal watercraft; or

D. A property owner who offers a person renting or leasing that property the use of a personal watercraft registered to the property owner.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Registration and issuance. Except as provided in this section, a person or business may not rent or lease a personal watercraft unless that person or business:

A. Registers with the department as a personal watercraft rental agent and is issued a personal

watercraft rental and leasing agent certificate from the commissioner;

B. Obtains a Maine certificate of number for each personal watercraft being offered for rent or lease in the name of the person or business holding a personal watercraft rental and leasing agent certificate; and

C. Provides each person who rents or leases a personal watercraft with written instructions on how to operate the personal watercraft.

3. Fee. The fee for a personal watercraft rental and leasing agent certificate is \$25. The certificate is valid from January 1st to December 31st.

4. Revocation of certificate. The commissioner may revoke a personal watercraft rental and leasing agent certificate issued pursuant to subsection 2 if the commissioner determines that the certificate holder:

A. Rented or leased a personal watercraft that was unsafe;

B. Failed to instruct a person intending to rent or lease a personal watercraft on personal watercraft safety. The department shall provide each certificate holder with written materials and instructional guidelines on personal watercraft safety that the certificate holder shall review with each personal watercraft renter or lessor before that person operates that personal watercraft.

§13066. Displaying excise tax decal and maintaining list

1. Failure to display excise tax decal. The owner of a watercraft shall display the excise tax decal, as required by Title 36, chapter 112. In all cases when the owner of a watercraft fails to display an excise tax decal as required under Title 36, chapter 112, the law enforcement officer discovering the failure shall notify the tax collector of the owner's residence or, in the case of nonresidents, partnerships or corporations, foreign or domestic, the tax collector of the municipality where the watercraft is principally moored, docked or located or has its established base of operations.

A. A person who fails to display an excise tax decal in accordance with this subsection commits a civil violation for which a forfeiture of not less than \$25 nor more than \$250 may be adjudged, which must be paid to the municipality in which the watercraft is subject to the excise tax.

2. Failure to maintain list or make list available. A marina or boat yard owner shall maintain the list required by Title 36, section 1504, subsection 9, and make that list available as required by that section.

A. A person who fails to maintain a list or make a list available in accordance with this subsection commits a civil violation for which a forfeiture of not less than \$25 nor more than \$250 may be adjudged.

§13067. Waste water discharge in inland waters

1. Prohibition. A person may not launch a watercraft into or operate a watercraft on inland waters when that watercraft has a marine toilet, shower or sink unless:

A. The waste water from the toilet, shower or sink is fed directly into a holding tank; and

B. The holding tank for sanitary waste water is not in any way connected to any through-hull fittings.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more \$500 may be adjudged.

§13068. Operating watercraft; prohibitions

1. Launching contaminated watercraft. A person may not place a watercraft that is contaminated with an invasive aquatic plant upon the inland waters of the State.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$500 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

2. Unlawfully permitting operation by another. A person may not permit operation of a watercraft in violation of this subsection. A person violates this subsection:

A. If that person owns a watercraft and negligently permits another person to operate that watercraft in violation of any section of this chapter; or

B. If that person is the parent or guardian responsible for the care of a minor under 18 years of age and the minor operates a personal watercraft in violation of any section of this chapter.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Operating motorboat other than personal watercraft while under age. A person under 12 years of age may not operate a motorboat propelled by machinery of more than 10 horsepower unless under the immediate supervision of a person located in the motorboat who is at least 16 years of age.

This subsection does not apply to operating a personal watercraft.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Operating a watercraft without proper safety equipment. Except as provided in paragraph B, a person may not operate a watercraft without proper safety equipment as described in paragraph A.

A. A person operates a watercraft without proper safety equipment if the person operates a watercraft and:

(1) Fails to comply with the same requirements pertaining to lights, life-saving devices, fire extinguishers and other safety equipment as required by federal laws and regulations on federal navigable waters, as promulgated under the Federal Boat Safety Act of 1971, Public Law 92-75, as amended;

(2) Fails to comply with requirements pertaining to additional equipment not in conflict with federal navigation laws, which the commissioner may prescribe if there is a demonstrated need;

(3) Fails to wear a Coast Guard approved Type I, Type II or Type III personal flotation device while canoeing or kayaking on the Saco River between Hiram Dam and the Atlantic Ocean between January 1st and June 1st; or

(4) Fails to wear a Coast Guard approved Type I, Type II, Type III or Type V personal flotation device while operating a watercraft on:

(a) The Penobscot River, between the gorge and the head of Big Eddy; or

(b) The Kennebec River, between Harris Station and Turtle Island, at the foot of Black Brook Rapids.

B. Notwithstanding paragraph A:

(1) Canoes, owned by a boys or girls summer camp located upon internal waters in the State and duly licensed by the Department of Human Services and utilized by campers under the direction and supervision of a camp counselor at least 18 years of age or older during training and instruction periods on waters adjacent to the main camp within a distance of 500 feet from the

shoreline of that camp, are exempt from this subsection; and

(2) Log rafts, carrying not more than 2 persons and used on ponds or lakes or internal waters of less than 50 acres in area, are exempt from carrying personal flotation devices.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

5. Operating watercraft to endanger. A person may not operate any watercraft, water ski, surfboard or similar device so as to endanger any person or property.

6. Reckless operation of watercraft. A person may not operate any watercraft, water ski, surfboard or similar device in such a way as to recklessly create a substantial risk of serious bodily injury to another person. A person who violates this subsection commits a Class D crime.

7. Operating watercraft at greater than reasonable and prudent speed. A person may not:

A. Operate a watercraft except at a reasonable and prudent speed for existing conditions; or

B. Fail to regulate the speed of a watercraft so as to avoid danger, injury or unnecessary inconvenience in any manner to other watercraft and their occupants, whether anchored or under way; waterfront piers; floats or other property or shorelines, either directly or by the effect of the wash or wave created by the watercraft through its speed, or otherwise.

8. Imprudent operation of watercraft. A person may not, while operating a watercraft on the inland or coastal waters of the State, engage in prolonged circling, informal racing, wake jumping or other types of continued and repeated activities that harass another person.

A. This subsection may be enforced by any law enforcement officer or a person may bring a private nuisance action for a violation of this subsection pursuant to Title 17, section 2802.

B. A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

9. Operating watercraft to molest wild animals or wild birds. A person may not operate a watercraft so as to pursue, molest, harass, drive or

herd any wild animal or wild bird, except as may be permitted during the open season on that animal.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

10. Operating a motorboat that exceeds noise limits. A person may not operate a motorboat in such a manner as to exceed:

A. A noise level of 90 decibels when subjected to a stationary sound level test as prescribed by the commissioner; or

B. A noise level of 75 decibels when subjected to an operational test measured as prescribed by the commissioner.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

11. Operating motorboat without muffler. A person may not operate a motorboat that is not equipped at all times with an effective and suitable muffling device on its engine or engines to effectively deaden or muffle the noise of the exhaust, except that:

A. Motorboats that are operating in a regatta or race approved by the commissioner under section 13061 may use cutouts for these motorboats while on trial runs or competing in speed events, for a period not to exceed 48 hours immediately preceding or following such an authorized event.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

12. Tampering with a motorboat muffler system. A person may not modify a motorboat muffler system in any way that results in an increase in the decibels of sound emitted by that motorboat.

A person who violates this subsection commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged, payable to the Treasurer of State and recoverable in a civil action.

13. Headway speed only. A person may not operate a watercraft at a speed greater than headway speed while within the water safety zone or within a marina or an approved anchorage in coastal or inland waters except:

A. While actively fishing; or

B. While picking up or dropping off one or more persons on water skis in the water safety zone if a reasonably direct course is taken through the water safety zone between the point that the ski-

ers are picked up or dropped off and the outer boundary of the water safety zone.

For the purposes of this subsection, "headway speed" means the minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

14. Operating motorboat in bathing areas. A person may not:

A. Operate a motorboat within a bathing area marked or buoyed for bathing; or

B. Operate an airmobile on a beach adjacent to a bathing area marked or buoyed for bathing.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

15. Operating watercraft in a quarantined area. A person who operates a watercraft in violation of an order issued under Title 38, section 1864 commits a civil violation for which a forfeiture of not less than \$500 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

16. Operating a motorboat in prohibited area. A person may not:

A. Operate a motorboat on that portion of Portage Lake in Townships T. 13, R. 6, W.E.L.S., County of Aroostook, known as the Floating Island Area, north and westerly of a line beginning at the eastern edge of the marshy peninsula running out from Hutchinson Ridge, running 50 yards outside of the floating islands in a northerly direction to the mouth of Mosquito Brook;

B. Operate a motorboat on Quimby Pond in the Town of Rangeley, Franklin County;

C. Operate a motorboat upon the waters of Jerry Pond, so called, situated within the boundaries, or having a shore line abutting, the incorporated municipality of Millinocket and the unincorporated Townships being T.1, R. 7 and T.A., R. 7, all in Penobscot County;

D. Operate a motorboat on Upper and Lower Ox Brook Lakes in the Towns of T. 6 ND, T. 6 RI and Talmadge in Washington County;

E. Operate a motorboat on Little Nesowadnehunk (Sournahunk) Lake, in T. 5, R. 11, Piscataquis County;

F. Operate a motorboat having more than 10 horsepower on Eagle Lake and Jordan Pond, Mt. Desert Island, Hancock County and Long Pond, T.E. and T. D., Franklin County;

G. Operate a motorboat on a body of water commonly known as and referred to in the Dunham-Davee Work Plan as Snow's Pond, situated west of Route 7 in the Town of Dover-Foxcroft, Piscataquis County;

H. Operate a motorboat having more than 6 horsepower on Long Pond, Town of Denmark, Oxford County;

I. Operate a motorboat on Lily Pond, Edgecomb, Lincoln County;

J. Operate a motorboat powered by an internal combustion engine on Nokomis Pond, situated in the Towns of Newport and Palmyra, Penobscot County;

K. Operate a motorboat in Merrymeeting Bay at a speed in excess of 10 miles per hour, except within the confines of the buoyed channels;

L. Operate a motorboat equipped with an internal combustion engine on the following waters on Mount Desert Island in Hancock County: Witch Hole Pond; Aunt Betty's Pond; Bubble Pond; Round Pond; and Lake Wood;

M. Operate a motorboat equipped with a motor greater than 10 horsepower on Upper Hadlock Pond or Lower Hadlock Pond on Mount Desert Island in Hancock County;

N. Operate a personal watercraft in violation of section 685-C, subsection 10 or any rule adopted by the Maine Land Use Regulation Commission to implement that subsection;

O. Operate a watercraft at greater than headway speed on any area of Torsey Lake within 1/2 mile from the boat launch on Desert Pond Road in the Town of Mount Vernon;

P. Operate a watercraft at greater than headway speed on any area of Torsey Lake within 1/2 mile from the boat launch on Old Kents Hill Road in the Town of Readfield;

Q. Operate a watercraft equipped with a motor greater than 10 horsepower on Cold Rain Pond in the Town of Naples or on Holt Pond in the Town of Naples and the Town of Bridgton;

R. Operate a watercraft equipped with a motor greater than 5 horsepower on Moose Pond in the Town of Otisfield;

S. Operate a watercraft at greater than headway speed on any area of Pickerel Pond in the Town of Wayne;

T. Operate a motorboat having more than 10 horsepower on Middle Branch Pond in the Town of Waterboro in York County; or

U. Operate a motorboat having more than 10 horsepower on Adams Pond, Foster Pond or Otter Pond in the Town of Bridgton in Cumberland County.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13069. Watercraft accident; requirements

1. Failure to render aid or provide personal identification after a watercraft accident. The operator of a watercraft that is involved in a collision, accident or other casualty may not:

A. Fail to render all necessary aid and assistance to all persons involved in the collision, accident or other casualty, so far as the operator can do so without serious danger to the operator's watercraft, crew and passengers, if any; or

B. Fail to give the person's name and address and identification of the person's watercraft to any person injured and to the owner of any property damaged.

2. Failure to report a watercraft accident. A person may not fail to report a watercraft accident in accordance with this subsection.

A. An operator or owner of a watercraft involved in a collision, accident or other casualty while using the watercraft that results in the death of a person, a person losing consciousness or receiving medical treatment, a person becoming disabled for more than 24 hours or a person disappearing from a watercraft under circumstances indicating death or injury shall file accident reports as follows:

(1) A written report on forms provided by the commissioner containing the information as required within 24 hours of the occurrence if a person dies, disappears, loses consciousness, receives medical treatment, or is disabled for more than 24 hours; and

(2) A report of the occurrence, by the quickest means of communication, to an available law enforcement officer nearest to the place where the accident occurred.

B. Accidents involving damage only to watercraft or other property to the estimated amount of \$1,000 or more must be reported within 72 hours on forms provided by the department.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13070. Operating airmobile

1. No permission given. This chapter may not be construed as giving license or permission to cross or go on the property of another.

2. Stop and identify requirement. Persons operating an airmobile upon the land of another shall stop and identify themselves upon the request of the landowner or the landowner's duly authorized representative. Any person in violation of this subsection is accountable to the landowner under applicable law.

3. Restrictions. If restrictions on operation are posted on the land of another, a person operating an airmobile shall observe those restrictions.

4. Operating airmobile upon public way. Except as provided in this subsection, a person may not operate an airmobile upon a public way.

A. Properly registered airmobiles may cross public ways, including bridges, overpasses and underpasses. For crossing public ways, sidewalks and culverts, persons operating airmobiles may travel only the distance necessary, but in no case exceeding 300 yards, for the sole purpose of crossing as directly as possible. For crossing bridges, overpasses and underpasses, persons operating airmobiles may travel only the distance necessary, but in no case exceeding 500 yards, for the sole purpose of crossing as directly as possible. All crossings are subject to the following conditions:

(1) The operator of the airmobile may cross public ways only if the crossing can be made safely and does not interfere with vehicular traffic approaching from either direction;

(2) The operator of the airmobile shall dismount and lead the machine along the extreme right of the traveled way; and

(3) The operator of the airmobile shall yield the right-of-way to all vehicular traffic.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

5. Failing to stop airmobile before entering public way. A person may not fail to bring an airmobile to a complete stop before entering a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

6. Failing to yield right-of-way while operating an airmobile. A person may not fail to yield the right-of-way to all vehicular traffic while operating an airmobile on a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

7. Operating airmobile that exceeds noise limit. Airmobiles are subject to the following noise level limits.

A. Except as provided in this paragraph, a person may not operate an airmobile that exceeds 78 decibels of sound pressure at 50 feet on the "A" scale, as measured by the Society of Automotive Engineers standards J-192. Airmobiles that are operating in a race approved by the commissioner under section 13061 may exceed this maximum noise level.

B. A person may not operate an airmobile in such a manner as to exceed:

(1) A noise level of 90 decibels when subjected to a stationary sound level test as prescribed by the commissioner; or

(2) A noise level of 75 decibels when subjected to an operational test measured as prescribed by the commissioner.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

8. Operating airmobile on railroad tracks. A person may not operate an airmobile along or adjacent and parallel to the tracks of any railroad within the limits of the railroad right-of-way without written permission from the railroad.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

9. Operating airmobile too close to certain buildings. Except as provided in this subsection, a

person may not operate an airmobile within 200 feet of a dwelling, hospital, nursing home, convalescent home or church.

This subsection does not apply to a person operating an airmobile:

A. On public ways in accordance with subsections 4, 5, 6 and 7;

B. On the frozen surface of any body of water; and

C. On land that the operator owns or is permitted to use.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13071. Operating personal watercraft

1. Operating personal watercraft while underage. A person under 16 years of age may not operate a personal watercraft.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Additional safety requirements while operating personal watercraft. A person may not:

A. Operate or be a passenger on a personal watercraft unless the person is wearing Coast Guard approved Type I, Type II or Type III personal flotation devices; or

B. Operate a personal watercraft during the hours between sunset and sunrise.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Operating rented or leased personal watercraft without identification decal. A person may not operate a rented or leased personal watercraft on Brandy Pond in the Town of Naples or on Long Lake in the Town of Naples, the Town of Bridgton and the Town of Harrison that does not have a clearly visible decal affixed to the personal watercraft that identifies the rental agent.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Operating personal watercraft in prohibited area. A person may not operate a personal watercraft on:

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

B. North Pond or Bryant Pond, also known as Christopher Lake, in the Town of Greenwood and the Town of Woodstock in Oxford County;

C. Concord Pond, Little Concord Pond or Shagg Pond in the Town of Woodstock in Oxford County;

D. Hamilton Pond in Bar Harbor in Hancock County;

E. Bog Lake or Horseshoe Lake in the Town of Northfield in Washington County;

F. Megunticook Lake in the Town of Camden and the Town of Hope in Knox County and the Town of Lincolnville in Waldo County;

G. Hobbs Pond, Fish Pond or Alford Lake in the Town of Hope in Knox County;

H. Norton Pond or Coleman Pond in the Town of Lincolnville in Waldo County;

I. Pitcher Pond in the Town of Lincolnville and the Town of Northport in Waldo County;

J. Torsey Lake in the Town of Mount Vernon and the Town of Readfield in Kennebec County;

K. Trickey Pond in the Town of Naples in Cumberland County;

L. Brandy Pond in the Town of Naples in Cumberland County between sunset and 9:00 a.m.;

M. Fulton Lake in the Town of Northfield in Washington County;

N. Knight Pond in the Town of Northport in Waldo County;

O. Moose Pond or Saturday Pond in the Town of Otisfield in Oxford County;

P. Tripp Pond, Upper Range Pond or Middle Range Pond in the Town of Poland in Androscoggin County;

Q. Keewaydin Lake, Virginia Lake, Trout Pond, Weymouth Pond or Whitney Pond in the Town of Stoneham in Oxford County;

R. Lermond Pond in the Town of Union and the Town of Hope in Knox County;

S. Pocasset Lake or Pickerel Pond in the Town of Wayne in Kennebec County;

T. Androscoggin Lake in the Town of Wayne in Kennebec County and the Town of Leeds in Androscoggin County;

U. Little Cobbosseecontee Lake in the Town of Winthrop in Kennebec County;

V. Somes Pond in the Town of Mount Desert;

W. Long Pond in the Town of Mount Desert and the Town of Southwest Harbor;

X. Little Long Pond in the Town of Mount Desert;

Y. Meetinghouse Pond, Big Pond, Wat Tuh Lake, Center Pond and Silver Lake, also known as Silver Pond, in the Town of Phippsburg in Sagadahoc County;

Z. South Branch Lake in the Plantation of Seboeis and the Township of T2 R8 NWP in Penobscot County;

AA. Spring Lake in Spring Lake Township in Somerset County;

BB. Kennebago Lake and Kennebago River in Davis Township and Stetsontown Township in Franklin County;

CC. Nicatous Lake in the Townships of T40 MD, T41 MD and T3 ND in Hancock County;

DD. Crystal Lake in the Town of Washington in Knox County;

EE. Middle Branch Pond in the Town of Waterboro in York County; or

FF. Highland Lake or Woods Pond in the Town of Bridgton in Cumberland County if the personal watercraft is rented and does not display a decal identifying the rental agency that owns the personal watercraft.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13072. Harbor masters on inland waters

1. Appointment; compensation. The municipal officers of a town bordering an inland waterway may appoint a harbor master for a term of not less than one year and may establish the harbor master's compensation. The harbor master is subject to all the duties and liabilities of that office as prescribed by state law, municipal ordinances and rules promulgated by the municipality. The municipal officers may remove the harbor master from office for cause,

declared in writing, after due notice to the harbor master and a hearing, if requested.

The municipal officers may prohibit a harbor master from making an arrest or carrying a weapon. A harbor master who is not prohibited from making arrests may arrest and deliver to the law enforcement authorities on shore any person committing an assault upon the harbor master or another person acting under the harbor master's authority.

2. Authority and responsibility. A harbor master appointed under this section shall enforce the watercraft laws of the State and the municipality on any water within the jurisdiction of the municipality.

3. Jointly appointed harbor masters. The municipal officers of 2 or more municipalities that border on the same inland waters may jointly appoint a single harbor master who has authority over the jurisdictions of all the participating municipalities.

§13073. Harbor masters on inland waters; violations

A person who neglects or refuses to obey any lawful order of a harbor master authorized pursuant to section 13072 commits a Class E crime.

CHAPTER 937

SNOWMOBILES

§13101. Application

This chapter applies to the operation of snowmobiles in all areas that come within the jurisdiction of the State.

§13102. License not required

An operator's license is not required for the operation of a snowmobile.

§13103. Rule violations; snowmobiles and snowmobile races

Notwithstanding section 10602, a person who violates a rule regulating snowmobiles or the protection and safety of spectators at snowmobile races commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13104. Registration

1. Operating unregistered snowmobile. Except as provided in this subsection and section 13112, a person may not operate a snowmobile that is not registered in accordance with this section.

A. No registration is required for a snowmobile operated over the snow on land on which the

owner lives or on lands on which the owner is domiciled, provided the snowmobile is not operated elsewhere within the jurisdiction of this State.

B. No registration is required for a snowmobile operated by a commercial ski area for the purpose of packing snow or for rescue operation thereon, unless the snowmobile is required to cross a public way during that operation.

C. Snowmobiles owned and operated in this State by the Federal Government, the State or political subdivision of the State are exempt from registration fees, but must be registered and required to display numbers.

D. Registration is not required to field test repairs to a snowmobile if valid snowmobile repair shop number plates issued under section 13110 are affixed to the snowmobile during the field test and the snowmobile is not owned by the snowmobile repair shop or any repair shop employee.

E. Registration is not required to field test repairs to a snowmobile when the snowmobile is tested on the premises of a snowmobile repair shop when the snowmobile repair shop is open and the snowmobile is not owned by the snowmobile repair shop or any repair shop employee.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Application and issuance. The commissioner or the commissioner's designee may register and assign a registration number to all snowmobiles upon application and payment of a registration fee by the owner. The commissioner shall charge a fee of \$1 for each registration issued by department employees.

3. Form of registration. The snowmobile registration must be in such form as the commissioner may determine.

4. Fee. Except as provided in subsection 5, the annual snowmobile registration fee is as follows:

A. For residents, \$30. The registration for a snowmobile owned by a resident is valid for one year, commencing on July 1st of each year.

(1) Whoever obtains an original resident snowmobile registration after March 31st may pay \$37.50 and receive a registration covering the remainder of the registration period plus one additional year; and

B. For nonresidents:

(1) Forty dollars for a 3-consecutive-day registration. A person may purchase more than one 3-day registration in any season;

(2) Fifty-five dollars for a 10-consecutive-day registration. A person may purchase more than one 10-day registration in any season; and

(3) Sixty-five dollars for a seasonal registration.

The registration for a snowmobile owned by a nonresident must specify the dates for which the registration is valid.

Five dollars from each registration fee collected pursuant to this subsection must be transferred to a special fund administered by the Off-Road Vehicle Division of the Bureau of Parks and Lands within the Department of Conservation. The funds must be used to assist any entity that has a snowmobile trail-grooming contract with the bureau in the purchase of trail-grooming equipment.

5. Antique snowmobile registration fee. A resident who owns a snowmobile that is more than 25 years old and that is substantially maintained in original or restored condition may register that snowmobile under this subsection as an antique snowmobile. An antique snowmobile registration authorizes that snowmobile to be operated only for the purpose of traveling to, returning from and participating in an exhibition, parade or other event of interest to the public or for occasional personal use. The fee for an antique snowmobile registration is \$30. An antique snowmobile registration is valid until the ownership of that antique snowmobile is transferred to another person. Upon the transfer of ownership, the new owner may reregister that snowmobile as an antique snowmobile by paying the \$30 antique snowmobile registration fee. The registration fee for an antique snowmobile is allocated according to section 10206, subsection 2, paragraph A.

6. Members of armed forces permanently stationed in Maine. The following persons are eligible to register any snowmobile owned by them at the resident fee:

A. Any person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of the person described in paragraph A, provided that the spouse and children permanently reside with that person.

A member of the armed forces described in paragraph A who desires to register a snowmobile shall present

certification from the commander of the post, station or base, or from the commander's designated agent, that the member is permanently stationed at that post, station or base. Registration fees for registrations pursuant to this subsection must be allocated as if the person registering the snowmobile was a resident of the municipality in which the post, station or base is situated.

7. Snowmobiles of nonresidents. Except as specifically provided in this subsection, and notwithstanding any other provision of law, a snowmobile belonging to a nonresident may be possessed or operated by any person in this State as long as the snowmobile is properly registered in this State in the name of a nonresident owner of the snowmobile.

A snowmobile owned by a nonresident may not be issued a resident registration. Nothing in this subsection authorizes the operation of any snowmobile in any manner contrary to this chapter. This subsection does not apply to snowmobiles and grooming equipment registered to a federal or state entity, snowmobile clubs, municipalities or counties from bordering states or provinces and engaged in trail grooming. Snowmobiles registered in either New Hampshire or Canada may be operated on any lake or pond that is both partly in the State and New Hampshire or Canada without being registered in the State.

8. Duplicate registration certificate. The holder of any resident or nonresident seasonal registration certificate issued under this section may obtain a duplicate from the commissioner upon application and payment of a fee of \$1.

9. Numbers permanent. All numbers once awarded under this section to a resident-owned snowmobile remain with that snowmobile until the snowmobile is destroyed, abandoned or permanently removed from this State, except that numbers that have been inactive for at least 7 years may be reissued by the division.

10. Transfer of ownership, discontinuance of use. The following provisions govern transfer of ownership and discontinued use.

A. A person who transfers the ownership or permanently discontinues the use of a snowmobile having a resident registration or a nonresident seasonal registration and applies for registration of another snowmobile in the same registration year is entitled to a registration upon payment of a transfer fee of \$2 and is not required to pay the regular registration fee.

B. Whenever ownership is transferred or the use of a snowmobile for which a registration has already been issued is discontinued, the old registration must be properly signed and

executed by the owner showing that the ownership of the snowmobile has been transferred or its use discontinued and returned to the commissioner within 10 days of the transfer or discontinuance of use.

C. If there is a change of ownership of a snowmobile for which a registration has previously been issued, the new owner shall apply for a new registration, shall set forth the original number in the application and shall pay the regular fee for the particular snowmobile involved.

11. Open snowmobile weekend. The commissioner may designate one weekend a year as an open snowmobile weekend when snowmobiles registered outside the State may be used in the State without being registered in the State. All other provisions of this chapter relating to snowmobiles apply during an open snowmobile weekend.

12. Restrictions. The following provisions must be observed.

A. A registration certificate is subject to inspection by any law enforcement officer on demand.

B. A registration number assigned to a snowmobile must be displayed in such form and manner as the commissioner may determine, except that an antique snowmobile is not required to display registration numbers.

C. A registrant shall notify the commissioner if a snowmobile is destroyed, abandoned or permanently removed from this State.

13. Fraudulent acquisition of snowmobile registration. A person may not obtain a snowmobile registration through fraud, misstatement or misrepresentation.

§13105. Snowmobile registration agents

1. Appointment of snowmobile registration agents; report; fees. Appointment of snowmobile registration agents and applicable fees are governed by the following.

A. The commissioner may appoint municipal clerks or other persons who a municipality may designate as municipal agents to issue snowmobile registrations. The commissioner may designate other agents as necessary to issue snowmobile registrations. The commissioner shall determine the period when the agents shall act.

B. Agents may charge a service fee of not more than \$1 for each snowmobile renewal registration issued and \$2 for each registration covered by

sections 13002 to 13005. This service fee is retained by the agent.

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

(1) The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

(2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(a) Terminate the agency for the balance of the year; and

(b) Order that the agency not be renewed for the next year.

2. Unlawful issuance of snowmobile registration. An agent may not issue a resident snowmobile registration to a nonresident or a nonresident snowmobile registration to a resident.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13106. Operation of snowmobile

1. No permission given. This chapter may not be construed to give license or permission to cross or go on the property of another.

2. Stop and identify requirement. Persons operating a snowmobile upon the land of another shall stop and identify themselves upon the request of the landowner or the landowner's duly authorized representative. Any person in violation of this subsection is accountable to the owner under applicable law.

3. Operating snowmobile upon controlled access highway. Except as provided in this subsection, a person may not operate a snowmobile upon a controlled access highway or within the right-of-way limits of a controlled access highway.

A. A person on a properly registered snowmobile may cross controlled access highways by use

of bridges over or roads under those highways, or by use of roads crossing controlled access highways at grade.

B. The Commissioner of Transportation may issue special permits for designated crossings of controlled access highways.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Unlawfully operating snowmobile on plowed road. A person may not operate a snowmobile upon any plowed private road, or public road plowed privately without public compensation, after having been forbidden to do so by the owner thereof, the owner's agent or a municipal official, either personally or by appropriate notices posted conspicuously on that road.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

5. Operating snowmobile on public way. Except as provided in subsection 4 and this subsection, a person may not operate a snowmobile upon the main traveled portion, the sidewalks or the plowed snowbanks of a public way.

A. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert;

B. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, provided that that operation can be made in safety and that it does not interfere with vehicular traffic approaching from either direction on the public way;

C. A snowmobile may be operated on any portion of a public way when the public way has been closed in accordance with Title 23, section 2953;

D. If the main traveled portion of a public way is publicly plowed and utilized by conventional motor vehicles, a snowmobile may be operated only on that portion of the way not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way is prohibited during the hours from sunset to sunrise on the portion of the way not

maintained or utilized for the operation of conventional motor vehicles. This paragraph does not apply to a snowmobile operated by a public utility regulated by the Public Utilities Commission while being operated in the course of the utility's corporate function, so that public utilities may effectively and speedily carry out their obligations to the public;

E. A snowmobile may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable. This paragraph does not apply to a snowmobile operated by a public utility regulated by the Public Utilities Commission while being operated in the course of the utility's corporate function, so that public utilities may effectively and speedily carry out their obligations to the public;

F. A snowmobile may be operated on streets and public ways in special snowmobile events of limited duration conducted according to a prearranged schedule and under a permit from the governmental unit having jurisdiction; and

G. Notwithstanding paragraphs A to F, a snowmobile may be operated on the extreme right of a public way within the built-up portion of a municipality, unorganized or unincorporated township if the appropriate governmental unit has designated the public way as a snowmobile-access route for the purpose of allowing snowmobiles access to places of business. A public way designated by an appropriate governmental unit as a snowmobile-access route must be posted conspicuously at regular intervals by that governmental unit with highly visible signs designating the snowmobile-access route. Before designating a public way as a snowmobile-access route, the appropriate governmental unit shall make appropriate determinations that snowmobile travel on the extreme right of the public way may be conducted safely and will not interfere with vehicular traffic on the public way. For purposes of this paragraph, "appropriate governmental unit" means the Department of Transportation, county commissioners or municipal officers within their respective jurisdictions. The jurisdiction of each appropriate governmental unit over public ways pursuant to this paragraph is the same as its jurisdiction over the passage of vehicles on public ways pursuant to Title 29-A, section 2395. Municipal or county law enforcement officials having jurisdiction have primary enforcement authority over any route established under this paragraph.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

6. Failing to stop snowmobile before entering public way. A person may not fail to bring a snowmobile to a complete stop before entering a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

7. Failing to yield right-of-way while operating snowmobile. A person may not fail to yield the right-of-way to all vehicular traffic while operating a snowmobile on a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

8. Crossing a closed bridge, culvert, overpass or underpass with snowmobile. A person may not cross with a snowmobile a bridge, culvert, overpass or underpass closed to snowmobiles by the Commissioner of Transportation.

A. The Commissioner of Transportation may, following a public hearing, prohibit the crossing of an individual bridge, culvert, overpass or underpass if the commissioner determines that that crossing or use of the public way is hazardous.

B. Any bridge, culvert, overpass or underpass closed by the Commissioner of Transportation must be posted by appropriate notices.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

9. Reckless operation of snowmobile. A person may not operate a snowmobile in such a way as to recklessly create a substantial risk of serious bodily injury to another person. Violation of this subsection is a Class D crime.

10. Operating snowmobile to endanger. A person may not operate a snowmobile so as to endanger any person or property by:

A. Operating the 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 haz-

ard exists with respect to pedestrians, skiers or other traffic by reason of weather or trail conditions; or

B. Operating the snowmobile in a manner that fails to control its speed at all times as necessary to avoid colliding with any person, vehicle, snowmobile or other object on or adjacent to the snowmobile trail.

A person who violates this subsection commits a Class E crime.

11. Operating snowmobile at greater than reasonable and prudent speed. A person may not operate a snowmobile except at a reasonable and prudent speed for the existing conditions.

A person who violates this subsection commits a Class E crime.

12. Operating a snowmobile while underage. A person under 14 years of age may not operate a snowmobile across any public way maintained for travel.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

13. Permitting unaccompanied child to operate snowmobile. A person may not permit a child under 10 years of age to operate a snowmobile unless the child is accompanied by an adult.

This subsection does not apply on land that is owned by the parent or guardian or on land where permission for use has been granted to the parent or guardian.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

14. Snowmobile noise level limits. This subsection governs noise levels for snowmobiles.

A. Except as provided in section 13112, a person may not:

(1) Operate a snowmobile that exceeds the noise limits for that snowmobile established in paragraph B; or

(2) Modify a snowmobile in a manner that amplifies or otherwise increases total noise emission above that emitted by the snowmobile as originally constructed, regardless of the date of manufacture.

A person who violates this paragraph commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

B. The following noise levels are established:

(1) Every snowmobile manufactured after February 1, 1975, and offered for sale or sold in this State must be constructed to limit total vehicle noise to not more than 78 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192;

(2) Snowmobiles manufactured after October 1, 1973, but on or before February 1, 1975, and offered for sale or sold in this State must be constructed to limit the total vehicle noise to not more than 82 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192; and

(3) Snowmobiles manufactured on or before October 1, 1973 are not subject to a specific noise level, except that they may not be modified in violation of this subsection.

15. Operating snowmobile with insufficient lights. Except as provided in section 13112, a person may not operate a snowmobile that is not equipped as follows:

A. Every snowmobile must have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the snowmobile; and

B. Every snowmobile must have mounted on the rear at least one lamp capable of displaying a red light visible at a distance of at least 100 feet behind the snowmobile.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

16. Failure to use snowmobile lights. Except as provided in section 13112, a person may not fail to use lights:

A. During the period from 1/2 hour after sunset to 1/2 hour before sunrise; and

B. At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

17. Unlawfully operating snowmobile on railroad tracks. A person may not:

A. Operate a snowmobile along or adjacent and parallel to the tracks of a railroad within the limits of a railroad right-of-way without written permission from the railroad owning the right-of-way; or

B. Operate a snowmobile across the tracks of a railroad after having been forbidden to do so by the railroad owning the railroad right-of-way, or by an agent of that railroad, either personally or by appropriate notices posted conspicuously along the railroad right-of-way.

Notwithstanding this subsection, a person may operate a snowmobile on railroad tracks if the person is operating within the right-of-way of a portion of railroad line that has been officially abandoned under the authority of the Interstate Commerce Commission.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

18. Operating snowmobile in cemetery. A person may not operate a snowmobile in any cemetery, burial place or burying ground.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

19. Operating too close to certain buildings. A person may not operate a snowmobile within 200 feet of a dwelling, hospital, nursing home, convalescent home or church. This subsection does not apply when a person is operating a snowmobile:

A. On public ways in accordance with subsections 5, 6, 7 and 8 or on controlled access highways in accordance with subsection 3, paragraphs A and B;

B. On the frozen surface of any body of water; and

C. On land the operator owns or is permitted to use.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

20. Abuse of another person's property. A person may not while operating a snowmobile:

A. Tear down or destroy a fence or wall on another person's land;

B. Leave open a gate or bar on another person's land; or

C. Trample or destroy crops on another person's land.

A person who violates this subsection commits a Class E crime.

21. Unlawfully permitting operation. A person who owns a snowmobile may not knowingly permit the snowmobile to be operated in violation of any section of this chapter.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

22. Failure to report accident. A person shall give notice of a snowmobile accident, by the quickest means of communication, to a law enforcement officer available nearest to the place where the accident occurred if that person is:

A. The operator of a snowmobile involved in an accident resulting in injuries requiring the services of a physician or in the death of a person;

B. A person acting for the operator of a snowmobile described in paragraph A; or

C. The owner of the snowmobile having knowledge of the accident, if the operator of the snowmobile is unknown.

Accidents involving only property damage to the estimated amount of \$1,000 or more must be reported within 72 hours on forms provided by the department.

A person who fails to comply with this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

23. Operating snowmobile on open water. A person may not operate or attempt to operate a snowmobile on open water. For purposes of this subsection, "open water" means any area of an inland water body that is free of ice and snow. This subsection does not apply to private ponds.

Notwithstanding Title 17, section 2267-A, subsection 3, the owner or operator of a snowmobile that has been submerged or partially submerged as a result of a violation of this subsection shall remove the snowmobile within 24 hours of its submersion. The owner or operator of a snowmobile submerged or partially submerged as a result of a violation of this subsection shall pay any damages resulting from the submersion or removal. If the owner or operator of a snowmobile submerged or partially submerged as the result of a violation of this subsection fails to remove the snowmobile within 24 hours of its submersion, the

commissioner may remove the snowmobile at the expense of the owner or operator or request in writing that the court direct the owner or operator to remove the snowmobile immediately.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13107. Unlawfully operating vehicle on snowmobile trail

A person may not operate any 4-wheel-drive vehicle, dune buggy, all-terrain vehicle, motorcycle or any other motor vehicle, other than a snowmobile and appurtenant equipment, on snowmobile trails that are financed in whole or in part with funds from the Snowmobile Trail Fund, unless that use has been authorized by the landowner or the landowner's agent, or unless the use is necessitated by an emergency involving safety of persons or property.

A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13108. Liability for damage caused by minors

The owner of a snowmobile, the person who gives or furnishes that snowmobile to a person under 18 years of age and the parent or guardian responsible for the care of that minor are jointly and severally liable with the minor for any damages caused in the operation of the snowmobile by that minor.

§13109. Dealer's registration and license

1. Application and issuance. A person may not engage in the business of selling new or used snowmobiles in the State unless the person has registered as a dealer and secured a valid dealer's license from the commissioner. A dealer so registered and licensed need not register individual snowmobiles. For the purposes of this subsection, "new snowmobile" means a snowmobile that has not been registered in this State or any other state or for which sales tax has not been paid in this State or any other state if that other state taxes the purchase of a new snowmobile.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Fees. The dealer's registration and license fee is \$15 annually from each July 1st.

3. Dealer's number plates. Dealer's number plates must be provided and obtained as follows.

A. A registered dealer may receive dealer's number plates. The annual fee for a dealer's number plate is:

(1) For a resident dealer's plate, \$16; and

(2) For a nonresident dealer's plate, \$60.

B. Replacement for lost or stolen dealer's number plates may be obtained for a fee of \$5 for each plate.

C. If a dealer's number plate is lost or stolen, the owner shall notify the commissioner immediately.

4. Temporary registrations and numbers.

The commissioner may issue temporary numbers and registrations for snowmobiles to bona fide dealers who may, upon the sale or exchange of a snowmobile, issue them to new owners in order to allow them to operate snowmobiles for a period of 20 consecutive days after the day of sale in lieu of a permanent number as required by this chapter.

5. Restrictions. Dealers shall display their dealer's number on each snowmobile being used until the sale of the snowmobile, whereupon it becomes the owner's responsibility to register the snowmobile.

6. Penalty. Each day a person violates any restriction of a license issued under this section that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13110. Snowmobile repair shop registration and license

1. Application and issuance. A person whose business includes repairing snowmobiles but who is not required to be licensed as a snowmobile dealer under section 13109 may register that business entity as a snowmobile repair shop and secure a snowmobile repair shop license and number plate from the commissioner.

2. Fee. The commissioner shall set the fee for a snowmobile repair shop license. The fee may not exceed \$15 for any 12-month period.

3. Field testing repairs on unregistered snowmobiles. The owner of a snowmobile repair shop licensed under this section may operate or allow the operation of an unregistered snowmobile for the purpose of field testing repairs to that snowmobile if:

A. Valid snowmobile repair shop number plates issued under this section are affixed to the snowmobile during the field test; and

B. The snowmobile is not owned by the snowmobile repair shop or any person employed by the snowmobile repair shop.

Operating an unregistered snowmobile in compliance with this subsection is not a violation of section 13104, subsection 1.

§13111. Snowmobile rental agent certificate

1. Registration and issuance. Except as provided in this section, a person or business may not rent or lease a snowmobile unless that person or business:

A. Registers with the department as a snowmobile rental agent and is issued a snowmobile rental agent certificate from the commissioner;

B. Obtains a Maine certificate of number for each snowmobile being offered for rent or lease in the name of the person or business holding that certificate; and

C. Instructs each person who rents or leases a snowmobile how to operate the snowmobile, including how to use the brake, throttle and kill switch, and provides to that person a pamphlet describing proper hand signals.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Exception; guides. This section does not apply to a person lawfully engaged in guiding activities under section 12853 who accompanies others on guided trips that include the use of snowmobiles, except that such a person must provide the operators of snowmobiles with instructions equivalent to those described in subsection 1, paragraph C.

3. Fee. The fee for a snowmobile rental agent certificate is \$25. The certificate is valid from July 1st to June 30th.

§13112. Racing meets

Notwithstanding section 10602 and section 13106, subsections 14, 15 and 16, snowmobiles operated at a prearranged racing meet whose sponsor has obtained a permit to hold such a meet from the commissioner are exempt from the provisions of this chapter concerning registration, noise, horsepower and lights during the time of operation at such meets and at all prerace practices at the location of the meet.

CHAPTER 939

ATVs

§13151. Application

This chapter applies to the operation of ATVs in the State.

§13152. License and training

1. License. An operator's license is not required for the operation of an ATV, except as required by Title 29-A.

2. Training. A person under 16 years of age must successfully complete a training program approved by the department prior to operating an ATV on any land other than the land on which that person is domiciled or land owned or leased by that person's parent or guardian. The training program must include instruction on the safe operation of ATVs, the laws pertaining to ATVs, the effect of ATVs on the environment and ways to minimize that effect, courtesy to landowners and other recreationists and other materials as determined by the department.

§13153. Rule violations; ATVs

Notwithstanding section 10602, a person who violates a rule regulating ATVs commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13154. Age restrictions

1. Minimum age. A person under 10 years of age may not operate an ATV, except on the land on which that person is domiciled or land owned by that person's parent or guardian.

2. Unlawfully operating ATV while underage. A person may not operate an ATV other than on land owned by the person's parent or guardian or on land where permission for use has been granted to the person's parent or guardian:

A. If the person is under 10 years of age;

B. If the person is under 16 years of age unless the person:

(1) Has successfully completed a training course approved by the department pursuant to section 13152; and

(2) Is accompanied by an adult; or

C. Across a public way maintained for travel if the person is under 16 years of age except that a person over 10 years of age and under 16 years of age may cross public ways in accordance with section 13157, subsection 6, paragraph A if the person satisfies the requirements of paragraph B.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

3. Permitting unaccompanied child to operate ATV. A person may not permit a child under 16 years of age to operate an ATV except on land owned by the parent or guardian of the operator or on land where permission for use has been granted to the parent or guardian.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Permitting child under 10 years to operate ATV. Except as provided in subsections 2 and 3, a person may not permit a child under 10 years of age to operate an ATV.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13155. Registration

1. Operating unregistered ATV. A person may not operate an ATV that is not registered in accordance with subsection 3 except:

A. Registration is not required for an ATV operated on land on which the owner lives or on land on which the owner is domiciled, as long as the ATV is not operated elsewhere within the jurisdiction of the State;

B. Registration is not required for an ATV operated by a commercial ski area for the purpose of packing snow or for rescue operations on the commercial ski area, unless the ATV is required to cross a public way during that operation;

C. An ATV owned and operated in the State by the Federal Government, the State or a political subdivision of the State is exempt from registration fees but must be registered and is required to display registration numbers; and

D. An ATV registration for the farm use specified in Title 29-A, section 501, subsection 8, paragraph E is not required for a vehicle registered with the Secretary of State under Title 29-A, section 501, subsection 8.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Reciprocity. Reciprocity is allowed to non-residents from all states, provinces, countries or districts that allow similar privileges to residents of the State, as long as they are covered by a valid registration from that state, province, country or district.

A. If an ATV is owned by a nonresident but is primarily operated by a Maine resident, the ATV must be registered under this section.

B. This subsection may not be construed to authorize the operation of an ATV described in any manner contrary to this chapter.

3. Application and issuance. The commissioner, or an agent designated by the commissioner, may register and assign a registration number to an ATV upon application and payment of an annual fee by the owner. The commissioner shall charge a fee of \$1 in addition to the annual fee for each registration issued by an employee of the department. The registration number must be clearly displayed on the rear of the vehicle. A registration is valid for one year commencing July 1st of each year.

4. Form of registration. An ATV registration must be in such form as the commissioner may determine.

5. Fees. The annual registration fee for an ATV is \$17 for a resident and \$35 for a nonresident.

After March 31st, a person may pay a registration fee of \$21.25 for residents and \$43.75 for nonresidents and receive a registration covering the remainder of the registration period plus one additional year.

6. Duplicate registration certificate. The holder of a registration certificate issued under this section may obtain a duplicate from the commissioner upon application and payment of a fee of \$1.

7. Transfer of ownership, discontinuance of use. A transfer of ownership or discontinuance of use of an all-terrain vehicle is subject to this subsection.

A. Whoever transfers the ownership or discontinues the use of a registered all-terrain vehicle shall, within 10 days, properly sign the registration, indicate the disposition of the all-terrain vehicle and return the registration to the commissioner.

B. An all-terrain vehicle owner who transfers ownership or discontinues its use may, within 10 days from the date of transfer or discontinuance, apply to the commissioner for registration of another all-terrain vehicle. The fee for the transfer is \$2, and the registration is valid for the remainder of the registration year for which the previous all-terrain vehicle had been registered.

C. When there is a change of ownership of an all-terrain vehicle for which a registration has previously been issued, the new owner shall apply for a new registration and shall pay the applicable fee under subsection 5.

8. Restrictions. This subsection applies to the registration of an ATV.

A. The registration certificate is subject to inspection by any law enforcement officer on demand.

B. The registrant shall notify the commissioner if an ATV is destroyed, abandoned, stolen or permanently removed from the State.

9. Display of registration numbers. Each new ATV sold in the State must have 3 1/2 inch by 6 inch spaces provided on the front and rear of the machine, as high above the tires as possible, for the vertical display of the registration numbers. A person may not operate an ATV that is required to be registered under this section unless registration numbers are displayed in these spaces or as otherwise required by the department.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

10. Training and education. The department shall provide training and education relating to ATVs.

§13156. ATV registration agents

1. Appointment of ATV registration agents. The commissioner may appoint municipal clerks or other persons whom a municipality may designate as municipal agents to issue ATV registrations. The commissioner may designate other agents as necessary to issue ATV registrations. The commissioner shall determine the period when the agents must act.

2. Failure to remit funds. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this section. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

A. The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

B. If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

3. Service fees. An agent may charge a service fee of \$1 for each ATV renewal registration issued and \$2 for each registration covered by sections 13002 to 13005. This service fee is retained by the agent.

§13157. Operation of ATVs

1. No permission given. This chapter may not be construed as giving license or permission to cross or go on the property of another.

2. Stop and identify requirement. Persons operating ATVs upon the land of another shall stop and identify themselves upon the request of the landowner or the landowner's duly authorized representative. A person who violates this subsection is accountable to the owner under existing laws and is subject to the applicable penalty provided under this Part.

3. Operating ATV upon controlled access highway. A person may not operate an ATV upon a controlled access highway or within the right-of-way limits of a controlled access highway, except that:

A. A properly registered ATV may cross controlled access highways by use of bridges over or roads under those highways or by use of roads crossing controlled access highways at grade; and

B. The Commissioner of Transportation may issue special permits for designated crossings of controlled access highways.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Unlawfully operating ATV on snowmobile trail. Operating an ATV on a snowmobile trail financed in whole or in part with funds from the Snowmobile Trail Fund is governed by section 13107.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

5. Unlawfully operating ATV on private road. A person may not operate an ATV upon a private road after having been forbidden to do so by the owner's agent or a municipal official, either personally or by appropriate notices posted conspicuously on that road.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

6. Operating ATV on public way. Except as provided in this subsection, a person may not operate

an ATV, other than an ATV registered with the Secretary of State under Title 29-A, on any portion of a public way maintained or used for the operation of conventional motor vehicles or on the sidewalks of any public way.

A. A properly registered ATV may be operated on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert.

B. A properly registered ATV may be operated on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, as long as that operation can be made in safety and that it does not interfere with traffic approaching from either direction on the public way.

C. An ATV may be operated on any portion of a public way when the public way has been closed in accordance with Title 23, section 2953.

D. An ATV may be operated on a public way that is not maintained or used for the operation of conventional motor vehicles, except that operation on the left side of the way is prohibited during the hours from sunset to sunrise.

E. An ATV may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable.

F. An ATV may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

G. An ATV may be operated on a public way on the extreme right of the traveled way by a law enforcement officer for the sole purpose of traveling between the place where the ATV is usually stored and an area to be patrolled by the law enforcement officer.

H. Notwithstanding paragraphs A to G, an ATV may be operated on the extreme right of a public way of a municipality or an unorganized or unincorporated township if the appropriate governmental unit has designated the public way as an ATV-access route. A public way designated by an appropriate governmental unit as an ATV-access route must be posted conspicuously at regular intervals by that governmental unit with

highly visible signs designating the ATV-access route. Before designating a public way as an ATV-access route, the appropriate governmental unit shall make appropriate determinations that ATV travel on the extreme right of the public way may be conducted safely and will not interfere with vehicular traffic on the public way. For purposes of this paragraph, "appropriate governmental unit" means the Department of Transportation, county commissioners or municipal officers within their respective jurisdictions. The jurisdiction of each appropriate governmental unit over public ways pursuant to this paragraph is the same as its jurisdiction over the passage of vehicles on public ways pursuant to Title 29-A, section 2395. Municipal or county law enforcement officials having jurisdiction have primary enforcement authority over any route established under this paragraph.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

7. Failing to stop ATV before entering public way. A person may not fail to bring an ATV to a complete stop before entering a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

8. Failing to yield right-of-way while operating ATV. A person may not fail to yield the right-of-way to all other types of vehicular traffic while operating an ATV on a public way.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

9. Crossing closed bridge, culvert, overpass or underpass with ATV. A person may not cross with an ATV a bridge, culvert, overpass or underpass closed to ATVs by the Commissioner of Transportation pursuant to paragraph A.

A. The Commissioner of Transportation may, following a public hearing, prohibit the crossing by an ATV of an individual bridge, culvert, overpass or underpass if the commissioner determines that that crossing or use of a public way is hazardous. Any bridge, culvert, overpass or underpass closed by the commissioner must be posted by appropriate notices.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

10. Reckless operating on ATV. A person may not operate an ATV in such a way as to recklessly create a substantial risk of serious bodily injury to another person.

A person who violates this subsection commits a Class D crime.

11. Operating ATV to endanger. A person may not operate an ATV so as to endanger any person or property.

12. Operating ATV at greater than reasonable and prudent speed. A person may not operate an ATV except at a reasonable and prudent speed for the existing conditions.

13. Operating ATV without protective headgear. Notwithstanding Title 29-A, section 2083, a person under 18 years of age may not operate an ATV without protective headgear.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

14. Carrying passenger on ATV without headgear. Notwithstanding Title 29-A, section 2083, a person may not carry a passenger under 18 years of age on an ATV unless the passenger is wearing protective headgear.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

15. Operating ATV without muffler. Except as provided in section 13159, a person may not:

A. Operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust; or

B. Modify the exhaust system of an ATV in any manner that will increase the noise emitted above the following emission standard:

(1) Each ATV must meet noise emission standards of the United States Environmental Protection Agency and in no case exceed 82 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

Each ATV must be equipped with a working spark arrester. In addition to any penalties imposed under this subsection, the court may, subject to section 9321

and Title 17-A, chapter 54, order restitution for fire suppression costs incurred by state or municipal government entities in suppressing a fire caused by an ATV operating without a working spark arrester.

16. Operating ATV with insufficient lights. This subsection governs the light equipment required on ATVs.

A. Except as provided in this subsection and section 13159, a person may not operate an ATV in the State, regardless of where purchased, unless equipped as follows.

(1) The ATV must have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the ATV.

(2) The ATV must have mounted on the rear at least one taillight capable of displaying a light that must be visible at a distance of at least 100 feet behind the ATV.

B. The following are exceptions to the requirements of paragraph A.

(1) An ATV manufactured prior to January 1, 1991 without a headlight or taillight is exempt from the provisions of this subsection while being operated between sunrise and sunset.

(2) A person may operate an ATV without a headlight and taillight between sunrise and sunset if:

(a) The ATV has an engine size of 90 cubic centimeters or less; and

(b) The ATV has 4 or more wheels.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

17. Failure to use ATV lights. Except as provided in section 13159, a person may not fail to use the lights required under subsection 16 as follows:

A. During the period from 1/2 hour after sunset to 1/2 hour before sunrise; and

B. At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

18. Unlawfully operating ATV on railroad tracks. This subsection governs operation of an ATV on railroad tracks.

A. A person may not:

(1) Operate an ATV along or adjacent and parallel to the tracks of a railroad within the limits of the railroad right-of-way without written permission from the railroad owning the right-of-way; or

(2) Operate an ATV across the tracks of a railroad after having been forbidden to do so by the railroad owning the railroad right-of-way or by an agent of that railroad, either personally or by appropriate notices posted conspicuously along the railroad right-of-way.

B. Notwithstanding paragraph A, a person may operate within the right-of-way of a portion of railroad line that has been officially abandoned under the authority of the Interstate Commerce Commission.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

19. Operating too close to certain buildings.

A person may not operate an ATV within 200 feet of a dwelling, hospital, nursing home, convalescent home or church, except a person may:

A. Operate an ATV on public ways in accordance with subsections 3, 6, 7, 8 and 9;

B. Operate an ATV on the frozen surface of any body of water; and

C. Operate an ATV on land that the operator owns or is permitted to use.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

20. Failure to report accident. The operator of an ATV involved in an accident resulting in injuries requiring the services of a physician or in the death of a person, a person acting for such an operator or the owner of the involved ATV having knowledge of the accident if the operator of the ATV is unknown shall give notice of the accident, by the quickest means of communication, to a law enforcement officer available nearest to the place where the accident occurred.

Accidents involving only property damage to the estimated amount of \$1,000 or more must be reported within 72 hours on forms provided by the department.

A person who fails to comply with this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

21. Operating ATV in prohibited area. A person may not operate an ATV:

A. On a salt marsh, intertidal zone, marine sand beach, sand dune or any cemetery, burial place or burying ground; or

B. On alpine tundra or on a freshwater marsh or bog, other than on a trail designated for ATV use by the Department of Conservation, when the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

22. Abuse of another person's property. A person may not while operating an ATV:

A. Tear down or destroy a fence or wall on another person's land;

B. Leave open a gate or bars on another person's land; or

C. Trample or destroy crops on another person's land.

A person who violates this subsection commits a Class E crime.

23. Operating ATV on cropland or pastureland. A person may not operate an ATV on any cropland or pastureland without the permission of the owner or lessee. As used in this subsection, "cropland" means acreage in tillage rotation, land being cropped and land in bush fruits and "pastureland" means acreage devoted to the production of forage plants used for animal production.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13158. Unlawfully permitting operation; liability for damage by other persons

1. Permitting operation. A person may not permit operation of an ATV in violation of this subsection. A person permits the operation of an ATV in violation of this subsection if:

A. The person owns an ATV that is operated by another person in violation of this chapter; or

B. The person is the parent or guardian responsible for the care of a minor under 18 years of age who operates an ATV in violation of this chapter.

A person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

2. Furnishing ATV. An owner of an ATV, a person who gives or furnishes an ATV to a person and a parent or guardian responsible for the care of a minor under 18 years of age are jointly and severally liable with the operator for damages caused in the operation of the vehicle or by the minor in operating any ATV.

§13159. Racing meets

Notwithstanding section 13155 and section 13159, subsection 15, subsection 16, paragraph A and subsection 17, ATVs used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this chapter concerning registration, mufflers and lights during the time of operation at these meets and at all pre-race practices at the location of the meets.

§13160. Dealer's registration and license

1. Application and issuance. A person may not engage in the business of selling ATVs in the State unless that person has registered as a dealer and secured a valid dealer's license from the commissioner. A dealer so registered and licensed need not register individual ATVs.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Fees. The annual license fee for a dealer registered under subsection 1 is \$15. The license runs from July 1st of each year.

A. A dealer licensed under Title 29-A, section 954, subsection 2 is not required to pay the license fee under this subsection.

3. Dealer's number plates. Dealer's number plates must be provided and obtained as follows.

A. A dealer registered under subsection 1 may receive dealer's number plates for a \$5 annual fee for each plate.

B. Replacements for lost or stolen plates may be obtained for a fee of \$5 for each plate.

C. If a number plate is lost or stolen, the owner shall notify the commissioner immediately.

4. Temporary registration plate and certificate number. The commissioner may issue temporary registration plates and certificates to a registered dealer who may, upon the sale or exchange of an ATV, issue a temporary registration plate and certificate to a new owner, in order to allow the new owner to operate the ATV for a period of 20 consecutive days, after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration is \$1.

5. Restrictions. A dealer shall display the dealer's number on each ATV being used until the sale of the ATV, whereupon it becomes the owner's responsibility to register the ATV.

6. Warranties and information on used ATVs. A dealer who offers a warranty in connection with the sale or transfer of a used ATV shall furnish a written statement concerning that warranty. The statement regarding the warranty must indicate the parts or systems of the vehicle that are covered and those not covered by the warranty and what the dealer will do in the event of a defect and at whose expense repairs be made.

The dealer shall also furnish before sale a written statement identifying any and all defects known to the dealer and any type of damage that the vehicle has sustained if such information is known to the dealer.

7. Violation. Each day a person violates any restriction of a license issued under this section, that person commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

§13161. ATV lights

1. Headlight and taillight required. A person may not sell or offer to sell a new ATV unless:

A. That ATV is equipped with a functioning headlight and taillight; or

B. The ATV:

(1) Is a 2-wheel off-road motorcycle; or

(2) Has an engine size of 90 cubic centimeters or less and has 4 or more wheels.

2. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

SUBPART 7
LOCAL REGULATION
CHAPTER 941
LOCAL REGULATION

§13201. Limits on local regulation

A municipality or political subdivision of the State may not enact any ordinance, law or rule regulating the hunting, trapping or fishing for any species of fish or wildlife; the operation, registration or numbering of watercraft or snowmobiles or any other subject matter relating to watercraft or snowmobiles regulated under chapter 935 or 937 or under any other provisions of this Part. For purposes of this section, except as provided in subsection 3, the regulation of fishing includes the regulation of ice fishing shacks. This section may not be construed to prohibit:

1. Firearm discharge. The enactment of any ordinance generally regulating the discharge of firearms in a municipality or any part of a municipality;

2. Certain rules. The adoption of rules as authorized in section 13051; or

3. Ice fishing shacks. The enactment of any ordinance regulating ice fishing shacks on:

A. Sources of public water supply as provided under Title 22, section 2642; or

B. Coastal waters as defined in section 6001, subsection 6.

PART B

Sec. B-1. 4 MRSA §164, sub-§15, ¶A, as amended by PL 1995, c. 462, Pt. A, §4, is further amended to read:

A. A fisheries and wildlife offense means any violation of any provision of Title 12, Part ~~10~~ 13; any provision of law enumerated in Title 12, section ~~7053~~ 10353; or any rule adopted by the Commissioner of Inland Fisheries and Wildlife pursuant to these provisions.

Sec. B-2. 4 MRSA §164, sub-§17, ¶A, as amended by PL 1993, c. 680, Pt. A, §6, is further amended to read:

A. A marine resources offense means any violation of any provision of Title 12, chapters 601 to 627 and ~~chapter 745~~ chapters 935, 937 and 939,

or any rules adopted by the Commissioner of Marine Resources pursuant to those chapters.

Sec. B-3. 4 MRSA §164, sub-§18, ¶A, as enacted by PL 1991, c. 635, is amended to read:

A. For purposes of this subsection, a forest service offense means any violation of Title 12, chapters ~~705, 745,~~ 801, 805, 807 ~~and~~ 809, 935, 937 and 939 and section 10203, subsection 6 and sections 10651, 10653 and 11221 or any rules adopted by the Director of the Maine Forest Service pursuant to those chapters.

Sec. B-4. 5 MRSA §12004-G, sub-§20, as amended by PL 1995, c. 667, Pt. A, §1 and affected by §39, is further amended to read:

20.	Inland Fisheries and Wildlife Advisory Council	\$50/Day	12 MRSA §7033-A- <u>§10151</u>
------------	--	----------	--

Sec. B-5. 5 MRSA §12004-G, sub-§29-B, as enacted by PL 1995, c. 494, §3, is amended to read:

29-B.	Maine Outdoor Heritage Fund Board	Legislative Per Diem and Travel Expenses for Appointed Members	12 MRSA §7788- <u>§10308</u>
--------------	-----------------------------------	--	--

Sec. B-6. 5 MRSA §12004-I, sub-§23, as amended by PL 1989, c. 503, Pt. A, §27, is further amended to read:

23.	Advisory Board for the Licensing of Guides	\$50/Day	12 MRSA §7320- <u>§10153</u>
------------	--	----------	--

Sec. B-7. 5 MRSA §12004-I, sub-§23-A, as enacted by PL 1989, c. 913, Pt. C, §2, is amended to read:

23-A.	Advisory Board for the Licensing of Taxidermists	\$50/Day	12 MRSA §7355- <u>§10155</u>
--------------	--	----------	--

Sec. B-8. 5 MRSA §12004-I, sub-§23-B, as enacted by PL 1995, c. 667, Pt. B, §1, is amended to read:

23-B. Environment: Natural Resources	Advisory Board for the Licensing of White- water Guides	\$50/Day	12 MRSA §7366-A <u>§10156</u>
--	---	----------	---

Sec. B-9. 5 MRSA §12004-I, sub-§24, as amended by PL 1989, c. 503, Pt. A, §27, is further amended to read:

24. Environment: Natural Resources	Junior Maine Guides and Trip Leaders Curriculum Advisory Board	Expenses Only	12 MRSA §7323 <u>§10154</u>
--	---	------------------	---

Sec. B-10. 5 MRSA §12004-I, sub-§70, as amended by PL 1991, c. 780, Pt. S, §§2 and 3, is further amended to read:

70. Natural Resources: Recreation	White- water Safety Committee	\$25/Day	12 MRSA §7367 <u>§12910</u>
---	--	----------	---

Sec. B-11. 7 MRSA §2-A, as enacted by PL 1995, c. 667, Pt. C, §1, is amended to read:

§2-A. Hunters for the Hungry Program; acceptance of donations

The department and those recipient agencies participating in the department's food assistance distribution programs may accept wild game meat from persons participating in the Hunters for the Hungry Program established under Title 12, ~~chapter 709, subchapter III-A~~ section 10108. The department may facilitate the acceptance of that meat by its recipient agencies through coordination with the Department of Inland Fisheries and Wildlife and may undertake educational and promotional efforts on behalf of the program.

Sec. B-12. 7 MRSA §1342, sub-§6, as enacted by PL 1999, c. 765, §3, is amended to read:

6. Restrictions. Large game may not be tethered in a shooting area and must be free to roam. A person may shoot or attempt to shoot large game within a shooting area only when that person is in a tree stand or accompanied by the license holder or an employee of the license holder. Shooting is limited to the time period from 1/2 hour before sunrise as defined in Title 12, section ~~7004~~ 10001 to 1/2 hour after sunset as defined in Title 12, section ~~7004~~ 10001. A person who kills or attempts to kill large game in a

commercial large game shooting area may use only the following weapons:

- A. Firearms of any type permitted for hunting under Title 12, Part ~~40~~ 13; and
- B. Archery equipment of any type permitted for hunting under Title 12, Part ~~40~~ 13.

Sec. B-13. 7 MRSA §3953, as amended by PL 1997, c. 690, §37, is further amended to read:

§3953. Stealing, injuring or killing dogs

Except as provided in section 3951 and Title 12, ~~sections 7504 and 7505~~ section 12404, and unless the killing is justified to protect persons or property, ~~any~~ a person who steals, confines or secretes, willfully or negligently injures or willfully or negligently kills a dog is liable in damages to ~~its~~ the dog's owner in a civil action.

Sec. B-14. 7 MRSA §4011, sub-§1, ¶G, as amended by PL 2001, c. 617, §9, is further amended to read:

- G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to ~~Title 7,~~ chapter 202-A and Title 12, Part ~~40~~ 13;

Sec. B-15. 7 MRSA §4011, sub-§2, ¶C, as enacted by PL 1987, c. 383, §3, is amended to read:

- C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part ~~40~~ 13.

Sec. B-16. 7 MRSA §4012, sub-§§2 and 3, as enacted by PL 1987, c. 383, §3, are amended to read:

2. Construction. ~~Nothing in this~~ This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter ~~707~~ 915, subchapter ~~IX~~ 13.

3. Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part ~~40~~ 13.

Sec. B-17. 8 MRSA §374, sub-§5, as amended by PL 1997, c. 373, §7, is further amended to read:

5. Wildlife lottery game. No later than January 30, 1996, the commission, in consultation with the

Maine Outdoor Heritage Fund Board, shall develop and initiate a wildlife lottery game designed to raise funds for the Maine Outdoor Heritage Fund established pursuant to Title 12, chapter ~~714~~ 903, ~~subchapter 6~~. The commission shall provide the net proceeds of this wildlife lottery game to the Maine Outdoor Heritage Fund annually. The commission shall change the wildlife game ticket periodically throughout the year.

Sec. B-18. 8 MRSA §387, sub-§1, ¶D, as enacted by PL 1995, c. 494, §5, is amended to read:

D. For payment to the Maine Outdoor Heritage Fund pursuant to Title 12, section ~~7782~~ 10302.

Sec. B-19. 10 MRSA §1242, sub-§15, as enacted by PL 1997, c. 473, §3, is amended to read:

15. Personal sports mobile. "Personal sports mobile" means any snowmobile as defined in Title 12, section ~~7824~~ 13001, subsection ~~5~~ 25; any all-terrain vehicle as defined in Title 12, section ~~7854~~ 13001, subsection ~~2~~ 3; any motorcycle as defined in Title 29-A, section 101, subsection 38; and any personal watercraft as defined in Title 12, section ~~7794~~ 13001, subsection ~~4-A~~ 23. "Personal sports mobile" does not include a motor vehicle as defined in section 1171, subsection 11.

Sec. B-20. 12 MRSA §598-A, sub-§1, ¶¶A and B, as enacted by PL 1993, c. 639, §1, are amended to read:

A. State-owned wildlife management areas and public access sites described in section ~~7652~~ 10109, subsection 1 and section 12708; and

B. Lands held and managed as a state game farm under the provisions of section ~~7735~~ 10109, ~~sub-section 2~~;

Sec. B-21. 12 MRSA §1893, sub-§1, ¶A, as amended by PL 2001, c. 693, §1 and affected by §11, is further amended to read:

A. Within available funds, the snowmobile program shall develop and maintain snowmobile trails and provide educational and informational materials for the use of operators of snowmobiles. The bureau may charge a reasonable fee for such services and materials when the money credited to it under chapter ~~715~~, ~~subchapter H~~ 937 is insufficient to satisfy the demand for those services and materials. All fees collected must be deposited in the bureau's Snowmobile Trail Fund. The bureau shall administer the Snowmobile Trail Fund, and the snowmobile program's other activities must be conducted pursuant to section ~~7824~~, subsection ~~4~~ 3. The Snowmobile Trail Fund receives funding as provided in

chapter ~~715~~, ~~subchapter H~~ 937 and Title 36, section 2903-D, subsection 2.

Sec. B-22. 12 MRSA §1893, sub-§1, ¶B, as amended by PL 2001, c. 693, §1 and affected by §11, is further amended to read:

B. The bureau shall administer the ATV Recreational Management Fund established under section ~~7854~~, subsection ~~4~~ 2 for the purposes given in that subsection and for the acquisition of land to be used for ATV trails. The bureau may adopt rules in accordance with Title 5, chapter 375, subchapter ~~H~~ 2 for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section ~~7854~~ 13001, subsection ~~2-A~~ 4. Additional funding for the ATV Recreational Management Fund is as provided in Title 36, section 2903-D, subsection 3.

Sec. B-23. 12 MRSA §1893-A, sub-§2, as enacted by PL 2001, c. 466, §7, is amended to read:

2. Development of recreational management areas. An owner or operator of an excavation site proposing to develop a recreational management area and requesting a variance from reclamation standards under Title 38, section 490-E shall request the assistance of the division.

Upon receipt of a request for assistance, the division shall assess the affected land for suitability for an all-terrain vehicle trail system. The division shall advise the landowner of funding, technical assistance and other assistance available through the ATV ~~Recreation~~ Recreational Management Fund established in section ~~7854~~ 1893, ~~subsection 4, paragraph B~~ subsections 2 and 3. When an initial assessment of the affected land indicates the area is appropriate for an all-terrain vehicle trail system, the division may assist the owner or operator in developing a plan and completing a variance application.

Sec. B-24. 12 MRSA §6431-E, sub-§1, ¶B, as enacted by PL 1997, c. 693, §1 and affected by §3, is amended to read:

B. "Owner" means:

(1) An individual who is the owner of a vessel registered under chapter ~~715~~, ~~subchapter I~~ 935 or the owner of a vessel documented under 46 Code of Federal Regulations, Part 67;

(2) The person who owns the highest percentage of a partnership, corporation or other entity that is the owner of a vessel registered under chapter ~~715~~, ~~subchapter I~~ 935 or a vessel documented under 46 Code of Federal Regulations, Part 67; or

(3) When 2 or more people own in equal proportion the highest percentages of a partnership, corporation or other entity that owns a vessel registered under chapter ~~715~~, ~~subchapter 1~~ 935 or a vessel documented under 46 Code of Federal Regulations, Part 67, one of the highest percentage owners as designated by the owners of that partnership, corporation or other entity.

Sec. B-25. 12 MRSA §9904, sub-§11, as enacted by PL 1995, c. 406, §12, is amended to read:

11. Fishing in inland waters. When fishing in inland waters, the holder of a license authorized under this section is subject to all the provisions of ~~chapters 701 to 721~~ Part 13.

Sec. B-26. 14 MRSA §3142, sub-§1, ¶C, as amended by PL 2001, c. 471, Pt. A, §20, is further amended to read:

C. The suspension of any license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry, not including a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B. Licenses and registration subject to suspension include, but are not limited to:

(1) Licenses issued by the Commissioner of Marine Resources, as provided in Title 12, section 6409;

(2) Licenses issued by the Commissioner of Inland Fisheries and Wildlife, as provided in Title 12, section ~~7077~~ 10902, subsection ~~4-C~~ 3;

(3) Watercraft, snowmobile and all-terrain vehicle registrations, as provided in Title 12, section ~~7077~~ 10902, subsection ~~4-C~~ 3; and

Sec. B-27. 14 MRSA §8104-A, sub-§1, ¶F, as enacted by PL 1987, c. 740, §4, is amended to read:

F. Snowmobiles, as defined in Title 12, section ~~7824~~ 13001, subsection ~~5~~ 25; and

Sec. B-28. 15 MRSA §1025, as amended by PL 2001, c. 604, §20, is further amended to read:

§1025. Law enforcement officers

A law enforcement officer making a warrantless arrest under Title 17-A, section 15 may, without fee, take the personal recognizance of any defendant for

appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in accordance with Title 12, section ~~7053~~ 10353, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

Sec. B-29. 15 MRSA §3103, sub-§1, ¶E, as amended by PL 1997, c. 462, §2, is further amended to read:

E. Offenses involving hunting or the operation or attempted operation of a watercraft, ATV or snowmobile while under the influence of intoxicating liquor or drugs, as defined in Title 12, section ~~7406~~ 10701, subsection ~~3~~; ~~Title 12, section 7801, subsection 9~~; ~~Title 12, section 7827, subsection 9~~; and ~~Title 12, section 7857, subsection 10, respectively~~ 1, and offenses involving failing to aid an injured person or to report a hunting accident as defined in Title 12, section ~~7406, subsection 15~~ 11223;

Sec. B-30. 17 MRSA §1031, sub-§1, ¶G, as amended by PL 2001, c. 617, §11, is further amended to read:

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part ~~40~~ 13;

Sec. B-31. 17 MRSA §1031, sub-§2, ¶C, as enacted by PL 1987, c. 383, §4, is amended to read:

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part ~~40~~ 13.

Sec. B-32. 17 MRSA §1032, sub-§3, as enacted by PL 1987, c. 383, §4, is amended to read:

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter ~~707~~ 915, subchapter ~~IX~~ 13.

Sec. B-33. 17 MRSA §1033, sub-§3, as enacted by PL 1987, c. 383, §4, is amended to read:

3. Affirmative defense. It is an affirmative defense to prosecution under subsections 1 and 2, that the activity charged involves the possession, training, exhibition or use of an animal in the otherwise lawful sport of animal hunting and the training or use of hunting dogs. It is also an affirmative defense that the

defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part ~~40~~ 13.

Sec. B-34. 17 MRSA §3853-D, sub-§2, ¶B, as enacted by PL 1989, c. 289, is amended to read:

B. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including all-terrain vehicles as defined in Title 12, section ~~7854~~ 13001, but not including snowmobiles.

Sec. B-35. 22 MRSA §1696-I, 2nd ¶, as enacted by PL 1993, c. 280, §1, is amended to read:

If, in the professional judgment of the Director of the Bureau of Health, conditions exist in which consumption of fish caught in state waters poses a threat to public health, the director shall prepare an advisory of the public health threat. The advisory must be in a form suitable for posting in places frequented by noncommercial anglers, included in the abstract of fish and wildlife laws prepared under Title 12, section ~~7034~~ 10103, subsection ~~5~~ 7 and distributed to all holders of sport fishing licenses. The director has final authority regarding the content of the advisory, including the exact language used in the advisory. The Commissioner of Inland Fisheries and Wildlife is responsible for printing and posting verbatim copies of the advisory and for incorporating the verbatim health advisory in the abstract of fish and wildlife laws.

Sec. B-36. 25 MRSA §2001, sub-§3, as enacted by PL 1985, c. 478, §2, is amended to read:

3. Hunting knives. Knives used ~~for the purposes of hunting, fishing or trapping to hunt, fish or trap~~ as defined in Title 12, section ~~7004~~ 10001;

Sec. B-37. 25 MRSA §2001, sub-§6, as amended by PL 2001, c. 459, §1, is further amended to read:

6. Licensed hunters and trappers. Firearms carried by any person engaged in conduct for which a state-issued hunting or trapping license is required and possessing the required license, or firearms carried by a resident person engaged in conduct expressly authorized by Title 12, section 11108 and section 7377, subsections 1 and 2 12202, subsection 1. This subsection does not authorize or permit the carrying of a concealed or loaded firearm in a motor vehicle; and

Sec. B-38. 26 MRSA §1043, sub-§11, ¶F, as corrected by RR 2001, c. 1, §40, is amended by amending subparagraph (38) to read:

(38) Services performed by a person licensed as a guide as required by Title 12, section ~~7344~~ 12853, as long as that employment is not subject to federal unemployment tax;

Sec. B-39. 26 MRSA §1420-A, sub-§3, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

3. Guide dogs. Every deaf or hard-of-hearing person has the right to be accompanied by a guide dog, described and known as a "hearing dog," especially trained for the purpose, and identified by a collar and leash colored hunter orange, as that color is defined in Title 12, section ~~7004~~ 10001, subsection ~~46~~ 32, in a place listed in subsection 2 without being required to pay an extra charge for the guide dog, except that the person is liable for any damage done to the premises or facilities by that dog. When the deaf or hard-of-hearing person is accompanied by a guide dog, the person must also carry a card, issued by the Bureau of Rehabilitation Services, that states that the dog is an especially trained guide dog and cites section 1420 and this section that allow for access by the person and the person's dog to streets, public places and public conveyances.

Sec. B-40. 29-A MRSA §101, sub-§25-A, as enacted by PL 2001, c. 197, §1, is amended to read:

25-A. Golf cart. "Golf cart" means a motor vehicle that is originally designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. ~~A golf~~ "Golf cart" does not include an ATV as defined in Title 12, section ~~7854~~ 13001.

Sec. B-41. 29-A MRSA §101, sub-§32-A, as enacted by PL 1999, c. 660, §1, is amended to read:

32-A. Low-speed vehicle. "Low-speed vehicle" means a 4-wheeled automobile that is able to attain a speed of at least 20 miles per hour but not more than 25 miles per hour and does not exceed 1800 pounds in unloaded weight. "Low-speed vehicle" does not include an ATV as defined in Title 12, section ~~7854~~ 13001. A low-speed vehicle must be originally manufactured and maintained in accordance with the Federal Motor Vehicle Safety Standards as a low-speed vehicle pursuant to 49 Code of Federal Regulations, Section 571.500 (1998).

Sec. B-42. 29-A MRSA §101, sub-§42, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A snowmobile as defined in Title 12, section ~~7824~~ 13001;

Sec. B-43. 29-A MRSA §101, sub-§42, ¶B, as amended by PL 2001, c. 361, §2, is further amended to read:

B. An all-terrain vehicle as defined in Title 12, section ~~7854~~ 13001, unless the all-terrain vehicle is registered for highway use or is operated on a way and section 2080 applies; and

Sec. B-44. 29-A MRSA §101, sub-§91, as amended by PL 2001, c. 687, §12, is further amended to read:

91. Vehicle. "Vehicle" means a device for conveyance of persons or property on a way. "Vehicle" does not include conveyances propelled or drawn by human power or used exclusively on tracks or snowmobiles as defined in Title 12, section ~~7824~~ 13001 or an electric personal assistive mobility device as defined in this section.

Sec. B-45. 29-A MRSA §455, sub-§4, as amended by PL 1995, c. 256, §1, is further amended to read:

4. Initial contribution to Maine Environmental Trust Fund; renewal contribution. In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the initial contribution for environmental registration plates is \$20, which must be deposited with the Treasurer of State and credited to the Maine Environmental Trust Fund established in Title 12, section ~~7759~~ 10255.

In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the annual renewal contribution for environmental registration plates is \$15, which must be deposited with the Treasurer of State and credited to the Maine Environmental Trust Fund established in Title 12, section ~~7759~~ 10255.

Sec. B-46. 29-A MRSA §2251, sub-§11, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

11. Exemption. The operator of a snowmobile ~~as defined by Title 12, section 7821,~~ or an all-terrain vehicle as defined by Title 12, section ~~7854~~ 13001, unless the all-terrain vehicle is registered for highway use by the Secretary of State under this Title, is exempt from the reporting requirements of subsections 2 and 5.

Sec. B-47. 30-A MRSA §7502, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Fund established. There is established in each county, one unorganized territory fund ~~into to~~ which ~~shall~~ must be credited all receipts under Title 12, section ~~7824~~ 10203 and Title 36, sections 1489 and 1606 and all other receipts ~~which that~~ are allocated for municipal services in the unorganized territory, and from which all disbursements for municipal services in the unorganized territory ~~shall be~~ are made.

Sec. B-48. 33 MRSA §1581, sub-§2, ¶C, as enacted by PL 1999, c. 371, §1, is amended to read:

C. For use by all-terrain vehicles as defined in Title 12, section ~~7854~~ 13001 if the instrument creating the easement provides for the use of all-terrain vehicles; or

Sec. B-49. 36 MRSA §655, sub-§1, ¶L, as amended by PL 1991, c. 546, §9, is further amended to read:

L. Registered snowmobiles as defined in Title 12, section ~~7824~~ 13001, subsection ~~5~~ 25;

Sec. B-50. 36 MRSA §1106-A, sub-§3, ¶C, as enacted by PL 1993, c. 452, §9, is amended to read:

C. Public access open space is an area of open space land, whether ordinary, permanently protected or forever wild, that is eligible for an additional cumulative percentage reduction in valuation because public access is by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant, without disqualifying land from status as public access open space, may impose temporary or localized public access restrictions to:

- (1) Protect active habitat of endangered species listed under Title 12, chapter ~~743~~ 925, subchapter ~~3~~ 3;
- (2) Prevent destruction or harm to fragile protected natural resources under Title 38, chapter 3, subchapter ~~1~~ 1, article 5-A; or
- (3) Protect the recreational user from any hazardous area.

Sec. B-51. 36 MRSA §1109, sub-§3, ¶M, as enacted by PL 1989, c. 748, §4, is amended to read:

M. The identification of the land or of outstanding natural resources on the land by a leg-

islatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection including, but not limited to, the Register of Critical Areas under Title 5, chapter 312; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and sections 7654 12706 and 7652 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter ~~1~~ 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21; or

Sec. B-52. 36 MRSA §1481, sub-§3, as amended by PL 1991, c. 546, §15, is further amended to read:

3. Motor vehicle. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including motorcycles, but not including aircraft. "Motor vehicle" does not include any vehicle prohibited by law from operating on the public highways. "Motor vehicle" does not include any snowmobile as defined in Title 12, section ~~7824~~ 13001.

Sec. B-53. 36 MRSA §1481, sub-§5, as amended by PL 2001, c. 396, §20, is further amended to read:

5. Vehicle. "Vehicle" means a motor vehicle, mobile home, camper trailer, heavier-than-air aircraft or lighter-than-air aircraft. "Vehicle" does not include any snowmobiles as defined in Title 12, section ~~7824~~ 13001.

Sec. B-54. 36 MRSA §1503, sub-§1, ¶A, as enacted by PL 1983, c. 92, Pt. B, §9, is amended to read:

A. Is required to be registered under Title 12, section ~~7794~~ 13056; or

Sec. B-55. 36 MRSA §1503, sub-§8-B, as enacted by PL 1997, c. 324, §4 and affected by §7, is amended to read:

8-B. Registration period. "Registration period" means from January 1st to December 31st of the year for which the certificate of number is issued pursuant to Title 12, section ~~7794~~ 13056.

Sec. B-56. 36 MRSA §1504, sub-§1, as amended by PL 1987, c. 196, §§6 and 7, is further amended by amending the first paragraph to read:

1. Payment schedule. An excise tax ~~shall be~~ is payable annually by the owner of each watercraft located in this State, except those exempt under subsection 4, within 10 days of operation upon the

waters of this State, or prior to obtaining a certificate of number pursuant to Title 12, section ~~7794~~ 13056, or prior to July 1st, whichever event first occurs, based on the following schedules. For 1984, watercraft subject to the watercraft excise tax, ~~which that~~ are not required to register under Title 12, ~~former~~ chapter 715, ~~shall are~~ not be required to pay the excise tax until June 30, 1984.

Sec. B-57. 36 MRSA §1504, sub-§4, ¶E, as enacted by PL 1983, c. 92, Pt. B, §9, is amended to read:

E. Watercraft 20 feet or less in length ~~which that~~ are not required to be registered under Title 12, section ~~7794~~ 13056.

Sec. B-58. 36 MRSA §1504, sub-§7, as amended by PL 1985, c. 726, §6, is further amended to read:

7. Evidence of tax payment. Each watercraft, required to pay the excise tax established by this chapter but not required to be registered under Title 12, section ~~7794~~ 13056, ~~shall~~ must display a current excise tax decal as directed by the commissioner. A current excise tax decal ~~shall~~ must be issued by the municipal tax collector or tribal clerk upon the payment of all excise taxes due under this chapter. The commissioner shall make excise tax decals available at cost to municipalities and Indian reservations. For watercraft required to be registered under Title 12, section ~~7794~~ 13056, the registration sticker ~~shall be~~ is considered evidence of tax payment.

Sec. B-59. 36 MRSA §1504, sub-§9, ¶A, as amended by PL 1985, c. 726, §8, is further amended to read:

A. Beginning March 1, 1984, payment of the excise tax and accrued interest, where applicable, is a prerequisite for obtaining a certificate of number of a watercraft under Title 12, section ~~7794~~ 13056, and no registration may be renewed until all excise taxes and accrued interest, where applicable, with respect to the watercraft have been paid in accordance with this chapter.

Sec. B-60. 36 MRSA §1752, sub-§7, as amended by PL 1991, c. 546, §16, is further amended to read:

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle ~~as defined in Title 12, section 7854~~ and a snowmobile as defined in Title 12, section ~~7824~~ 13001.

Sec. B-61. 36 MRSA §1760, sub-§23-C, ¶A, as enacted by PL 1999, c. 759, §2 and affected by §5, is amended to read:

A. Motor vehicles, except all-terrain vehicles ~~as defined in Title 12, section 7854~~ and snowmobiles as defined in Title 12, section ~~7824~~ 13001;

Sec. B-62. 36 MRSA §1760, sub-§25-A, as amended by PL 1995, c. 467, §15, is further amended to read:

25-A. All-terrain vehicles. All-terrain vehicles as defined in Title 12, section ~~7854~~ 13001 purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. The purchaser is exempt from use tax, unless the all-terrain vehicle is present in the State for more than 30 days during the 12-month period following the date of purchase or is registered in the State without being registered in another state within 12 months of the date of purchase;

Sec. B-63. 36 MRSA §1760, sub-§25-B, as enacted by PL 1995, c. 467, §16, is amended to read:

25-B. Snowmobiles. A snowmobile, as that term is defined in Title 12, section ~~7824~~ 13001, subsection ~~5~~ 25, purchased by a person who is not a resident of this State;

Sec. B-64. 36 MRSA §1952-A, as amended by PL 1995, c. 625, Pt. A, §50, is further amended to read:

§1952-A. Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft must, except where the dealer of the vehicle or watercraft has collected the tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of the vehicle or watercraft. In the case of vehicles except snowmobiles and all-terrain vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29-A, section 409. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections ~~7793 A to 7793 E, 7824 A to 7824 F or 7854 A to 7854 E~~ 13002 to 13005.

Sec. B-65. 36 MRSA §1955-C, as amended by PL 1995, c. 467, §19, is further amended to read:

§1955-C. Assessment for vehicles

Certificates forwarded to the State Tax Assessor under Title 29-A, section 409, subsection 4 or Title 12, section ~~7793 C, 7824 F or 7854 C~~ 13003, must be treated as returns filed under this Title for purposes of section 141.

Sec. B-66. 36 MRSA §2903-D, sub-§2, ¶A, as enacted by PL 2001, c. 693, §7 and as affected by §11, is amended to read:

A. The Commissioner of Inland Fisheries and Wildlife receives 14.93% of that amount, to be used by the commissioner for the purposes set forth in Title 12, section ~~7824~~ 1893, subsection 3, section 10206, subsection 2, section 13104, subsections 2 to 13 and section 13105, subsection 1; and

Sec. B-67. 36 MRSA §2903-D, sub-§3, ¶B, as enacted by PL 2001, c. 693, §7 and as affected by §11, is amended to read:

B. The ATV Recreational Management Fund, established in Title 12, section ~~7854~~ 1893, subsection ~~4, paragraph B,~~ 2 receives 50% of that amount.

Sec. B-68. 36 MRSA §5284, as amended by PL 1995, c. 639, §30, is further amended to read:

§5284. Nongame wildlife voluntary checkoff

1. Maine Endangered and Nongame Wildlife Fund. Taxpayers who, when filing their return, are entitled to a refund under this Part may designate that a part of that refund be paid into the Maine Endangered and Nongame Wildlife Fund established in Title 12, section ~~7757~~ 10253. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Endangered and Nongame Wildlife Fund by including with that taxpayer's return sufficient funds to make the contribution. Each individual income tax return form must contain a designation in substantially the following form: "Contribution to Maine Endangered and Nongame Wildlife Fund: () \$5, () \$10, () \$25 or () Other \$."

2. Contributions credited to Maine Endangered and Nongame Wildlife Fund. The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, ~~he the assessor~~ shall deduct the cost of administering the nongame checkoff, but not exceeding \$5,000 annually, and report the remainder to the Treasurer of State, who shall credit that amount to the Maine Endangered and Nongame Wildlife Fund, which is established in Title 12, section ~~7757~~ 10253.

Sec. B-69. 37-B MRSA §183, sub-§1, as amended by PL 1995, c. 600, §4, is further amended to read:

1. Activation of Maine National Guard. In the event of illness, injury, missing persons or loss of life, creating an emergency that requires specialized personnel or equipment of the Maine National Guard to prevent human suffering, increased health risk or loss of life, the Governor or the Governor's designee may order into active state service the necessary personnel and equipment of the Maine National Guard. Human health emergencies may include medical evacuation and search and rescue under Title 6, section 303 and Title 12, section ~~7035~~ 10105, which may include providing emergency helicopter airlift service. Any person ordered into active state service, for the purposes of this subsection, is considered a state employee for purposes of the Maine Tort Claims Act and that person's liability is limited by that Act.

Sec. B-70. 38 MRSA §423, as amended by PL 1989, c. 502, Pt. B, §49, is further amended to read:

§423. Discharge of waste from watercraft

~~No~~ A person, firm, corporation or other legal entity may not discharge, spill or permit to be discharged sewage, garbage or other pollutants from watercraft, as defined in Title 12, section ~~7794~~ 13001, subsection ~~44~~ 28, and including houseboats, into inland waters of this State, or on the ice ~~thereof~~ of inland waters, or on the banks ~~thereof~~ of inland waters in such a manner that the same may fall or be washed into such waters, or in such manner that the drainage ~~therefrom~~ from the sewage, garbage or other pollutants may flow into such waters.

Any watercraft, as defined in Title 12, section ~~7794~~ 13001, subsection ~~44~~ 28, including houseboats, operated upon the inland waters of this State and having a permanently installed sanitary waste disposal system ~~shall~~ must have securely affixed to the interior discharge opening of such sanitary waste disposal system a holding tank or suitable container for holding sanitary waste material so as to prevent its discharge or drainage into the inland waters of the State.

Sec. B-71. 38 MRSA §480-R, sub-§2, as amended by PL 1989, c. 546, §7 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §82, is further amended to read:

2. Enforcement. In addition to department staff, inland fisheries and wildlife game wardens, Department of Marine Resources marine patrol officers and all other law enforcement officers enumerated in Title 12, section ~~7055~~, 10401 shall enforce the terms of this article.

Sec. B-72. 38 MRSA §1861, sub-§3, as enacted by PL 2001, c. 434, Pt. A, §7, is amended to read:

3. Watercraft. "Watercraft" has the same meaning as in Title 12, section ~~7794~~ 13001, subsection ~~44~~ 28.

Sec. B-73. 38 MRSA §1863, as enacted by PL 2001, c. 434, Pt. A, §7, is amended to read:

§1863. Invasive Aquatic Plant and Nuisance Species Fund

The Invasive Aquatic Plant and Nuisance Species Fund, referred to in this section as the "fund," is created within the department as a nonlapsing fund. The fund is administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under Title 12, section ~~7794-B~~ 13058, subsection 3 and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used only for costs related to conducting inspections under section 1862, conducting invasive aquatic plant prevention, containment, eradication and management activities and reimbursing agencies as necessary for costs associated with conducting or enforcing the provisions of this chapter and chapter 20-B. The commissioner may also use funds to contract with municipalities or other entities to conduct inspection, prevention or eradication programs to protect the inland waters of the State from invasive aquatic plant and nuisance species.

PART C

Sec. C-1. 12 MRSA §1893, sub-§§2 and 3 are enacted to read:

2. ATV Recreational Management Fund. The ATV Recreational Management Fund, referred to in this subsection as "the fund," is established and administered by the department.

A. The fund may be used to conduct research on issues related to the management of ATVs; assist in the formation of nonprofit ATV groups; make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, ATV groups and others to construct and maintain ATV trails or to otherwise carry out the purposes of the fund; assist in the design and development of ATV trails; provide protection to landowners against ATV-related suit or liability; or otherwise provide for the wise and orderly management of ATVs.

B. If any money in the fund is not expended during the year in which it is collected, the unexpended balance may not lapse, but must be

carried as a continuing account available for the purposes specified until expended.

3. Use of fees. This subsection applies to the use of fees credited to the Snowmobile Trail Fund.

A. The bureau is authorized to use the money credited to the Snowmobile Trail Fund to make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, snowmobile groups and others for the construction and maintenance of snowmobile trails and for research, development and planning of snowmobile trails.

(1) For all grants disbursed after July 1, 1984, the bureau shall adopt rules specifying how to apply for the grants, which projects are eligible and the formula for state support.

(2) The bureau may charge a reasonable fee for these services and materials when the money credited to it under this paragraph is insufficient to satisfy the demand for the services and materials. All fees so collected must be deposited in the Snowmobile Trail Fund.

(3) If any of the money is not expended during the year in which the money is collected, the unexpended balance does not lapse, but is carried as a continuing account available for the purposes specified until expended.

B. The bureau is authorized to use money credited to the Snowmobile Trail Fund for snowmobile trail acquisition, including, but not limited to, the purchase or lease of real estate, grants to snowmobile clubs, municipalities and counties for the acquisition of snowmobile trail maintenance equipment and the acquisition of easements, construction, development, planning and maintenance and for providing educational and informational materials for the use of operators of snowmobiles and for research.

C. The money distributed to municipalities by the bureau under this subsection may be appropriated by the municipalities for any purpose for which they may lawfully appropriate money.

Sec. C-2. 12 MRSA §9908 is enacted to read:

§9908. Unlawful fishing for Atlantic salmon

1. Prohibition. A person may not fish for Atlantic salmon in violation of the provisions of this Part.

2. Penalty. A person who violates this section commits a Class E crime, and the court shall impose an additional fine of \$500, none of which may be suspended, for each Atlantic salmon unlawfully possessed.

PART D

Sec. D-1. Rules; transition. All rules adopted by any state agency, department or board under the authority of the Maine Revised Statutes, Title 12, former Part 10 continue in force until they are repealed, rescinded, amended or revoked.

Sec. D-2. Rule-making authority. All rule-making authority enacted in Part A of this Act is a continuation of rule-making authority contained in the Maine Revised Statutes, Title 12, former Part 10, and is not new rule-making authority for the purposes of Title 5, chapter 375, subchapter 2-A. Notwithstanding Title 5, chapter 375, subchapter 2-A, any change to a major substantive rule to reflect updated statutory cross-references necessitated by Part A of this Act does not require legislative review under that subchapter.

Sec. D-3. Continuation of terms. Nothing in Part A of this Act is intended to affect the terms of members serving on the effective date of this Act on the Inland Fisheries and Wildlife Advisory Council established in the Maine Revised Statutes, Title 12, former section 7033-A, the Maine Outdoor Heritage Fund Board established in Title 12, former section 7788, the Advisory Board for the Licensing of Guides established in Title 12, former section 7320, the Advisory Board for the Licensing of Taxidermists established in Title 12, former section 7355, the Advisory Board for the Licensing of Whitewater Guides established in Title 12, former section 7366-A, the Junior Maine Guides and Trip Leaders Curriculum Advisory Board established in Title 12, former section 7323 and the Whitewater Safety Committee established in Title 12, former section 7367.

Sec. D-4. Legislative intent. It is the intent of the Legislature that this Act be considered a recodification of certain laws governing inland fisheries and wildlife and that this Act not be considered to change or revise in any way the meaning or intent of those laws.

Sec. D-5. Authorization to report out legislation. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters may report out to the Second Regular Session of the 121st Legislature and to the First Regular Session of the 122nd Legislature legislation, including legislation to correct and update any cross-references, related to and necessitated by the recodification enacted by this Act.

Sec. D-6. Department recommendations.

The Department of Inland Fisheries and Wildlife shall develop recommendations to address legal ambiguities and other issues identified by the Office of Policy and Legal Analysis in its work on this recodification. The department shall submit legislation to implement its recommendations to the Second Regular Session of the 121st Legislature no later than December 15, 2003. The department shall seek drafting assistance from the Office of Policy and Legal Analysis in preparing the legislation.

Sec. D-7. Effective date. This Act takes effect 90 days after the adjournment of the Second Regular Session of the 121st Legislature, except that Part D, sections 5 and 6 take effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Effective 90 days after adjournment of Second Regular Session of 121st Legislature, unless otherwise indicated.

CHAPTER 415
H.P. 189 - L.D. 234

**An Act To Create a Uniform
Approach to the Determination of
Child Support When Parents Provide
Substantially Equal Care for
Children**

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

Sec. 1. 19-A MRSA §2001, sub-§3-A is enacted to read:

3-A. Enhanced support entitlement. "Enhanced support entitlement" means the basic support entitlement multiplied by a factor of 1.5.

Sec. 2. 19-A MRSA §2001, sub-§§6, 7 and 8, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

6. Parental support obligation. "Parental support obligation" means the portion of total basic or enhanced support obligation a party is ordered to pay in money as child support.

7. Primary residence. "Primary residence" means the residence of a child where that child receives residential care for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.

8. Primary residential care provider. "Primary residential care provider" means the party who

provides residential care for a child for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.

Sec. 3. 19-A MRSA §2001, sub-§8-A is enacted to read:

8-A. Substantially equal care. "Substantially equal care" means that both parents participate substantially equally in the child's total care, which may include, but is not limited to, the child's residential, educational, recreational, child care and medical, dental and mental health care needs.

Sec. 4. 19-A MRSA §2001, sub-§10, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

10. Total basic support obligation. "Total basic support obligation" means the sum of money determined by adding the basic support entitlement, child care costs ~~and~~ extraordinary medical expenses and health insurance premiums.

Sec. 5. 19-A MRSA §2001, sub-§10-A is enacted to read:

10-A. Total enhanced support obligation. "Total enhanced support obligation" means the sum of money determined by calculating the enhanced support entitlement. "Total enhanced support obligation" does not include child care costs, extraordinary medical expenses and health insurance premiums.

Sec. 6. 19-A MRSA §2005, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2005. Rebuttable presumption

In a proceeding to establish or modify child support or to establish an award for past support, there is a rebuttable presumption that the parental support obligation derived from the support guidelines is the amount ordered to be paid, unless support is established under section 2006, subsection 5 or section 2007. The court or hearing officer shall review the adequacy of a child support amount agreed to by the parties with reference to the parental support obligation.

Sec. 7. 19-A MRSA §2006, sub-§3, as amended by PL 2001, c. 264, §3, is further amended to read:

3. Total basic support obligation. The total basic support obligation is determined by adding the child care costs, health insurance premiums and