

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2004**

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PUBLIC LAWS OF THE STATE OF MAINE  
AS PASSED AT  
THE SECOND REGULAR SESSION OF THE  
ONE HUNDRED AND TWENTY-FIRST  
LEGISLATURE  
2003

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**CHAPTER 509**

**S.P. 266 - L.D. 787**

**An Act To Clarify the Landowner  
Liability Law with Regard to  
Construction and Maintenance of  
Snowmobile and Other Trails for  
Recreational Use**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the landowner liability law does not specifically refer to the construction and maintenance of trails used for recreation by the public; and

**Whereas,** the availability and affordability of liability insurance for snowmobile trail-grooming activities have significantly declined, creating an immediate potential for major disruption in the infrastructure supporting the multimillion dollar snowmobiling industry; and

**Whereas,** immediate clarification of the landowner liability law will reduce the potential exposure to liability for snowmobile trail-grooming activities in the ongoing season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 14 MRSA §159-A, sub-§1, ¶C** is enacted to read:

C. "Occupant" includes, but is not limited to, an individual, corporation, partnership, association or other legal entity that constructs or maintains trails or other improvements for public recreational use.

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

Effective January 9, 2004.

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**CHAPTER 510**

**H.P. 217 - L.D. 274**

**An Act to Correct Errors and  
Inconsistencies in the Laws of Maine**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

**Whereas,** these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

**Whereas,** it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**PART A**

**Sec. A-1. 2 MRSA §6, sub-§7,** as amended by PL 1991, c. 885, Pt. A, §1 and affected by §§9 to 11, is repealed.

**Sec. A-2. 5 MRSA §299, first ¶,** as amended by PL 1989, c. 410, §15, is further amended to read:

The commission shall establish and maintain a master plan for the orderly development of future state buildings and grounds in the Capitol Area of the City

of Augusta, with the exception of the State House and the grounds specified in Title 3, section ~~902, subsection 2~~ 902-A. In maintaining the master plan, the commission shall take the following factors into consideration:

**Sec. A-3. 5 MRSA §12004-I, sub-§38**, as amended by PL 1997, c. 689, Pt. A, §1 and affected by Pt. C, §2, is repealed.

**Sec. A-4. 7 MRSA §1808, last ¶**, as amended by PL 2001, c. 572, §37, is further amended to read:

Failure to comply with this section or section 1807, or the ~~regulations~~ rules adopted pursuant thereto, is grounds for revocation of any permit granted pursuant to these sections.

**Sec. A-5. 11 MRSA §9-1107**, as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

**§9-1107. Control of letter-of-credit right**

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section 5-1114, subsection ~~(e)~~ (3) or other applicable law or practice.

**Sec. A-6. 12 MRSA §6431-F, sub-§2, ¶B**, as amended by PL 1999, c. 790, Pt. A, §12, is further amended to read:

B. If the license holder was issued a Class I, Class II or Class III lobster and crab fishing license pursuant to ~~former~~ section 6421, subsection 5, paragraph H or former section 6421-A, subsection 1, paragraph D, the license holder may not purchase more than 300 trap tags for the initial license year. For each following year, the license holder may purchase up to an increase of 100 trap tags each year as long as the total number does not exceed the trap limit established by rule for the zone in which the person fishes a majority of that person's traps; and

**Sec. A-7. 12 MRSA §6448, sub-§2, ¶¶A and C**, as amended by PL 1999, c. 693, §1, are further amended to read:

A. After conducting a written survey in the zone, a lobster management policy council may propose to the commissioner an exit ratio to limit new zone entrants to the zone. The lobster management policy council may also propose to the commissioner a provision to exempt from the requirements of this section an individual who be-

came eligible for but had not been issued a Class I, Class II or Class III license pursuant to section 6421, subsection 5, paragraph C or ~~former paragraph~~ H prior to January 1, 2000 and to allow that individual to declare the zone as that individual's declared lobster zone. The lobster management policy council is not required to submit the proposal to referendum and the proposed exit ratio does not need to receive approval through the survey in order to be forwarded to the commissioner.

C. Rules adopted under this subsection must establish an exit ratio between the number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of new zone entrants authorized under subsection 7. An exit ratio established by rule under this subsection is not required to be the same as the exit ratio proposed by the lobster management policy council. Rules adopted under this subsection may exempt from the requirements of this section an individual who became eligible for but who had not been issued a Class I, Class II or Class III license pursuant to section 6421, subsection 5, paragraph C or ~~former paragraph~~ H prior to January 1, 2000 and allow such an individual to declare the zone as that individual's declared lobster zone.

**Sec. A-8. 12 MRSA §6749-X, sub-§3, ¶A**, as amended by PL 2001, c. 327, §18, is further amended to read:

A. The designation of open days for the harvesting of sea urchins by handfishing, dragging, hand-raking and trapping pursuant to ~~section 6749-W or under~~ rules adopted under section 6749;

**Sec. A-9. 12 MRSA §7468, sub-§4**, as amended by PL 2001, c. 655, §5 and affected by §20 and amended by c. 690, Pt. A, §12, is repealed and the following enacted in its place:

**4. Wild turkey hunting permits.** The fee for a wild turkey hunting permit is \$10 for residents and \$40 for nonresidents and aliens. When a public chance drawing is utilized to allocate permits, any Maine 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. 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 permits issued statewide. 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.

A person who holds a valid wild turkey permit may transfer the permit to a 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 return 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. If the person transfers the permit to the junior hunter or person 65 years of age or older, that person is prohibited from hunting turkey.

**Sec. A-10. 12 MRSA §7901-A, sub-§4,** ¶A, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

A. License restriction violation as described in section 7371, subsection 1, relating to the following licenses:

- (1) Commercial shooting area license under section 7404 7105-A;
- (2) Trapping license under section 7133;
- (3) Eel permit for licensed trappers under section 7174;
- (4) License to sell commercially grown or imported fish under section 7201;
- (5) Special dog training area license under section 7331;
- (6) License to hold field trials under section 7332;
- (7) Hide dealer's license under section 7352;
- (8) Special hide dealer's license under section 7352-A;
- (9) Snowmobile dealer's registration and license under section 7825; and
- (10) ATV dealer's registration and license under section 7855;

**Sec. A-11. 12 MRSA §7901-A, sub-§6,** ¶A, as amended by PL 2001, c. 610, §3 and c. 667, Pt. B, §9, is repealed and the following enacted in its place:

A. Chapter 709, subchapter 1 violations:

- (1) Shooting at or near wildfowl decoys as described in section 7406, subsection 11;
- (2) Hunting without hunter orange clothing as described in section 7406, subsection 12;
- (3) Allowing a junior hunter to hunt without adult supervision as described in section 7406, subsection 21;
- (4) Hunting on a state game farm as described in section 7406, subsection 22;
- (5) Hunting in a licensed wildlife exhibit as described in section 7406, subsection 23; and
- (6) Using an aircraft to aid or assist in hunting big game as described in section 7406, subsection 24 if the violation does not involve the taking of a big game animal;

**Sec. A-12. 14 MRSA c. 710-D,** as enacted by PL 2001, c. 612, §1 and c. 653, §1, is repealed and the following enacted in its place:

**CHAPTER 710-D**

**BUILDINGS ON LEASED LOTS**

**§6047. Application**

**1. Parties to agreement; purposes of agreement.** This chapter applies to agreements between:

- A. A person, referred to in this chapter as the "lessor," who owns land in territory under jurisdiction of the Maine Land Use Regulation Commission; and
- B. A person, referred to in this chapter as the "lessee," who intends to construct or to occupy a building or buildings owned by that person on leased land in territory under jurisdiction of the Maine Land Use Regulation Commission for recreational or residential purposes on a seasonal or year-round basis or to operate a business consisting of a commercial sporting camp, campground or retail store.

**2. Application.** This chapter applies to agreements entered into or renewed on or after July 25, 2002.

**§6048. Written lease and description required**

An agreement described in section 6047 must be made in the form of a written lease and must include at

least a general description of the boundaries of the land to be leased.

**§6049. Required notice**

1. Required notice of change in terms. A lessor must give a lessee at least 30 days' notice of a change in the terms of a lease.

2. Required notice of termination. Unless the lease is terminated for cause, a lessor must give notice to a lessee of the intent to terminate the lease at least one year prior to the effective date of the termination. All terms of the lease remain in effect following the notice, except that:

A. Termination provisions of the lease to the extent inconsistent with this section are void, beginning on the date the notice is provided;

B. The lessee may terminate the lease earlier than the effective date provided in the notice; and

C. If the lessee violates the lease during the period between the giving of the notice and the termination date provided in the notice, this section no longer applies and the lessee has only the rights provided in the lease.

For purposes of this subsection, "cause" means violation by a lessee of a term of a lease.

**§6050. Right of first refusal**

A lessee of premises on which a structure owned by the lessee exists has the right of first refusal with regard to the leased premises if the lessor intends to sell or to offer to sell the leased premises as a separate parcel. Each lease subject to this chapter must make provision for a method of determining the sale price of the leased premises upon exercise of the right provided in this section. The lessor must give the lessee at least 90 days to accept the offer to purchase the lot.

**Sec. A-13. 21-A MRSA §365, first ¶,** as enacted by PL 1985, c. 161, §6, is amended to read:

The political committee ~~which that~~ has jurisdiction over the choice of a candidate for nomination or a nominee to fill a vacancy under sections 371, 373, ~~374, 374-A,~~ 381 and 382 is as follows.

**Sec. A-14. 22 MRSA §253, sub-§3,** as amended by PL 1997, c. 689, Pt. A, §2 and affected by Pt. C, §2, is further amended to read:

**3. Public hearings.** Prior to adopting the state health plan and in reviewing the state health plan, the department shall conduct public hearings in different regions of the State on the proposed state health plan. Interested persons must be given the opportunity to

submit oral and written testimony. Not less than 30 days before each hearing, the department shall publish in a newspaper of general circulation in the region the time and place of the hearing, the place where interested persons may review the plan in advance of the hearing and the place to which and period during which written comment may be directed to the department. ~~Prior to adopting the state health plan and in reviewing the state health plan, the department shall provide copies to and shall meet and consult with the Certificate of Need Advisory Committee as provided in section 306-B, subsection 2, paragraph A.~~

**Sec. A-15. 22 MRSA §330, sub-§5-A** is enacted to read:

**5-A. Assisted housing.** Assisted housing programs and services regulated under chapter 1664;

**Sec. A-16. 22 MRSA §2061, sub-§2,** as amended by PL 1993, c. 390, §24, is further amended to read:

**2. Review.** Each project for a health care facility has been reviewed and approved to the extent required by the agency of the State that serves as the Designated Planning Agency of the State or by the Department of Human Services in accordance with the provisions of the ~~former~~ Maine Certificate of Need Act of 1978, as amended, ~~or the Maine Certificate of Need Act of 2002, as amended,~~ or, in the case of a project for a hospital, has been reviewed and approved by the ~~former~~ Maine Health Care Finance Commission to the extent required by ~~former~~ chapter 107;

**Sec. A-17. 22 MRSA §3174-R,** as enacted by PL 1997, c. 643, Pt. RR, §5, is amended to read:

**§3174-R. Medicaid drug rebate program**

The department shall enter into a drug rebate agreement with each manufacturer of prescription drugs under the Medicaid program, in accordance with Section 1927 of the federal Social Security Act, as long as the agreements are consistent with state and federal law, are approved by the federal Health Care Finance Administration and result in a net increase in rebate revenue available to the Maine Medicaid Program. Individual rebate agreements may vary. The department shall seek to achieve an aggregate rebate amount from all agreements that is at least 6 percentage points higher than the percentage of the total Medicaid drug expenditures that the rebates would otherwise be under Section 1927 of the federal Social Security Act. Any increase in revenue from the Medicaid drug rebate program over accepted estimates ~~as of the effective date of this section June 30, 1998 that results in a higher percentage of the total Medicaid drug rebates must be reserved to provide coverage pursuant to section 3174-G, subsection 1-A 1-C. In the event that the department is not able to achieve~~

~~the rebate amount required by this section without compromising the best interest of Medicaid recipients and the Medicaid drug rebate program, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs in the next regular session of the 119th Legislature.~~

**Sec. A-18. 22 MRSA §8103, sub-§1**, as amended by PL 2001, c. 515, §1 and c. 596, Pt. B, §19 and affected by §25, is repealed and the following enacted in its place:

**1. Procedures.** All procedures and other provisions included in section 7855, subsections 1 and 2 for residential care facilities also apply to children's homes, except that the written statement referred to in section 7855, subsection 1 need not be furnished annually by the Commissioner of Public Safety to the department for a facility licensed as a family foster home or a specialized children's home. In these instances an inspection must be performed every 2 years.

**Sec. A-19. 24-A MRSA §4203, sub-§1**, as amended by PL 1995, c. 332, Pt. O, §1, is further amended to read:

1. Subject to the Maine Certificate of Need Act of ~~1978~~ 2002, a person may apply to the superintendent for and obtain a certificate of authority to establish, maintain, own, merge with, organize or operate a health maintenance organization in compliance with this chapter. A person may not establish, maintain, own, merge with, organize or operate a health maintenance organization in this State either directly as a division or a line of business or indirectly through a subsidiary or affiliate, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with, a health maintenance organization without obtaining a certificate of authority under this chapter.

**Sec. A-20. 24-A MRSA §4204, sub-§1**, ¶A, as repealed and replaced by PL 1979, c. 216, §2, is amended to read:

A. Concurrently with filing an application for issuance of certificate of authority with the superintendent, the applicant shall also file an application for a certificate of need pursuant to Title 22, ~~section 301 et seq~~ chapter 103-A.

**Sec. A-21. 24-A MRSA §4204, sub-§2-A**, ¶A, as enacted by PL 1981, c. 501, §51, is amended to read:

A. The Commissioner of Human Services certifies that the health maintenance organization has

received a certificate of need or that a certificate of need is not required pursuant to Title 22, chapter ~~103~~ 103-A.

**Sec. A-22. 24-A MRSA §6203, sub-§1**, ¶A, as enacted by PL 1987, c. 482, §1, is amended to read:

A. The provider has submitted to the department an application for a certificate of need, if required under Title 22, section ~~304-A~~ 329, and the department has submitted a preliminary report of a recommendation for approval of a certificate of need and the provider has applied for any other licenses or permits required prior to operation.

**Sec. A-23. 24-A MRSA §6226, sub-§1**, as enacted by PL 1987, c. 563, §7, is amended to read:

**1. Initial deposits.** ~~The \$1,000 limit on the initial deposit contained in section 6203, subsection 3, paragraph A, shall not apply after the stage of the Certificate of Need application procedure when the department has, in writing, deemed the application complete.~~ After the disclosure statement, the escrow agreement, the receipt and the continuing care agreement have been reviewed on a preliminary basis by the department's Certificate of Need staff, the department shall forward the documents with recommendations, if any, to the superintendent. All provisions of section 6203, including approval of the receipt and the escrow agreement by the superintendent, remain applicable. Thereafter the limit on deposits that may be collected ~~shall~~ may not exceed an amount equal to 10% of the entrance fee. Following issuance by the department of a Certificate of Need, any unsuccessful applicant for the first demonstration project shall refund amounts collected from subscribers with interest earned thereon pursuant to this chapter. The refunds ~~shall~~ must be made no later than 10 days after notification by the department to the unsuccessful applicant unless the unsuccessful applicant appeals the decision of the department as provided by former Title 22, chapter 103. If the applicant appeals and the appeal is denied, then refunds ~~shall~~ must be made no later than 10 days after notification of the denial.

**Sec. A-24. 29-A MRSA §101, sub-§64-C**, as enacted by PL 2001, c. 667, Pt. A, §46 and c. 687, §11, is repealed and the following enacted in its place:

**64-C. Scooter.** "Scooter" means a device upon which a person may ride, consisting of a footboard between 2 end wheels, controlled by an upright steering handle attached to the front wheel and propelled by human power or a motor. "Scooter" does not include an electric personal assistive mobility device.

**Sec. A-25. 29-A MRSA §2084, sub-§1**, as amended by PL 2001, c. 360, §12 and c. 440, Pt. L, §1, is repealed and the following enacted in its place:

**1. Night equipment.** A bicycle, scooter or motorized bicycle or tricycle, when in use in the nighttime, must have:

A. Lighted a front light that emits a white light visible from a distance of at least 200 feet to the front;

B. A red or amber light or reflector to the rear that is visible at least 200 feet to the rear; and

C. Reflector material on the pedals, unless the bicyclist is wearing reflective material on the feet or ankles.

A bicyclist may also use optional supplementary reflectors, lights or reflective or lighted safety equipment.

**Sec. A-26. 30-A MRSA §2526, sub-§6, ¶G**, 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:

G. The procedure of a board of assessment review is governed by section 2691, subsection 3.

**Sec. A-27. 30-A MRSA §2526, sub-§9, ¶A**, as amended by PL 1989, c. 6; c. 9, §2; c. 104, Pt. A, §17 and Pt. C, §§8 and 10 and Pt. D, §3, is repealed and the following enacted in its place:

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate, which must be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) The official's or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken.

**Sec. A-28. 30-A MRSA §4349-A, sub-§2**, as amended by PL 2001, c. 593, §1 and c. 613, §3, is repealed and the following enacted in its place:

**2. State facilities.** The Department of Administrative and Financial Services, Bureau of General Services shall develop site selection criteria for state office buildings, state courts, hospitals and other quasi-public facilities and other civic buildings that serve public clients and customers, whether owned or

leased by the State, that give preference to the priority locations identified in this subsection while ensuring safe, healthy, appropriate work space for employees and clients and accounting for agency requirements. On-site parking may only be required if it is necessary to meet critical program needs and to ensure reasonable access for agency clients and persons with disabilities. Employee parking that is within reasonable walking distance may be located off site. If there is a change in employee parking from on-site parking to off-site parking, the Department of Administrative and Financial Services must consult with the duly authorized bargaining agent or agents of the employees. Preference must be given to priority locations in the following order: service center downtowns, service center growth areas and downtowns and growth areas in other than service center communities. If no suitable priority location exists or if the priority location would impose an undue financial hardship on the occupant or is not within a reasonable distance of the clients and customers served, the facility must be located in accordance with subsection 1. The following state facilities are exempt from this subsection: a state liquor store; a lease of less than 500 square feet; and a lease with a tenure of less than one year, including renewals.

**Sec. A-29. 30-A MRSA c. 205-A** is enacted to read:

#### **CHAPTER 205-A**

#### **MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS**

#### **§5211. Definitions**

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

**1. Assessed share.** "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment.

**2. Capital improvement district.** "Capital improvement district" means a defined area within a municipality that is initially privately owned and that



has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned.

**3. Improvement.** "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure.

**4. Public elements.** "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public easements or fee simple titles in specifically defined property or properties.

#### **§5212. Capital improvement districts authorized**

A municipality may create one or more capital improvement districts within the municipal boundaries.

#### **§5213. Capital improvement districts; public hearing; notice; referendum votes**

In order to establish a capital improvement district, a municipality shall adhere to the following procedures.

**1. Initial determinations.** In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

- A. Determine the proposed boundaries of the capital improvement district;
- B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record;
- C. Describe all improvements to the proposed capital improvement district that need to be made;
- D. Calculate an estimate of the costs of the proposed improvements;
- E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district;
- F. Establish the proposed duration of the payment period for the assessed shares;

G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4.

**2. Public notice.** The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

- A. A description of the proposed boundaries of the capital improvement district;
- B. The proposed improvements to the capital improvement district;
- C. The estimated costs of the proposed improvements;
- D. The public elements of the capital improvement district; and
- E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4.

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.

**3. Public hearing.** Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

- A. Proposed boundaries of the capital improvement district;
- B. Type of improvements to the proposed capital improvement district being considered;
- C. Need for the proposed improvements;
- D. Costs of the proposed improvements;

E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered;

F. Proposed duration of the payment period for those special assessments;

G. Proposed public elements of the capital improvement district; and

H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5.

The municipal officers may hold additional public hearings as necessary.

**4. Referendum of owners of property in proposed capital improvement district.** The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted.

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3.

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot.

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement

district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of \_\_\_\_\_ to apply a special assessment against the property you own in the proposed capital improvement district for a period of \_\_\_\_\_ years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed \$ \_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.

**5. Referendum of municipal voters.** The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4.

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of \_\_\_\_\_ years, for the purpose of (describe improve-

ments), with the total assessment to all owners of property within the capital improvement district not to exceed \$ \_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum.

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters.

#### **§5214. Implementation of improvements to capital improvement district**

**1. Advisory committee.** The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers.

**2. Cost of improvement.** The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against

each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referendum ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referendum, in which case the special assessments are reduced proportionally to reflect the actual cost.

**3. Method of assessment.** The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected.

**4. Annual report.** The municipality's annual report must record the progress of implementing the improvements to the capital improvement district. At a minimum, the annual report must include:

A. The boundaries of the capital improvement district;

B. The public elements of the capital improvement district;

C. The improvements to the capital improvement district made by the municipality; and

D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which those assessed shares and contingency fees have been collected.

#### **§5215. Dissolution of capital improvement district**

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds.

**Sec. A-30. 30-A MRSA c. 206**, as enacted by PL 2001, c. 521, §1, is repealed.

**Sec. A-31. 34-A MRSA §1205**, as amended by PL 2001, c. 667, Pt. C, §19, is repealed.

**Sec. A-32. 37-B MRSA §701, sub-§4**, as amended by PL 2001, c. 614, §4 and c. 662, §72, is repealed and the following enacted in its place:

**4. Mutual aid.** Provide for the rendering of mutual aid among the political subdivisions of the State and with other states and provinces of Canada for the accomplishment of emergency management functions.

**Sec. A-33. 37-B MRSA §704, 3rd ¶**, as amended by PL 2001, c. 614, §8 and c. 662, §76, is repealed and the following enacted in its place:

The director, subject to the direction and control of the commissioner, is the executive head of the agency and is responsible for carrying out the program for emergency management. The director shall coordinate the activities of all organizations for emergency management within the State; shall maintain liaison with and cooperate with emergency management and public safety agencies and organizations of other states, the Federal Government and foreign countries, and their political subdivisions; prior to the annual meeting required in section 782, subsection 4, shall provide to each of the local emergency management organizations of the State an annual assessment of each organization's degree of emergency management capability and any other information pertinent to ensuring the public's welfare and safety within the local organization's jurisdiction; and has additional authority, duties and responsibilities as may be prescribed by the commissioner.

**Sec. A-34. 37-B MRSA §741**, as amended by PL 2001, c. 614, §11 and c. 662, §78, is repealed and the following enacted in its place:

#### **§741. Governor's powers**

**1. Control during emergencies.** In the event of disaster beyond local control, the Governor may assume direct operational control over all or any part of the emergency management and public safety functions within the State.

**2. Cooperation.** In performing the duties required by this chapter, the Governor shall, directly or through the commissioner, cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries and their political subdivisions and with private agencies in all matters pertaining to the emergency management capability of the State and of the Nation.

**3. Authority.** In performing the duties required by this chapter, the Governor may:

A. Make, amend and rescind the necessary orders and rules to carry out this chapter within the

limits of the authority conferred upon the Governor and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized emergency management functions;

B. Prepare a comprehensive plan and program for the emergency management functions of this State. That plan and program must be integrated into and coordinated with the emergency management plans of federal agencies and with the plans of other states and foreign countries, and their political subdivisions, to the fullest possible extent;

C. Coordinate the preparation of plans and programs for emergency management functions by the political subdivisions of the State. These plans must be integrated into and coordinated with the emergency management plan and program of the State to the fullest possible extent;

D. In accordance with the plan and program for the emergency management functions of the State, and consistent with the emergency management plans, programs and directives of the Federal Government, procure supplies and equipment, institute training programs and public information programs and take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster or catastrophe, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need;

E. Conduct studies and surveys and take inventories of the industries, resources and facilities of the State necessary to ascertain the State's emergency management capabilities, and plan for their most efficient emergency use, including emergency economic controls to ensure adequate production and equitable distribution of essential commodities;

F. Whenever a shortage of critical material supplies appears imminent in the State, establish emergency reserves of those products necessary to ensure the health, welfare and safety of the people of the State. To establish those reserves, the Governor may purchase quantities of those materials for resale on a cost plus expenses basis for priority end users within the State;

G. On behalf of the State, enter into mutual aid arrangements with other states and foreign countries, and their political subdivisions, and coordinate mutual aid plans between political subdivisions of the State. If an arrangement is

entered into with a jurisdiction that has enacted the Interstate Civil Defense and Disaster Compact, chapter 15, the Emergency Management Assistance Compact, chapter 16, or the International Emergency Management Assistance Compact, chapter 16-A, any resulting agreement or agreements may be considered supplemental agreements pursuant to those compacts. If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate have not enacted one of those compacts, the Governor may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for its making does not otherwise exist, becomes effective only after approval by the Legislature; and

H. Delegate any authority vested in the Governor under this chapter and provide for the sub-delegation of that authority.

**Sec. A-35. 37-B MRSA §782**, as amended by PL 2001, c. 614, §14 and c. 662, §83, is repealed and the following enacted in its place:

**§782. Agency directors**

A director must be appointed for each municipal and county or regional emergency management agency. A director of an emergency management agency may not be at the same time an executive officer or member of the executive body of a municipality or interjurisdictional or county or regional agency of the State or a county commissioner. Notwithstanding this section or any other law, a town manager or administrative assistant may also be appointed to serve as the director of an emergency management agency. A director may be removed by the appointing authority for cause.

**1. Municipal emergency management director.** The municipal officers shall appoint the director of the municipality's emergency management agency. In each municipality that has not established an agency of its own, the municipal officers shall designate an emergency management director to facilitate cooperation in the work of disaster mitigation, preparedness, response and recovery. The emergency management director shall serve as liaison to the appropriate county or regional agency.

**2. County agency director.** The county commissioners shall appoint the director of that county's emergency management agency.

**3. Interjurisdictional and regional agency directors.** The director of an interjurisdictional or regional emergency management agency must be appointed in the manner prescribed by the director in accordance with section 781, subsection 3.

**4. Annual meeting with Director of the Maine Emergency Management Agency.** The director of each county or regional organization for emergency management in the State and the respective appointing authority shall meet each year with the Director of the Maine Emergency Management Agency or the agency's successor, in order to review the performance of the county or regional emergency management organization in carrying out its federal and state mandate and to jointly set new goals for the coming year.

**Sec. A-36. 37-B MRSA §783, last ¶**, as amended by PL 2001, c. 614, §16 and c. 662, §85, is repealed and the following enacted in its place:

Each municipal, county and regional emergency management agency, as part of the development of a disaster emergency plan for the area subject to its jurisdiction, shall consult with hospitals within its jurisdiction to ensure that the disaster plans developed by the municipality or agency and the hospitals are compatible.

**Sec. A-37. 37-B MRSA §784**, as amended by PL 2001, c. 614, §17 and c. 662, §86, is repealed and the following enacted in its place:

**§784. Mutual aid arrangements**

The director of each local organization for emergency management shall, in collaboration with other public and private agencies within the State, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of a disaster too great to be dealt with unassisted. These arrangements must be consistent with the state emergency management program, and in time of emergency each local organization for emergency management shall render assistance in accordance with the mutual aid arrangements. For this purpose, political subdivisions are authorized when geographical locations make mutual aid arrangements desirable to enter into mutual aid arrangements subject to the approval of the director.

**Sec. A-38. 37-B MRSA §823, first ¶**, as amended by PL 2001, c. 614, §21 and c. 662, §89, is repealed and the following enacted in its place:

All members of the emergency management forces are deemed to be employees of the State while on, or training for, emergency management duty. They have all the rights given to state employees under the former Maine Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. All claims must be filed, prosecuted and determined in accordance with the procedure set forth in the Maine Workers' Compensation Act of 1992.

**Sec. A-39. 37-B MRSA §829, first ¶**, as amended by PL 2001, c. 614, §26 and c. 662, §95, is repealed and the following enacted in its place:

It is the duty of every agency for emergency management established pursuant to this chapter and of the officers to execute and enforce orders and rules adopted by the Governor under authority of this chapter. Each emergency management agency shall have available for inspection at its office all orders and rules made by the Governor or issued under the Governor's authority.

**Sec. A-40. 37-B MRSA §831**, as amended by PL 2001, c. 614, §26 and c. 662, §96, is repealed and the following enacted in its place:

**§831. Utilization of existing services and facilities**

In carrying out this chapter, the Governor and the executive officers or governing bodies of the political subdivisions of the State shall utilize the services and facilities of existing departments, offices and agencies of the State and all their political subdivisions to the maximum extent practicable. The officers and personnel of all departments, offices and agencies shall cooperate with and extend their services and facilities to the Governor and to the emergency management organizations of the State upon request.

**Sec. A-41. 37-B MRSA §832, first ¶**, as amended by PL 2001, c. 614, §26 and c. 662, §97, is repealed and the following enacted in its place:

An emergency management organization established under the authority of this chapter may not participate in any form of political activity and may not be employed directly or indirectly for political purpose.

**Sec. A-42. PL 2001, c. 688, §4** is repealed.

**PART B**

**Sec. B-1. 4 MRSA §153, sub-§9**, as amended by PL 1969, c. 501, §1, is further amended to read:

**9. Northern Cumberland.** Northern Cumberland consists of all municipalities in the County of Cumberland not included within the divisions of ~~Eastern and Southern Cumberland and Bath-Brunswick~~, and consists of the municipalities of Brownfield, Denmark, Hiram, Fryeburg, Lovell, Sweden, Stow and Porter in the County of Oxford. The District Court for Northern Cumberland ~~shall~~ must be held at Bridgton.

**Sec. B-2. 5 MRSA §191**, as amended by PL 1989, c. 410, §13, is repealed and the following enacted in its place:

**§191. Duties; salary; fees; full time**

**1. Attorney General; office; salary.** The Attorney General is the executive head of the Department of the Attorney General. The Attorney General shall keep an office at the seat of government and is entitled to receive an annual salary in full for all services. The Attorney General is entitled to receive actual expenses incurred in the performance of official duties.

**2. Full time; prohibited activities.** The Attorney General shall devote full time to the duties of the office and may not engage in the private practice of law during the Attorney General's term of office, nor may the Attorney General during that term be a partner or associate of any person in the practice of law. During the term of service, the Attorney General may not be an officer or director of any corporation engaged in business for profit within the State.

**3. Representation by Attorney General, deputies, assistants and staff attorneys.** The Attorney General or a deputy, assistant or staff attorney shall appear for the State, the head of any state department, the head of any state institution and agencies of the State in all civil actions and proceedings in which the State is a party or interested, or in which the official acts and doings of the officers are called into question, in all the courts of the State and in those actions and proceedings before any other tribunal when requested by the Governor or by the Legislature or either House of the Legislature. All such actions and proceedings must be prosecuted or defended by the Attorney General or under the Attorney General's direction.

A. Writs, summonses or other processes served upon those officers must be transmitted by them to the Attorney General.

B. All legal services required by those officers, boards and commissions in matters relating to their official duties must be rendered by the Attorney General or under the Attorney General's direction. The officers or agencies of the State may not act at the expense of the State as counsel, nor employ private counsel except upon prior written approval of the Attorney General. In all instances where the Legislature has authorized an office or an agency of the State to employ private counsel, the Attorney General's written approval is required as a condition precedent to the employment.

**4. Fees.** The Attorney General is entitled to receive the following fees:

A. For approval of certificate of organization of corporations under Title 9-B, section 313, subsection 3, \$10 in advance; and

B. For certificate that any corporation has ceased to transact business and is excused from filing annual returns, as authorized in Title 13-C, section 1621, subsection 4, §5.

The Attorney General shall collect the legal and usual fees payable to the Attorney General by virtue of the Attorney General's office and shall pay them over to the Treasurer of State.

**Sec. B-3. Effective date.** That section of this Part that repeals and replaces the Maine Revised Statutes, Title 5, section 191 takes effect July 1, 2003.

**Sec. B-4. 12 MRSA §6404-B**, as amended by PL 2001, c. 327, §2, is further amended to read:

**§6404-B. Suspension based on conviction of fishing on closed days for sea urchin fishing**

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section ~~6749~~ 6749 or any rule adopted under section 6749. The suspension must be for one year from the date of conviction.

**Sec. B-5. 20-A MRSA §4706, sub-§2**, as amended by PL 2001, c. 403, §1 and c. 454, §20, is repealed and the following enacted in its place:

2. **Maine studies.** Maine history, including the Constitution of Maine, Maine geography and environment and the natural, industrial and economic resources of Maine and Maine's cultural and ethnic heritage, must be taught. A required component of Maine studies is Maine Native American studies, which must be included in the review of content standards and performance indicators of the learning results conducted in accordance with section 6209, subsection 4. The Maine Native American studies must address the following topics:

A. Maine tribal governments and political systems and their relationship with local, state, national and international governments;

B. Maine Native American cultural systems and the experience of Maine tribal people throughout history;

C. Maine Native American territories; and

D. Maine Native American economic systems.

**Sec. B-6. 22 MRSA §330, sub-§5**, as enacted by PL 2001, c. 664, §2, is repealed.

**Sec. B-7. 22 MRSA §3028, sub-§7**, as amended by PL 2001, c. 291, §7 and c. 345, §2, is repealed and the following enacted in its place:

**7. Written report.** Upon completing an investigation, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The investigator shall retain one copy of the report.

If an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011-A.

**Sec. B-8. 22 MRSA §5118, sub-§4, ¶C**, as enacted by PL 1981, c. 470, Pt. A, §117, is amended to read:

C. In the administration of the plan, there is a failure to comply substantially with any ~~such~~ provision of subsection 1, paragraphs A to I, the director shall notify the area agency that no further payments from its allotments under ~~sections~~ section 5115 and Section 306 and 5115 of the federal Older Americans Act of 1965, 42 United States Code, Section 3026 will be made to the agency or, in ~~his~~ the director's discretion, that further payments to the agency will be limited to projects under or portions of the area plan not affected by the failure, until ~~he~~ the director is satisfied that there will no longer be any failure to comply. Until ~~he~~ the director is so satisfied, ~~no~~ further payments may not be made to the agency from its allotments under section 5115, or payments may be limited to projects under or portions of the area plan not affected by the failure. The director shall, in accordance with ~~regulations he shall prescribe~~ rules adopted by the director, disburse funds so withheld directly to any public or nonprofit private organization or agency of the area, submitting an approved plan in accordance with section 5116. Any payment or payments ~~shall~~ must be matched in the proportions specified in section 5116.

**Sec. B-9. 25 MRSA §1550**, as enacted by PL 1975, c. 763, §10, is amended to read:

**§1550. Violations**

Any person who fails to comply with the provisions of section ~~1542, subsections 1542-A, subsection 1 or 3,~~ or with the provisions of section ~~1542~~ 1542-A, subsection 4, imposing a duty to transmit criminal fingerprint records to the State Bureau of Identification, or with the provisions of sections 1544, 1547 or 1549 commits a civil violation for which a ~~forfeiture~~ fine of not more than \$100 may be adjudged.

**Sec. B-10. 32 MRSA §2102, sub-§2-A**, as amended by PL 2003, c. 204, Pt. H, §1, is further amended to read:

**2-A. Advanced practice registered nursing.** "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

B. Within the advanced practice registered nurse's scope of practice as specified by the board by rulemaking, taking into consideration any national standards that exist; and

C. In accordance with the standards of practice for advanced practice registered nurses as specified by the board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs.

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the board. ~~In adopting such rules, the board shall invite and consider comment from the Joint Practice Council on Advanced Practice Registered Nursing.~~

A certified nurse practitioner who qualifies as an advanced practice registered nurse must practice, for at least 24 months, under the supervision of a licensed physician or must be employed by a clinic or hospital that has a medical director who is a licensed physician. The certified nurse practitioner must submit written evidence to the board upon completion of the required clinical experience.

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

### PART C

**Sec. C-1. 11 MRSA §9-1207, sub-§(4)**, as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

(i) To charge back uncollected collateral; or

(ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

**Sec. C-2. 11 MRSA §9-1207, sub-§(5)**, as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is repealed.

**Sec. C-3. 12 MRSA §6034, sub-§1**, as enacted by PL 2003, c. 90, §2, is amended to read:

**1. Appointment; composition.** The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 17 members, 15 of whom are appointed by the Governor ~~and subject to confirmation by the Legislature~~ as follows:

A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;

B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;

C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;

D. Five members who are license holders under this Part and who each represent a different commercial marine harvesting activity than the other members of the council, recommended by commercial marine harvesting and aquaculture interests;

E. An educator experienced in community-based adult education and volunteer safety training;

F. An expert in fishing industry risk analysis and occupational health;

G. An expert in marine safety equipment;

H. A representative of the marine insurance industry;

I. A marine surveyor;

J. A spouse or domestic partner of a license holder under this Part; and

K. A member of the public.



The chair of the Marine Resources Advisory Council and the chair of the Marine Recreational Fishing Advisory Council are ex officio members of the council. The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

**Sec. C-4. 17-A MRSA §360, sub-§1**, as amended by PL 2001, c. 667, Pt. D, §11 and affected by §36, is further amended to read:

**1.** A person is guilty of theft if:

A. Knowing that the person does not have the consent of the owner, the person takes, operates or exercises control over a vehicle, or, knowing that a vehicle has been so wrongfully obtained, the person rides in the vehicle. Violation of this paragraph is a Class D crime;

A-1. The person violates paragraph A and the person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime;

B. Having custody of a vehicle pursuant to an agreement between the person and the owner of the vehicle whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, the person intentionally uses or operates the vehicle, without the consent of the owner, for the person's own purposes in a manner constituting a gross deviation from the agreed purpose. Violation of this paragraph is a Class D crime; or

B-1. The person violates paragraph B and the person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior

convictions when determining a sentence. Violation of this paragraph is a Class C crime;

C. Having custody of property pursuant to a rental or lease agreement with the owner of the property or a borrower's agreement with a library or museum whereby the property is to be returned to the owner at a specified time and place, the person knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, proof that the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail or delivered by hand after the expiration of the rental period to the most current address known to the owner, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 of a gross deviation from the agreement. Violation of this paragraph is a Class D crime; or

D. The person violates paragraph C and the person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

**Sec. C-5. 17-A MRSA §360, sub-§4**, as enacted by PL 2001, c. 383, §49 and affected by §156, is repealed.

**Sec. C-6. 22 MRSA §4301, sub-§7**, as amended by PL 2001, c. 571, §1, is further amended to read:

**7. Income.** "Income" means any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other

source, including relatives or unrelated household members.

The following items are not available within the meaning of this subsection and subsection 10:

- A. Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- B. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- C. Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation is the 30-day period commencing on the date of the application. This prospective calculation does not disqualify an applicant who has exhausted income to purchase basic necessities if that income does not exceed the income standards established by the municipality. Notwithstanding this prospective calculation, if any applicant or recipient receives a lump sum payment prior or subsequent to applying for assistance, that payment must be prorated over future months. The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the greater of the verified actual monthly amounts for all of the household's basic necessities or by 150% of the applicable federal poverty guidelines. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months

from the date of application or during the period of proration, whichever is less.

**Sec. C-7. 25 MRSA §2809, first ¶**, as enacted by PL 1989, c. 521, §§14 and 17, is amended to read:

Beginning January 1, 1991, the board shall report annually to the joint standing committee of the Legislature having jurisdiction over ~~legal affairs~~ criminal justice and public safety matters on the implementation and effectiveness of this chapter. The purpose of the report is to provide the Legislature annual information on the law governing law enforcement training in order to ensure that appropriate and timely training is accomplished. The report must include the following:

**Sec. C-8. 29-A MRSA §2054, sub-§2, ¶D**, as amended by PL 2003, c. 78, §1, is repealed and the following enacted in its place:

D. Except as provided in this paragraph, a vehicle may not be equipped with or display a blue light.

(1) Emergency lights used on the following vehicles must emit a blue light or a combination of blue and white light: a police vehicle; a Department of Corrections vehicle as described in subsection 1, paragraph B, subparagraph (6); a vehicle operated by a chief of police, a sheriff or a deputy sheriff; and a vehicle operated by a qualified deputy sheriff or other qualified individual performing court security-related functions and services.

(2) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle or a hazardous material response vehicle may include one blue light mounted at the rear of the vehicle so that the light is visible to approaching traffic.

(3) The taillight of a vehicle, or replica of a vehicle, manufactured prior to 1952 and registered under section 457, may contain a blue or purple insert of not more than one inch in diameter.

**Sec. C-9. 29-A MRSA §2054, sub-§2, ¶F**, as amended by PL 2003, c. 78, §2, is further amended to read:

F. Only vehicles listed in this paragraph, rural mail vehicles as provided in paragraph C, subparagraph (5) and school buses may be equipped with, display or use a red auxiliary or emergency light.

(1) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle or a hazardous material response vehicle must emit a red light or a combination of red and white light ~~and may be equipped with one blue light mounted at the rear of the vehicle so that the light is visible to approaching traffic.~~

(2) The municipal officers or a municipal official designated by the municipal officers, with the approval of the fire chief, may authorize an active member of a municipal or volunteer fire department to use a flashing red signal light not more than 5 inches in diameter on a vehicle. The light may be displayed but may be used only while the member is en route to or at the scene of a fire or other emergency. The light must be mounted as near as practicable above the registration plate on the front of the vehicle or on the dashboard. A light mounted on the dashboard must be shielded so that the emitted light does not interfere with the operator's vision.

(3) Members of an emergency medical service licensed by Maine Emergency Medical Services may display and use on a vehicle a flashing red signal light of the same proportion, in the same location and under the same conditions as those permitted municipal and volunteer firefighters, when authorized by the chief official of the emergency medical service.

**Sec. C-10. Effective date.** Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 29-A, section 2054, subsection 2, paragraph D and amend Title 29-A, section 2054, subsection 2, paragraph F take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

**Sec. C-11. 30-A MRSA §371-B, sub-§4,** as repealed and replaced by PL 1997, c. 562, Pt. D, §6 and affected by §11, is amended to read:

**4. Exception.** Any person who is serving ~~or who has previously served~~ in the office of sheriff on ~~the effective date of this section June 26, 1997 or who served prior to that date~~ is deemed to meet the minimum qualifications of subsection 3.

**Sec. C-12. 36 MRSA §1811, last ¶,** as amended by PL 1999, c. 401, Pt. X, §3 and affected by §5 and amended by c. 414, §23, is repealed and the following enacted in its place:

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

**Sec. C-13. Retroactivity.** That section of this Part that repeals and replaces the Maine Revised Statutes, Title 36, section 1811, last paragraph applies retroactively to July 1, 2000.

**Sec. C-14. 37-B MRSA §781,** as amended by PL 2001, c. 614, §13 and c. 662, §82, is repealed and the following enacted in its place:

**§781. Municipal, county and regional agencies**

**1. Municipal or interjurisdictional agencies.** Each municipality of the State must be served by a municipal or interjurisdictional agency responsible for emergency management.

**2. County or regional agencies.** Each county shall maintain a county emergency management agency or create regional emergency management agencies that serve the member counties. Each county or regional agency is responsible for coordination of the activities of municipal and interjurisdictional emergency management agencies within the region or county and for emergency management in the unorganized territories within its jurisdiction. A county or regional emergency management agency must receive support from the municipalities within its jurisdiction.

**3. Structure of county and regional agencies.** The director shall advise upon the organizational structure of county and regional emergency management agencies, including the manner in which the directors of those agencies are appointed by governing bodies of the jurisdictions involved.

**4. List of agencies.** The agency shall publish and maintain a current list of municipal, interjurisdictional, county and regional emergency management agencies established pursuant to this section.

**Sec. C-15. 37-B MRSA §822,** as amended by PL 2001, c. 614, §20 and c. 662, §88, is repealed and the following enacted in its place:

**§822. Immunity**

Neither the State nor any of its agencies or political subdivisions nor a person called out pursuant to section 784-A, including a voluntary and uncompensated grantor of a permit for the use of the grantor's

premises as an emergency management shelter, may, while engaged in any emergency management activities and while complying with or attempting to comply with this chapter or any rule adopted pursuant to this chapter, be liable for the death of or injury to any person, or damage to property, as a result of those activities. This section does not affect the right of any person to receive benefits to which that person would otherwise be entitled under this chapter, under the Maine Workers' Compensation Act of 1992, under any pension law or under any act of Congress.

**Sec. C-16. P&SL 2001, c. 62, §2** is amended to read:

**Sec. 2. Territory.** The territory affected by this Act, referred to in this Act as the "territory," is as follows:

A certain lot or parcel of land situated in the Town of Falmouth, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at a granite monument on the southerly bank of the Presumpscot River which monument marks the Falmouth-Portland Town line;

Thence south 31 degrees, 28 feet minutes, 15 inches seconds west along said Falmouth-Portland Town line, 1,409.32 feet to a granite monument;

Thence north 58 degrees, 27 feet minutes, 10 inches seconds west along said Falmouth-Portland Town line, 1,047.77 feet to a granite monument;

Thence north 30 degrees, 42 feet minutes, 40 inches seconds east along said Falmouth-Portland Town line, 290.49 feet to a granite monument;

Thence north 59 degrees, 9 feet minutes, 11 inches seconds west along said Falmouth-Portland Town line, 482.24 feet to a granite monument and the Maine Turnpike spur;

Thence north 64 degrees, 31 feet minutes, 49 inches seconds east along said Turnpike Spur, 1,690.60 feet to the Presumpscot River;

Thence southeasterly along said Presumpscot River 700 feet more or less to the point of beginning.

The territory described above includes all of the land, buildings, intertidal land, submerged land, freshwater or saltwater ponds and river beds,

generally referred to as the Adams/Wolfe property, containing 37.73 acres, more or less.

**Sec. C-17. Retroactivity.** That section of this Part that amends Private and Special Law 2001, chapter 62, section 2 applies retroactively to April 2, 2002.

## PART D

**Sec. D-1. 5 MRSA §17851-A, sub-§2**, as amended by PL 2001, c. 559, Pt. RR, §6 and affected by §17 and amended by c. 646, §§3 and 4, is repealed and the following enacted in its place:

**2. Qualification for benefits.** A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after June 30, 2002 for employees identified in subsection 1, paragraph M; and any employee identified in subsection 1, paragraph L, qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

**Sec. D-2. 5 MRSA §17851-A, sub-§3, ¶A**, as amended by PL 2001, c. 559, Pt. RR, §7 and affected by §17 and amended by c. 646, §§5 and 6, is repealed and the following enacted in its place:

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; and after June 30,

2002 for employees identified in subsection 1, paragraph M, in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, paragraph L regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included.

**Sec. D-3. 5 MRSA §17851-A, sub-§4, ¶A,** as amended by PL 2001, c. 559, Pt. RR, §8 and affected by §17 and amended by c. 646, §§7 and 8, is repealed and the following enacted in its place:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; if service credit was purchased by repayment of an earlier refund of accumulated contributions for service in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; or if service credit was purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced as provided in section 17852, subsection 3, paragraphs A and B.

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced by 6% for each year that the member's age precedes 55 years of age.

**Sec. D-4. 5 MRSA §17851-A, sub-§4, ¶B,** as amended by PL 2001, c. 559, Pt. RR, §8 and affected by §17 and amended by c. 646, §§9 and 10, is repealed and the following enacted in its place:

B. Except as provided in paragraphs D and E, if some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M and some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, then the member's service retirement benefit must be computed in segments and the amount of the member's service retirement benefit is the sum of the segments. The segments must be computed as follows:

(1) The segment or, if the member served in more than one of the capacities specified in subsection 1 and the benefits related to the capacities are not interchangeable under section 17856, segments that reflect creditable service earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contribu-

tions for service before July 1, 1998, for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M in a capacity or capacities specified in subsection 1 or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M, must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3, paragraphs A and B; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3-A; and

(2) The segment that reflects creditable service earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, para-

graph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M in any one or a combination of the capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the segment amount must be reduced in the manner provided in section 17852, subsection 3, paragraphs A and B for each year that the member's age precedes 55 years of age; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the segment amount must be reduced by 6% for each year that the member's age precedes 55 years of age.

**Sec. D-5. 5 MRSA §17851-A, sub-§5,** as amended by PL 2001, c. 559, Pt. RR, §9 and affected by §17 and amended by c. 646, §§11 and 12, is repealed and the following enacted in its place:

**5. Contributions.** Notwithstanding any other provision of subchapter 3, after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, a member in the capacities specified in subsection 1 must contribute to the retirement system or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

**Sec. D-6.** PL 2001, c. 646, §§4, 6, 8, 10 and 12 are repealed.

**Sec. D-7. Retroactivity.** That section of this Part that repeals Public Law 2001, chapter 646, sections 4, 6, 8, 10 and 12 applies retroactively to March 25, 2002.

**Sec. D-8. Existing contingency continues to apply.** Nothing in this Part affects the requirement that the full actuarial cost of the total liability for the increased value of all of the service rendered between August 31, 1984 and September 1, 2002 for all employees to whom Public Law 2001, chapter 559, Part RR applies must be paid before that retirement service credit is due to or may be given to any employee, as provided in Public Law 2001, chapter 559, Part RR.

## PART E

**Sec. E-1. 20-A MRSA §12302, sub-§1,** as enacted by PL 1999, c. 401, Pt. NN, §2 and affected by §4 and enacted by c. 496, §2, is repealed and the following enacted in its place:

**1. Establishment.** The Maine Dental Education Loan Program, referred to in this chapter as "the program," is established. The authority shall administer the program. Under this program, beginning in fiscal year 2000-01, the chief executive officer shall award up to 3 loans or loan repayment agreements annually up to an aggregate of 12. As provided in subsection 3:

A. Loans are available to Maine residents enrolled in a dental school; or

B. A loan repayment agreement is available to a person who is eligible for licensure as a doctor of dental medicine in Maine and who has outstanding dental education loans.

**Sec. E-2. 22 MRSA §3477, sub-§1, ¶A,** as amended by PL 2003, c. 145, §1 and c. 210, §1, is repealed and the following enacted in its place:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;

(8) A registered or licensed practical nurse;

(9) A certified nursing assistant;

(10) A social worker;

(11) A psychologist;

(12) A pharmacist;

(13) A physical therapist;

(14) A speech therapist;

(15) An occupational therapist;

(16) A mental health professional;

(17) A law enforcement official;

(18) A coroner;

(19) Emergency room personnel;

(20) An ambulance attendant;

(21) An emergency medical technician;

(22) Unlicensed assistive personnel;

(23) A human agent employed by the Department of Agriculture, Food and Rural Resources; and

(24) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

**Sec. E-3. 22 MRSA §4011-A, sub-§1, ¶A,** as amended by PL 2003, c. 145, §2 and c. 210, §3, is repealed and the following enacted in its place:

A. When acting in a professional capacity:

(1) An allopathic or osteopathic physician, resident or intern;

(2) An emergency medical services person;

(3) A medical examiner;

(4) A physician's assistant;

(5) A dentist;

(6) A dental hygienist;

(7) A dental assistant;

(8) A chiropractor;

(9) A podiatrist;

- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A human agent employed by the Department of Agriculture, Food and Rural Resources;

**Sec. E-4. Effective date.** Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A and section 4011-A, subsection 1, paragraph A take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

**Sec. E-5. 28-A MRSA §161, sub-§7,** as amended by PL 2003, c. 451, Pt. T, §10 and c. 452, Pt. P, §1, is repealed and the following enacted in its place:

**7. Right of access.** Every bottle club shall allow law enforcement officers to enter the premises at reasonable times for the purpose of investigating compliance with this Title.

**A.** Entry into the premises under this subsection must be conducted in a reasonable manner so as not to disrupt the operation of the bottle club.

**B.** The investigation must be limited to those areas involved in the actual operation of the bottle club, including storage areas.

**C.** The following penalties apply to violations of this subsection.

(1) A bottle club that violates this subsection commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged.

(2) A bottle club that violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged.

(3) A bottle club that violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged.

## PART F

**Sec. F-1. 21-A MRSA §1014, sub-§2,** as amended by PL 2003, c. 302, §1, is further amended to read:

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

**Sec. F-2. Effective date.** That section of this Part that amends the Maine Revised Statutes, Title 21-A, section 1014, subsection 2 takes effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

**Sec. F-3. Resolve 2003, c. 70, §3** is repealed.



**PART G**

**Sec. G-1. 22 MRSA §7855, sub-§4, ¶A-2** is enacted to read:

A-2. A residential care facility with 4 beds whose residents have prompt evacuation capability, as defined in the Life Safety Code, must comply with the one-family and 2-family dwellings chapter of the Life Safety Code if that residential care facility is licensed under that chapter after September 30, 2002.

This paragraph is repealed February 15, 2004.

**Sec. G-2. 22 MRSA §7855, sub-§4, ¶B**, as amended by PL 2003, c. 398, §1, is further amended to read:

B. Except as provided in paragraph A-1 or A-2, a residential care facility with 4 to 16 beds must comply with the sections of the Life Safety Code that apply to small facilities and with the chapter relating to new residential board and care occupancy if that facility is a facility that was constructed on or after July 25, 2002 or with the existing residential board and care occupancy chapter if that facility was licensed before July 25, 2002.

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

Effective January 11, 2004, unless otherwise indicated.

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**CHAPTER 511**

**H.P. 316 - L.D. 408**

**An Act Regarding the Presumption of Violations of the Hunting-on-Sunday Prohibition**

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

**Sec. 1. 12 MRSA §10501, sub-§9**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

**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.

**Sec. 2. 12 MRSA §10501, sub-§10**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

See title page for effective date.

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**CHAPTER 512**

**H.P. 509 - L.D. 692**

**An Act To Protect Consumer Privacy Rights**

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

**Sec. 1. 10 MRSA §1272-B** is enacted to read:

**§1272-B. Refusal to provide social security number**

**1. No denial of goods or services.** Except as otherwise provided in federal or state law, a person, corporation or other entity may not deny goods or services to an individual because the individual refuses to provide a social security number.

**2. Exemptions.** This section does not apply to:

A. A person, corporation or other entity requesting disclosure of the social security number to obtain a consumer report for any purpose permitted under the Fair Credit Reporting Act or the United States Fair Credit Reporting Act;

B. A supervised lender as defined in Title 9-A, section 1-301;

C. A supervised financial organization as defined in Title 9-A, section 1-301;

D. An affiliate or subsidiary of a supervised lender as defined in Title 9-A, section 1-301 or of a supervised financial organization as defined in Title 9-A, section 1-301;