

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
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Non-Emergency Laws Is
April 30, 2004

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Second Special Session
Non-Emergency Laws Is
July 30, 2004

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

D. "Line tree" means a tree whose main stem or trunk straddles an established property line and that is blazed or painted to indicate the location of the established property line.

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

2. Prohibitions. The following acts are prohibited.

A. A landowner or landowner representative who authorizes timber harvesting or a harvester who in fact harvests timber shall clearly mark with flagging or other temporary and visible means any established property lines that are within 200 feet of the area to be harvested. The marking of property lines must be completed prior to commencing timber harvesting. A person who fails to mark property lines in accordance with this paragraph commits a civil violation for which a fine of not less than \$250 nor more than \$1,000 may be adjudged.

B. A landowner, landowner representative or harvester who authorizes the timber harvesting or in fact harvests a line tree without first obtaining permission from the abutting landowner commits a civil violation for which a fine of not less than \$250 nor more than \$1,000 may be adjudged.

3. Exemptions. The following are exempt from this section:

A. The Department of Transportation in the performance of activities under Title 23, section 701;

B. Public utilities engaged in maintaining adequate facilities in compliance with Title 35-A, section 301;

C. Municipal employees, persons contracting with a municipality or other legitimate agents of a municipality acting within the course and scope of their employment or performing volunteer work for the municipality by removing trees obstructing a public way or fallen trees or in emergencies; and

D. Timber harvesting performed on a parcel of land that is 5 acres or less.

See title page for effective date.

CHAPTER 551

S.P. 606 - L.D. 1655

An Act To Amend Certain Laws Relating to Environmental Protection

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

Sec. 1. 32 MRSA §1102-A, sub-§§9 and 10, as enacted by PL 1999, c. 386, Pt. F, §8, are amended to read:

9. Plumbers. A person licensed under chapter 49, except that this exemption applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties; ~~or~~

10. Pump installers. A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller; ~~or~~

Sec. 2. 32 MRSA §1102-A, sub-§11 is enacted to read:

11. Wastewater treatment plants. Wastewater treatment plants, as defined in section 4171, and regular employees of wastewater treatment plants making electrical installations in or about wastewater treatment plants.

Sec. 3. 32 MRSA §10003, sub-§1, as amended by PL 2001, c. 626, §9, is further amended to read:

1. Establishment and membership. There is established within the Department of Environmental Protection, the Board of Underground Storage Tank Installers. The board consists of 7 members appointed by the Governor as follows: one from the Department of Environmental Protection; one from ~~either~~ the Maine Oil Dealer's Association ~~or the Maine Petroleum Association~~; one underground oil storage tank installer; one from the Maine Chamber and Business Alliance or an underground oil storage tank inspector or a 2nd underground oil storage tank installer; one from the Maine Fire Chiefs Association; and 2 public members.

Sec. 4. 38 MRSA §343-H, sub-§4, as amended by PL 2001, c. 695, §1, is further amended to read:

4. Reporting. The directors shall jointly report on the activities of all state agencies under the initiative to the joint standing committee of the Legislature having jurisdiction over natural resources matters and the joint standing committee of the Legislature having jurisdiction over state government matters. The directors must submit their report ~~for state agencies other than the state supported institutions of higher learning no later than January 1, 2003, and biennially thereafter, and must submit their report for state supported institutions of higher learning no later than January 1, 2004~~ 2006, and biennially thereafter. The report must identify the successes of and the obstacles to implementation of the initiative and may include recommendations for any statutory changes necessary to accomplish the initiative.

Sec. 5. 38 MRSA §413, sub-§1-B, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §28, is repealed and the following enacted in its place:

1-B. License required for subsurface wastewater disposal systems. A license to install, operate or maintain a subsurface wastewater disposal system is governed as set forth in this subsection.

A. A person may not install, operate or maintain a subsurface wastewater disposal system without first obtaining a license for the system from the department, except that a license is not required for systems designed and installed in conformance with the plumbing code, as adopted by the Department of Human Services under Title 22, section 42.

B. The department may by rule license categories of subsurface discharges when the discharges will not have a significant adverse effect on the quality or classification of groundwaters of the State. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless the rules are incorporated as amendments to existing rules that are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 38 MRSA §464, sub-§3, ¶B, as amended by PL 2003, c. 245, §7, is further amended to read:

B. The board shall, from time to time, but at least once every ~~4~~ 3 years, hold public hearings for the purpose of reviewing the water quality classification system and related standards and, as appropriate, recommending changes in the standards to the Legislature.

Sec. 7. 38 MRSA §467, sub-§2, as amended by PL 2003, c. 317, §4, is further amended to read:

2. Dennys River Basin.

A. Dennys River, main stem.

(1) From the outlet of Meddybemps Lake to the ~~Route 1~~ Bunker Hill Road bridge - Class AA.

(2) From the ~~Route 1~~ Bunker Hill Road bridge to tidewater - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. Dennys River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the ~~Route 1~~ Bunker Hill Road bridge - Class B.

(2) Venture Brook in Edmunds Township - Class AA.

Sec. 8. 38 MRSA §480-D, sub-§7, as enacted by PL 1987, c. 809, §2, is amended to read:

7. Sand or gravel supply. If the activity is on or adjacent to a sand dune, it will not unreasonably interfere with the natural supply or movement of sand or gravel within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

Sec. 9. 38 MRSA §551, sub-§2, ¶J, as enacted by PL 1991, c. 817, §11, is amended to read:

J. ~~A responsible party claimant~~ is not eligible for compensation under this subsection for costs, expenses or damages related to ~~the specific a discharge for which the~~ if the commissioner determines that the claimant is a responsible party is determined responsible as defined under section 542, subsection 9-C.

Sec. 10. 38 MRSA §551, sub-§2, ¶M is enacted to read:

M. The commissioner may dismiss a 3rd-party damage claim for untimely filing, for failure by the claimant to provide the information necessary to process the claim within 60 days after the claimant receives written notice that the claim is insufficient for processing or for ineligibility as determined by the commissioner under paragraph J. A dismissal may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Sec. 11. 38 MRSA §564, sub-§2-A, ¶H, as amended by PL 1993, c. 732, Pt. A, §2, is further amended to read:

H. Reporting to the commissioner any of the following indications of a possible leak or discharge of oil:

- (1) Unexplained differences in daily inventory reconciliation values that, over a 30-day period, exceed 1.0% of the product throughput;
- (2) Unexplained losses detected through statistical analysis of inventory records;
- (3) Detection of product in a monitoring well or by other leak detection methods;
- (4) Failure of a tank or piping precision test, hydrostatic test or other tank or piping tightness test approved by the department; and
- (5) Discovery of oil ~~off site~~ on or under the premises or abutting properties, including nearby utility conduits, sewer lines, buildings, drinking water supplies and soil.

The rules may not require the reporting of a leak or discharge of oil above ground of 10 gallons or less that occurs on the premises, including, but not limited to, spills, overfills and leaks, when those leaks or discharges do not reach ~~ground water~~ groundwaters or surface waters of the State and are cleaned up within 24 hours of discovery, if a written log is maintained at the facility or the owner's place of business in this State. For each discharge the log must record the date of discovery, its source, the general location of the discharge at the facility, the date and method of cleanup and the signature of the facility owner or operator certifying the accuracy of the log;

Sec. 12. 38 MRSA §564, sub-§2-A, as amended by PL 1995, c. 493, §10, is further amended by amending the last paragraph to read:

The requirements in paragraphs A and B do not apply to the following tanks provided the associated piping has secondary containment or a suction pump product delivery system or another leak detection system approved by the commissioner and provided that the tank and associated piping have been installed and are operated in accordance with the requirements of this subchapter, including rules adopted under this subchapter: tanks providing product to a generator; double-walled tanks with continuous interstitial space monitoring; and existing tanks constructed of fiberglass, cathodically protected steel or another commissioner-approved noncorrosive material that are monitored for a leak by a method able to detect a product loss or gain of ~~0.1~~ 0.2 gallons or less per hour.

Sec. 13. 38 MRSA §564, sub-§3, as repealed and replaced by PL 1991, c. 66, Pt. B, §6, is repealed.

Sec. 14. 38 MRSA §568-B, sub-§1, ¶A, as enacted by PL 1993, c. 363, §12 and affected by §21, is amended to read:

A. Three persons representing the petroleum industry, appointed by the Governor, one of whom is nominated by the Maine Oil Dealers Association, ~~one of whom is nominated by the Maine Petroleum Association and one of whom is a retailer who~~ one of whom is a retailer who owns fewer than 5 retail outlets, as defined in Title 10, section 1672, subsection 6, ~~to be chosen by the Governor and one of whom is a retailer who~~ owns 5 or more retail outlets, as defined in Title 10, section 1672;

Sec. 15. 38 MRSA §569-A, sub-§2, ¶I, as enacted by PL 1991, c. 817, §26, is amended to read:

I. A ~~responsible party claimant~~ is not eligible for compensation under this subsection for costs, expenses or damages related to ~~the specific a discharge for which the~~ if the commissioner determines that the claimant is a responsible party is deemed responsible as defined under section 562-A, subsection 17.

Sec. 16. 38 MRSA §569-A, sub-§2, ¶L is enacted to read:

L. The commissioner may dismiss a 3rd-party damage claim for untimely filing, for failure by the claimant to provide the information necessary to process the claim within 60 days after the claimant receives written notice that the claim is insufficient for processing or for ineligibility as determined by the commissioner under paragraph I. A dismissal may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Sec. 17. 38 MRSA §1310-X, sub-§4, ¶A, as enacted by PL 1995, c. 588, §1, is amended to read:

A. A commercial biomedical waste disposal or treatment facility, if at least 51% of the facility is owned by a licensed hospital or hospitals as defined in Title 22, section 382, subsection 7, or an affiliated interest or interests as defined in Title 22, section 396-L, subsection 1, paragraph A 328, subsection 14 or a group of hospitals that are licensed under Title 22 acting through a statewide association of Maine hospitals or a wholly owned affiliate of the association; and

Sec. 18. 38 MRSA §1661-C, sub-§4, ¶A, as enacted by PL 2001, c. 373, §3, is amended to read:

A. Will use the mercury only for medical, dental amalgam dispose-caps, or research or manufacturing purposes;

Sec. 19. 38 MRSA §1670, sub-§6, as enacted by PL 1999, c. 779, §2, is amended to read:

6. Meetings. The committee shall meet at least ~~4~~2 times per year and at any time at the call of the chairs or upon written request to the chairs by 4 of the voting members.

Sec. 20. 38 MRSA §1864, 2nd ¶, as enacted by PL 2001, c. 434, Pt. A, §7, is repealed.

Sec. 21. 38 MRSA §1865 is enacted to read:

§1865. Public water supplies

If an infested water body pursuant to section 1864 is a public drinking water supply, public notification by the commissioner and the Commissioner of Inland Fisheries and Wildlife is required prior to any response action that proposes the use of a chemical control agent. Public notification must include, at a minimum, notification of adjoining municipalities, property owners, drinking water suppliers who use that water supply and other affected persons, and must provide adequate time for public review and comment on the proposed emergency action. Chemical control agents may not be used on a water body that is a public water supply without the prior written consent of each public water supplier using that water body.

See title page for effective date.

CHAPTER 552

S.P. 629 - L.D. 1697

**An Act To Clarify Certain Provisions
Contained in the Recodified Hunting,
Fishing and Trapping Laws**

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

Sec. 1. 12 MRSA §10001, sub-§12-A is enacted to read:

12-A. Dipnet. "Dipnet" means a device consisting of a rigid frame filled with netting, firmly attached to a rigid handle and manually operated by a single person.

Sec. 2. 12 MRSA §11155, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt or possess wild turkey unless that person has a valid permit issued under this section. ~~Each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.~~

A person who violates this subsection commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended. The court also shall impose a fine of \$500 for each wild turkey unlawfully possessed, none of which may be suspended.

Sec. 3. 12 MRSA §11201, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed and the following enacted in its place:

§11201. Hunting during closed season

1. Closed season; general. A person may not hunt any wild animal or wild bird during the closed season or possess any wild animal or wild bird taken during the closed season on that wild animal or wild bird. Except as otherwise provided in this section, a person who violates this section commits a Class E crime.

2. Bear. A person who hunts or possesses a bear in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended. The court also shall impose a fine of not less than \$1,000, none of which may be suspended.

3. Deer. A person who hunts or possesses a deer in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended. The court also shall impose a fine of not less than \$1,000, none of which may be suspended.

4. Moose. A person who hunts or possesses a moose in violation of this section commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended. The court also shall impose a fine of not less than \$1,000, none of which may be suspended.