

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.

Penmor Lithographers
Lewiston, Maine
2004

W. Atlantic puffin, *Fratercula arctica*, threatened;

X. Harlequin duck, *Histrionicus histrionicus*, threatened;

Y. Arctic tern, *Sterna paradisaea*, threatened;

Z. Upland sandpiper, *Bartramia longicauda*, threatened;

AA. Swamp darter, *Etheostoma fusiforme*, threatened;

BB. Tidewater mucket, *Leptodea ochracea*, threatened;

CC. Yellow lampmussel, *Lampsilis cariosa*, threatened;

DD. Tomah mayfly, *Siphonisca aerodromia*, threatened;

EE. Pygmy snaketail, *Ophiogomphus howei*, threatened;

FF. Twilight moth, *Lycia rachelae*, threatened; and

GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened.

Sec. 7. 12 MRSA §12804, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

4. Annual report. The commissioner shall submit a written report by January 1st of each year to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over marine resources matters describing the status of all current and planned programs, activities and rules of the department pertaining to the conservation or management of endangered or threatened species. When appropriate, this report may be combined with any transplantation report required under subsection 1, paragraph D. The commissioner shall notify the Legislature by January 1st of each year that the report has been delivered.

Sec. 8. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, sections 12801 and 12803 take effect 90 days after the adjournment of the Second Regular Session of the 121st Legislature.

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

Effective March 24, 2004, unless otherwise indicated.

CHAPTER 574

H.P. 1358 - L.D. 1833

An Act To Amend Water Quality Laws To Aid in Wild Atlantic Salmon Restoration

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

Sec. 1. 38 MRSA §465, sub-§1, ¶C, as amended by PL 1999, c. 243, §8, is repealed and the following enacted in its place:

C. Except as provided in this paragraph, there may be no direct discharge of pollutants to Class AA waters.

(1) Storm water discharges that are in compliance with state and local requirements are allowed.

(2) A discharge to Class AA waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, is allowed if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 2, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

Sec. 2. 38 MRSA §465, sub-§2, ¶C, as amended by PL 2003, c. 318, §3, is further amended to read:

~~C. Direct~~ Except as provided in this paragraph, direct discharges to these waters licensed after January 1, 1986, are permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the department shall require the applicant to objectively demonstrate to the department's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification licensed prior to January 1, 1986, are allowed to continue only until practical alternatives exist. ~~This paragraph does not apply to the discharge of storm water.~~

(1) This paragraph does not apply to a discharge of storm water that is in compliance with state and local requirements.

(2) This paragraph does not apply to a discharge to Class A waters that are or once were populated by a distinct population segment of Atlantic salmon as determined pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, if, in addition to satisfying all the requirements of this article, the applicant, prior to issuance of a discharge license, objectively demonstrates to the department's satisfaction that the discharge is necessary, that there are no other reasonable alternatives available and that the discharged effluent is for the purpose of and will assist in the restoration of Atlantic salmon and will return the waters to a state that is closer to historically natural chemical quality.

(a) The department may issue no more than a total of 3 discharge licenses pursuant to this subparagraph and subsection 1, paragraph C, subparagraph (2).

(b) A discharge license issued pursuant to this subparagraph may not be effective for more than 5 years from the date of issuance.

Sec. 3. Reporting. The Atlantic Salmon Commission shall inform the joint standing committee of the Legislature having jurisdiction over natural resources matters when a license is issued pursuant to the Maine Revised Statutes, Title 38, section 465,

subsection 1, paragraph C, subparagraph (2) or Title 38, section 465, subsection 2, paragraph C, subparagraph (2) and shall report on the status of Atlantic salmon restoration in connection with those licenses. The commission shall provide updates concerning the progress of the Atlantic salmon restoration every 2 years thereafter.

See title page for effective date.

CHAPTER 575

H.P. 1276 - L.D. 1754

An Act To Permit Background Checks on Prospective Adoptive Parents

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

Sec. 1. 18-A MRSA §9-304, sub-§(a-1), as amended by PL 2001, c. 546, §1, is further amended to read:

(a-1) Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

(1) The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or licensed child-placing agency shall submit the report to the court within 60 days.

(i) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(ii) If the petitioner is a blood relative of the child, the court may waive the requirement of a study and report.

(2) The court shall request a background check for each prospective adoptive parent who is not the biological parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(i) The criminal history record information obtained from the Maine Criminal Justice