

# 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**

offense, none of which may be suspended; the court also shall impose a fine of not less than \$2,000, none of which may be suspended.

For purposes of this subsection, "night vision equipment" means a light amplification or thermal imaging device.

**Sec. 4. 12 MRSA §11901**, 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 D, §7, is repealed and the following enacted in its place:

**§11901. Raccoons**

**1. Open season.** An open season for hunting raccoons established by the commissioner must be of uniform duration throughout the State.

**2. Night hunting.** Notwithstanding the night hunting prohibition in section 11206, raccoons may be hunted at night during an open season established pursuant to this section.

See title page for effective date.

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**CHAPTER 593**

**H.P. 1271 - L.D. 1749**

**An Act To Provide for the  
Assessment of the Mahogany Quahog  
Resource**

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

**Whereas**, the mahogany quahog fishery industry provides an important source of income to Maine fishermen; and

**Whereas**, the mahogany quahog quota for Maine is determined at the federal level and is not based on current scientific information; and

**Whereas**, a source of funding is needed to accurately assess Maine's mahogany quahog resource and ensure the sustainability of the Maine fishery; 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. 12 MRSA §6731-A, sub-§5**, as enacted by PL 1991, c. 561, §1, is amended to read:

**5. Mahogany Quahog Monitoring Fund.** The ~~Toxin~~ Mahogany Quahog Monitoring Fund is established within the department. The commissioner shall use any money credited to the ~~Toxin~~ Mahogany Quahog Monitoring Fund ~~exclusively~~ for the collection of samples required under this section to monitor the level of paralytic shellfish toxin in mahogany quahogs and to conduct stock assessments of the mahogany quahog resource. All money in the ~~Toxin~~ Mahogany Quahog Monitoring Fund is subject to allocation by the Legislature. The ~~Toxin~~ Mahogany Quahog Monitoring Fund may not lapse but must carry forward to be used for the same purpose. Nothing in this subsection prohibits the commissioner from using other funds budgeted by the department to carry out the purposes of this section.

**Sec. 2. 12 MRSA §6731-A, sub-§6** is enacted to read:

**6. Stock assessment and report.** The department shall conduct stock assessments of the mahogany quahog resource beginning no later than January 1, 2005. The department shall report biennially to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the progress of the stock assessment and the status of the Mahogany Quahog Monitoring Fund starting on January 1, 2006.

**Sec. 3. 36 MRSA §4718**, as amended by PL 2003, c. 20, Pt. WW, §28, is further amended to read:

**§4718. Contributions; Mahogany Quahog Monitoring Fund**

The State Tax Assessor shall determine annually the total amount of tax revenue collected under this chapter. The ~~Until June 30, 2004~~, the State Tax Assessor shall deduct the cost of administering the mahogany quahog tax from those revenues and report the remainder to the Treasurer of State, who shall credit that amount to the ~~Toxin~~ Mahogany Quahog Monitoring Fund established in Title 12, section 6731-A, subsection 5, except that not more than \$56,000 may be credited to the fund in any year. ~~Revenues~~ Until June 30, 2004, revenues collected that are in excess of \$56,000 must be credited to the General Fund.

Beginning July 1, 2004, the State Tax Assessor shall deduct the cost of administering the mahogany quahog tax from those revenues and report the remainder to the Treasurer of State, who shall credit 58% of that amount or \$56,000, whichever is greater, to the Mahogany Quahog Monitoring Fund established in Title 12, section 6731-A, subsection 5 and 42% or the remainder, as applicable, to the General Fund.

**Sec. 4. Transfers from existing accounts.** The Department of Marine Resources shall transfer the

existing balance and encumbrances from the Toxin Monitoring Fund at any time to the Mahogany Quahog Monitoring Fund in order to fund any of the activities outlined in the Maine Revised Statutes, Title 12, section 6731-A, subsection 5.

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

Effective April 6, 2004.

## CHAPTER 594

### H.P. 1308 - L.D. 1786

#### **An Act Making Amendments to the Uniform Commercial Code Covering Provisions Dealing with Negotiable Instruments and Bank Deposits and Collections**

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

**Sec. 1. 11 MRSA §3-1103, sub-§(2)**, as enacted by PL 1993, c. 293, Pt. A, §2, is amended to read:

(2) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	Section 3-1409
"Accommodated party"	Section 3-1419
"Accommodation party"	Section 3-1419
"Alteration"	Section 3-1407
"Anomalous indorsement"	Section 3-1205
"Blank indorsement"	Section 3-1205
"Cashier's check"	Section 3-1104
"Certificate of deposit"	Section 3-1104
"Certified check"	Section 3-1409
"Check"	Section 3-1104
"Consideration"	Section 3-1303
"Demand draft"	Section 3-1104
"Draft"	Section 3-1104
"Holder in due course"	Section 3-1302
"Incomplete instrument"	Section 3-1115
"Indorsement"	Section 3-1204
"Indorser"	Section 3-1204
"Instrument"	Section 3-1104
"Issue"	Section 3-1105
"Issuer"	Section 3-1105
"Negotiable instrument"	Section 3-1104
"Negotiation"	Section 3-1201
"Note"	Section 3-1104
"Payable at a definite time"	Section 3-1108
"Payable on demand"	Section 3-1108
"Payable to bearer"	Section 3-1109
"Payable to order"	Section 3-1109
"Payment"	Section 3-1602

"Person entitled to enforce"	Section 3-1301
"Presentment"	Section 3-1501
"Reacquisition"	Section 3-1207
"Special indorsement"	Section 3-1205
"Teller's check"	Section 3-1104
"Transfer of instrument"	Section 3-1203
"Traveler's check"	Section 3-1104
"Value"	Section 3-1303

**Sec. 2. 11 MRSA §3-1104, sub-§(6)**, as enacted by PL 1993, c. 293, Pt. A, §2, is amended to read:

(6) "Check" means:

- (a) A draft, other than a documentary draft, payable on demand and drawn on a bank; ~~or~~
- (b) A cashier's check or teller's check; or
- (c) A demand draft.

An instrument may be a check even though it is described on its face by another term, such as "money order."

**Sec. 3. 11 MRSA §3-1104, sub-§(11)** is enacted to read:

(11) "Demand draft" means a writing not signed by a customer that is created by a 3rd party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A demand draft must contain the customer's account number and may contain any or all of the following:

- (a) The customer's printed or typewritten name;
- (b) A notation that the customer authorized the draft; and
- (c) The statement "No Signature Required" or words to that effect.

"Demand draft" does not include a check purportedly drawn by and bearing the signature of a fiduciary, as defined in section 3-1307, subsection 1, paragraph (a).

**Sec. 4. 11 MRSA §3-1416, sub-§(1), ¶¶(d) and (e)**, as enacted by PL 1993, c. 293, Pt. A, §2, are amended to read:

- (d) The instrument is not subject to a defense or claim in recoupment of any party that may be asserted against the warrantor; ~~and~~
- (e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and