

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**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**  
**2005**

**CHAPTER 74****H.P. 445 - L.D. 612****An Act To Authorize the Exchange of  
a Designated Hunting Season for  
Another Hunting Season for the  
Same Game Species****Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1.** 12 MRSA §11110, as enacted by PL 2003, c. 655, Pt. B, §117 and affected by §422, is amended to read:

**§11110. Transfer of hunting areas or zones**

A person who has been assigned a designated hunting area ~~or~~ zone or season by the department for purposes of hunting a game animal may exchange that designated zone ~~or~~ area or season with another person assigned a different hunting zone ~~or~~ area or season for the same game animal for purposes of hunting that same game animal. The commissioner may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 75****S.P. 207 - L.D. 652****An Act To Provide Free Antlerless  
Deer Permits to Persons 100 Years of  
Age or Older****Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1.** 12 MRSA §10853, sub-§1-A is enacted to read:

**1-A. Residents 100 years of age or older.** A complimentary antlerless deer permit under section 11152 may be issued to a resident of the State who is 100 years of age or older upon application to the commissioner.

A. A resident who applies for a complimentary antlerless deer permit under this subsection at any time during the calendar year of that resident's 100th birthday may be issued the permit regardless of the actual date during that calendar year in which that resident attains 100 years of age. The application must be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and proof of residency.

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

See title page for effective date.

**CHAPTER 76****H.P. 391 - L.D. 515****An Act To Increase the Limit on the  
Right To Rejoin the Maine State  
Retirement System****Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1.** 5 MRSA §18252, sub-§5, as amended by PL 2003, c. 630, Pt. A, §4, is further amended to read:

**5. Limit on right to rejoin.** The right of a person to rejoin under subsection 3 is limited to ~~one~~ two occurrences.

See title page for effective date.

**CHAPTER 77****S.P. 248 - L.D. 750****An Act To Clarify the Authority of  
Podiatrists To Use Assistants**

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

**Whereas,** this Act clarifies that podiatrists are authorized to delegate podiatric medical services to assistants; and

**Whereas,** it is the common practice of podiatrists in the State to use podiatric assistants; and

**Whereas,** it is urgent that the clarification of the podiatrist's authority to use assistants in all aspects of podiatric medicine be effective immediately in order to allow podiatrists to continue practicing in a safe and legal manner; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. 32 MRSA §3552-A** is enacted to read:

**§3552-A. Podiatric assistants**

**1. Podiatric assistants permitted.** This chapter may not be construed to prohibit a podiatric assistant from rendering podiatric medical services if these services are rendered under the supervision and control of a podiatrist and if that podiatric assistant is in a training program approved by the board or has satisfactorily completed training and a competency evaluation approved by the board. "Supervision and control" may not be construed to require the personal presence of the supervising and controlling podiatrist at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the podiatrist. This chapter may not be construed to prohibit a podiatrist from delegating to a podiatric assistant certain activities relating to medical care and treatment that are delegated by custom and usage, as long as those activities are under the supervision or control of the podiatrist, who must be present on the premises at the time the activities are performed. This section may not be construed to require the presence of the supervising and controlling podiatrist during the rendering of nondiagnostic or nontherapeutic services.

**2. Liability.** A podiatrist who delegates activities as described in subsection 1 to a podiatric assistant is legally liable for the medical activities of that podiatric assistant, and a podiatric assistant in this relationship is considered the podiatrist's agent. This subsection may not be construed to apply to an individual acting under a separate license accepted by the State to render services independently.

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

Effective May 5, 2005.

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**CHAPTER 78**

**H.P. 444 - L.D. 611**

**An Act To Strengthen Tenants' Rights When There Is a Failure To Correct a Dangerous Condition**

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

**Sec. 1. 14 MRSA §6026, sub-§2,** as amended by PL 1993, c. 236, §1, is further amended to read:

**2. Tenant action if landlord fails to act.** If a landlord fails to maintain a rental unit in compliance with the standards of subsection 1 and the reasonable cost of compliance is less than ~~\$250~~ \$500 or an amount equal to 1/2 the monthly rent, whichever is greater, the tenant shall notify the landlord in writing of the tenant's intention to correct the condition at the landlord's expense. If the landlord fails to comply within 14 days after being notified by the tenant in writing by certified mail, return receipt requested, or as promptly as conditions require in case of emergency, the tenant may cause the work to be done with due professional care with the same quality of materials as are being repaired. Installation and servicing of electrical, oil burner or plumbing equipment must be by a professional licensed pursuant to Title 32. After submitting to the landlord an itemized statement, the tenant may deduct from the tenant's rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection. This subsection does not apply to repairs of damage caused by the tenant or the tenant's invitee.

See title page for effective date.

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**CHAPTER 79**

**H.P. 179 - L.D. 240**

**An Act To Update Certain Provisions Pertaining to County Government**

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

**Sec. 1. 30-A MRSA §1, sub-§4** is enacted to read:

**4. County official.** "County official" means an elected or appointed member of a county government.

**Sec. 2. 30-A MRSA §201,** as amended by PL 1989, c. 104, Pt. A, §5; and Pt. C, §§8 and 10, is further amended to read:

**§201. Clerical help**

In all county offices, there ~~shall be~~ is allowed for clerk hire the amount authorized by the county commissioners. The county commissioners shall determine the salary of all clerks after receiving a recommendation from the county official under whom the clerk is employed. The county treasurer ~~shall~~ may pay weekly or biweekly, at the discretion of the commissioners, to the clerks employed by the county