

# 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**

least 20 days prior to the effective date of cancellation, or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A postal service certificate of mailing to the named insured at the insured's last known address ~~shall be~~ is conclusive proof of receipt on the 5th calendar day after mailing.

Except for a policy ~~which~~ that has been in effect for less than 60 days at the time notice of cancellation is received by the named insured, the reason for cancellation ~~shall~~ must accompany the notice, together with a notice of the right to apply for a hearing before the Superintendent of Insurance within 30 days, as provided in section 3054.

Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.

**Sec. 6. 24-A MRSA §3051, sub-§1,** as amended by PL 2003, c. 671, Pt. A, §8, is further amended to read:

1. If the insurer has manifested its willingness to renew; ~~or~~

**Sec. 7. 24-A MRSA §3051, sub-§2,** as enacted by PL 1973, c. 239, is amended to read:

2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal; or

**Sec. 8. 24-A MRSA §3051, sub-§3** is enacted to read:

3. If the insured has transferred a policy to an affiliate.

See title page for effective date.

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## CHAPTER 115

### H.P. 353 - L.D. 478

#### An Act To Cap Tuition Rates by Schools in the Unorganized Territory

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

**Sec. 1. 20-A MRSA §3304, sub-§1-A,** as enacted by PL 1997, c. 535, §2, is amended to read:

**1-A. Charges.** The per pupil tuition charge must be an amount equal to ~~125%~~ of the state average expenditure per elementary pupil during the preceding year, as determined annually by the commissioner

pursuant to section 5804, or the receiving school administrative unit's actual expenditure per elementary pupil for the preceding year as calculated by the commissioner, whichever is less.

See title page for effective date.

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## CHAPTER 116

### H.P. 200 - L.D. 261

#### An Act Concerning Significant Wildlife Habitat and Wetlands of Special Significance

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

**Sec. 1. 38 MRSA §480-B, sub-§2-B,** as enacted by PL 1989, c. 838, §3, is amended to read:

**2-B. Forest management activities.** "Forest management activities" means timber stand improvement, timber harvesting activities, forest products harvesting and regeneration of forest stands. For the purposes of this definition, "timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. For the purposes of this definition, "timber harvesting" means the cutting or removal of timber for the primary purpose of selling or processing forest products.

**Sec. 2. 38 MRSA §480-B, sub-§10,** as amended by PL 1999, c. 401, Pt. BB, §17, is repealed and the following enacted in its place:

**10. Significant wildlife habitat.** "Significant wildlife habitat" means:

A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the Atlantic Salmon Commission; and

B. Except for solely forest management activities, for which "significant wildlife habitat" is as defined and mapped in accordance with section

480-I by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the Department of Environmental Protection or are within any other protected natural resource:

- (1) Significant vernal pool habitat;
- (2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas; and
- (3) Shorebird nesting, feeding and staging areas.

**Sec. 3. 38 MRSA §480-Q, sub-§17, ¶¶E and F,** as enacted by PL 1995, c. 575, §1, are amended to read:

E. The activity does not take place in a wetland containing or consisting of peat land dominated by shrubs, sedges and sphagnum moss; and

F. The entire activity constitutes a single, complete project; and

**Sec. 4. 38 MRSA §480-Q, sub-§17, ¶G** is enacted to read:

G. The activity does not occur in a significant wildlife habitat.

**Sec. 5. 38 MRSA §480-BB** is enacted to read:

**§480-BB. Significant wildlife habitat; major substantive rules**

The Department of Inland Fisheries and Wildlife shall adopt rules that define "significant vernal pool habitat," "high and moderate value waterfowl and wading bird habitat" and "shorebird nesting, feeding and staging areas" under section 480-B, subsection 10, paragraph B. The Department of Environmental Protection shall adopt rules regarding the criteria used to determine whether an area is significant vernal pool habitat, high and moderate value waterfowl and wading bird habitat or shorebird nesting, feeding and staging areas under section 480-B, subsection 10, paragraph B. The rules, as applicable, must:

**1. Definition of buffer area.** Include a definition of the buffer area to be regulated;

**2. Certain landowners not subject to regulation.** Provide that a landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat is not on property owned or controlled by that landowner;

**3. Department of Environmental Protection must provide written field determination.** Require that the Department of Environmental Protection provide a written field determination upon the request of a landowner whose land may be affected by the definitions and criteria adopted in a rule;

**4. Department of Environmental Protection may not assess fine in certain cases.** Provide that the Department of Environmental Protection may not assess a fine against a landowner who acted in accordance with a written field determination if the fine would be based solely on information in the written field determination; and

**5. Process for voluntary identification.** Include a process for a landowner to voluntarily identify the landowner's land as a significant vernal pool habitat and to provide the Department of Inland Fisheries and Wildlife the authority to map the significant vernal pool habitat.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. Rules.** The major substantive rules adopted pursuant to the Maine Revised Statutes, Title 38, section 480-BB must be submitted to the Legislature by January 3, 2006 for review by the Joint Standing Committee on Natural Resources during the Second Regular Session of the 122nd Legislature. The Joint Standing Committee on Natural Resources is authorized to report out legislation to the Second Regular Session of the 122nd Legislature regarding significant wildlife habitat.

See title page for effective date.

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## CHAPTER 117

S.P. 88 - L.D. 268

### An Act To Allow Electronic Calling Devices for Hunting Moose

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

**Sec. 1. 12 MRSA §11604,** as repealed and replaced by PL 2003, c. 655, Pt. B, §177 and affected by §422, is repealed.

**Sec. 2. 12 MRSA §12152, sub-§3, ¶¶A, C and D,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

A. A propagation, rearing and sale permit does not authorize the permittee to possess, propagate or sell deer, bear, moose, wild turkey, hybrid