

# 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**

useful in the administration of this chapter and enforcement of the milk handling fee. The assessor may share information with the Maine Milk Commission in accordance with section 191, subsection 2, paragraph DD.

**6. Due dates.** Handlers shall pay to the assessor the fee due for the preceding fee period not later than the 25th day of each calendar month and submit the information required by the assessor on the forms provided.

**7. Presumption.** In a proceeding against a retail handler for collection of the fee with respect to a particular container of packaged milk, there is a rebuttable presumption that that retail handler did not purchase that container in a transaction subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603. The burden is on the retail handler to show that the retail handler purchased that container of packaged milk in a transaction subject to minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.

**8. General Fund.** The assessor shall immediately pay all funds received from the milk handling fee to the Treasurer of State to be deposited in the General Fund. The funds may not be dedicated to a particular purpose and may be used for all purposes of State Government.

**9. Exception.** A producer-handler who sells less than 10,000 hundredweight per year is not subject to the fee imposed under subsection 1.

**Sec. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Bureau of Revenue Services**

Initiative: Provides funds to cover the initial costs of the Bureau of Revenue Services to administer the milk handling fee.

<b>GENERAL FUND</b>	<b>2005-06</b>
All Other	\$10,000
<b>GENERAL FUND TOTAL</b>	<b>\$10,000</b>

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

Effective June 17, 2005.

**CHAPTER 397**

**H.P. 1145 - L.D. 1622**

**An Act To Correct Errors and Inconsistencies in the Laws of Maine**

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

**Whereas,** acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

**Whereas,** these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

**Whereas,** it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:**

**PART A**

**Sec. A-1. 2 MRSA §6, sub-§1,** as amended by PL 2003, c. 608, §1 and c. 689, Pt. C, §1, is repealed and the following enacted in its place:

**1. Range 91.** The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;

Commissioner of Conservation;

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

Executive Director of Dirigo Health;

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Marine Resources;

Commissioner of Corrections;

Commissioner of Economic and Community Development;

Commissioner of Defense, Veterans and Emergency Management; and

Executive Director, Workers' Compensation Board.

**Sec. A-2. 2 MRSA §6, sub-§3**, as amended by PL 2005, c. 12, Pt. SS, §2, is further amended to read:

**3. Range 89.** The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;

Director, Bureau of Alcoholic Beverages and Lottery Operations;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Chief of the State Police;

Director, State Planning Office;

Director, Energy Resources Office;

Director of Human Resources;

Director, Bureau of Children with Special Needs;

~~Commissioner of Defense, Veterans and Emergency Management;~~

Director, Bureau of Parks and Lands; and

Director of Econometric Research.

**Sec. A-3. 5 MRSA §1589, sub-§3**, as amended by PL 1995, c. 368, Pt. HH, §3 and c. 464, §10, is repealed and the following enacted in its place:

**3. Total quality management initiatives.** Amounts appropriated or allocated to each departmentwide and statewide account in accordance with subsection 2 must be used for the payment of non-recurring expenditures representing total quality management initiatives in the same department or agency or on a statewide basis, respectively.

**Sec. A-4. 5 MRSA §1589, sub-§3-A**, as repealed by PL 1995, c. 368, Pt. HH, §4 and amended by c. 464, §11, is repealed.

**Sec. A-5. 5 MRSA §1589, sub-§3-C**, as repealed by PL 1995, c. 368, Pt. HH, §4 and amended by c. 464, §12, is repealed.

**Sec. A-6. 5 MRSA §1660-D, sub-§3**, as corrected by RR 1995, c. 2, §5 and amended by PL 2001, c. 354, §3, is further amended to read:

**3. Commissioner.** "Commissioner" means the Commissioner of Health and Human Services ~~and the Commissioner of Behavioral and Developmental Services~~, who ~~share joint~~ has responsibility for the administration of this chapter.

**Sec. A-7. 5 MRSA §19131, sub-§2, ¶C**, as enacted by PL 1999, c. 785, §3, is amended to read:

C. The Commissioner of Health and Human Services;

**Sec. A-8. 5 MRSA §19131, sub-§2, ¶D**, as amended by PL 2003, c. 576, §1, is repealed.

**Sec. A-9. 12 MRSA §12661, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Removal of abandoned ice fishing shacks.** Notwithstanding the provisions of Title 33, chapter 41, a landowner on whose property an ice fishing shack is left in violation of Title 17, section ~~2264~~ 2263-A may remove or destroy the shack. The landowner may recover any costs of removing or destroying the shack from the owner of the shack in a civil action.

**Sec. A-10. 14 MRSA §1256**, as amended by PL 1979, c. 57, §6, is further amended to read:

#### **§1256. New jurors**

If for any reason a grand jury or a traverse jury is dismissed before completing its work, the clerk of courts shall proceed to draw and notify new jurors in accordance with section ~~1255~~ 1255-A.

**Sec. A-11. 17 MRSA §2802**, as corrected by RR 2003, c. 2, §24, is amended to read:

#### **§2802. Miscellaneous nuisances**

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of

others; causing or suffering any offal, filth or noisome substance to collect or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section ~~4306B~~ 13068-A, subsection 8; unlawfully diverting the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn-out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances.

**Sec. A-12. 18-A MRSA §5-601, sub-§(b)**, as amended by PL 1995, c. 560, Pt. K, §4 and affected by §83 and amended by PL 2001, c. 354, §3, is further amended to read:

(b) The Department of ~~Behavioral and Developmental~~ Behavioral and Developmental Health and Human Services shall act as the public guardian or conservator for persons with mental retardation and ~~the Department of Human Services shall act as the public guardian or conservator~~ for other incapacitated persons in need of protective services.

**Sec. A-13. 18-A MRSA §5-613, sub-§(1)**, as amended by PL 1995, c. 560, Pt. K, §6 and affected by §83; amended by PL 2001, c. 354, §3; and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

(1) When the following occur, the costs of the guardian ad litem or any other special costs may be paid by the Department of Health and Human Services, within the limits of the department's budget; ~~if the person involved is mentally retarded, and the costs may, in all other cases, be paid by the Department of Health and Human Services, within the limits of the department's budget:~~

(a) An allegedly incapacitated person is in need of protective services and:

(1) A guardian ad litem is appointed under the provisions of this Code; or

(2) A court incurs special costs in a proceeding concerning such a person; and

(b) Appointment of a public guardian or conservator is sought or the allegedly incapacitated person, within 3 months prior to the filing of the petition:

(1) Is or has been a client of the Department of ~~Behavioral and Developmental~~ Health and Human Services; or

~~(2) Is or has been a client of the Department of Human Services; or~~

(3) Has received services from a worker from the Department of ~~Behavioral and Developmental~~ Health and Human Services or the Department of Human Services.

**Sec. A-14. 19-A MRSA §4013, sub-§1, ¶A**, as amended by PL 2001, c. 240, §2 and c. 354, §3, is further amended to read:

A. The Governor shall name the chair from among the following members:

(1) Two members, appointed by the Governor, who are representatives of the statewide coalition of domestic violence projects;

(1-A) Two members, appointed by the Governor, who are representatives of the statewide coalition of sexual assault centers;

(2) One member, appointed by the Governor, who is a representative of the mental health profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

(5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;

(5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;

(6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;

(7) One member, appointed by the Governor, who is chief of a municipal police department;

(8) One member, appointed by the Governor, who is a county sheriff;

(8-A) One member, appointed by the Governor, who is the statewide coordinator of a statewide coalition to end domestic violence;

(8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;

(8-C) The Attorney General or the Attorney General's designee;

(8-D) The Chief of the Maine State Police or the chief's designee;

(9) The Commissioner of Public Safety or the commissioner's designee;

(9-A) The Commissioner of Health and Human Services or the commissioner's designee;

~~(9-B) The Commissioner of Behavioral and Developmental Services or the commissioner's designee;~~

(9-C) The Commissioner of Education or the commissioner's designee;

(9-D) The Commissioner of Labor or the commissioner's designee;

(9-E) The Commissioner of Corrections or the commissioner's designee;

(9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs; and

(10) Up to 8 members-at-large, appointed by the Governor.

**Sec. A-15. 20-A MRSA §5152, sub-§3, ¶H**, as enacted by PL 1985, c. 774, §5, is amended to read:

H. Department of Health and Human Services;

**Sec. A-16. 20-A MRSA §5152, sub-§3, ¶I**, as enacted by PL 1985, c. 774, §5; amended by PL 1995, c. 560, Pt. K, §82 and affected by §83; and amended by PL 2001, c. 354, §3, is repealed.

**Sec. A-17. 20-A MRSA §12302, sub-§3, ¶¶A and B**, as enacted by PL 1999, c. 401, Pt. NN, §2 and affected by §4 and enacted by PL 1999, c. 496, §2, are repealed and the following enacted in their place:

A. Applicants under subsection 1, paragraph A who meet eligibility criteria established by rule of the authority, which at a minimum must require:

(1) That the student be a Maine resident;

(2) That the student be enrolled in a dental school; and

(3) That priority be given to a student:

(a) Who previously received a loan pursuant to this section;

(b) Who exhibits financial need; and

(c) Who demonstrates an interest in serving an underserved population area; and

B. Applicants under subsection 1, paragraph B who meet eligibility criteria established by rule of the authority, which at a minimum must require:

(1) That the applicant be eligible for licensure to practice dental medicine in Maine;

(2) That the applicant have outstanding dental education loans; and

(3) That the applicant be willing to serve an underserved population area.

**Sec. A-18. 22 MRSA §6-A, last ¶**, as corrected by RR 1995, c. 2, §39 and amended by PL 2001, c. 354, §3, is repealed.

**Sec. A-19. 22 MRSA §6-C**, as amended by PL 1999, c. 401, Pt. L, §1 and affected by §2 and amended by PL 2001, c. 354, §3, is repealed and the following enacted in its place:

### **§6-C. Community Services Center**

**1. Establishment.** The Community Services Center, referred to in this section as "the service center," is established as an agency within the department to provide auditing, licensing and contracting services to the department. Auditing, contracting and licensing services include, but are not limited to, program audits, performance-based contracting, federal grant management, licensing, complaint investigations and other functions as may be determined by the commissioner, except that adminis-

trative hearing functions may not be transferred to the service center. The service center's purpose is to provide a single point of access for purchasing and coordinating administration of contracted community services and to coordinate licensing and auditing visits for social service providers in a cost-effective manner to the department. The service center is under the authority and direction of the commissioner or the commissioner's designee. The commissioner shall employ a director of the service center, who is subject to the Civil Service Law.

**2. Transfer of property.** The commissioner shall approve the transfer of property and equipment as needed for the operation of the service center.

**3. Contracting function.** The Division of Contracted Community Services of the service center shall provide technical assistance to the bureaus of the department in procuring, distributing and monitoring all state and federal funds. The bureaus of the department retain responsibility for policy direction and decision-making authority regarding funding and services.

**5. Licensing function.** The department retains responsibility for policy direction and decision-making authority regarding licensing decisions concerning facilities providing mental health, mental retardation or substance abuse services.

**Sec. A-20. 22 MRSA §3174-R,** as amended by PL 2003, c. 510, Pt. A, §17 and c. 611, §2, is repealed and the following enacted in its place:

**§3174-R. Medicaid drug rebate program**

The department shall enter into a drug rebate agreement with each manufacturer of prescription drugs under the Medicaid program, in accordance with the federal Social Security Act, Section 1927, as long as the agreements are consistent with state and federal law and result in a net increase in rebate revenue available to the Maine Medicaid Program. Individual rebate agreements may vary.

**Sec. A-21. 22 MRSA §3472, sub-§4,** as amended by PL 2003, c. 653, §2, is further amended to read:

**4. Commissioner.** "Commissioner" means the Commissioner of Health and Human Services or a designated representative in the geographical area in which the person resides or is present ~~or, in the case of adults with mental retardation, the Commissioner of Behavioral and Developmental Services or a designated representative in the geographical area in which the person resides or is present.~~

**Sec. A-22. 22 MRSA §3472, sub-§5,** as amended by PL 2003, c. 653, §2, is repealed.

**Sec. A-23. 22 MRSA §3762, sub-§2, ¶C,** as enacted by PL 1997, c. 530, Pt. A, §16 and amended by PL 2001, c. 354, §3, is repealed.

**Sec. A-24. 22 MRSA §7924, sub-§1,** as corrected by RR 2003, c. 2, §82, is amended to read:

**1. Alleged violations reported and investigated.** Any person who believes that any of those rules governing the licensure of long-term care facilities or the operation of assisted living programs and services authorized pursuant to section 7853 adopted by the ~~Department of Health and Human Services~~ department pertaining to residents' rights and conduct of resident care has been violated may report the alleged violation to the protection and advocacy agency designated pursuant to Title 5, section 19501; the long-term care ombudsman pursuant to section 5106, subsection 11-C and section 5107-A; the Office of Advocacy pursuant to Title 34-A, section 1203; and any other agency or person whom the ~~Commissioner of Health and Human Services~~ commissioner may designate.

**Sec. A-25. 22 MRSA §7924, sub-§2,** as enacted by PL 1981, c. 445 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**2. Professionals to report.** Any professional who provides health care, social services or mental health services or who administers a long-term care facility or program and who knows of or has reasonable cause to suspect that there has been a violation of any of those ~~regulations promulgated~~ rules adopted by the Department of Health and Human Services department governing the licensure of long-term care facilities pertaining to residents' rights or conduct of resident care shall immediately report or cause a report to be made to an agency or person referred to in subsection 1.

**Sec. A-26. 22 MRSA §7924, sub-§3,** as corrected by RR 1995, c. 2, §45 and amended by PL 2001, c. 354, §3, is further amended to read:

**3. Written report of findings.** Any agency or person investigating a situation pursuant to subsection 1 or 2 shall submit a written report of the findings and results of the investigation to the administrator of the long-term care facility in which the residents' rights allegedly have been violated; and to the Commissioner of Human Services; and, if the resident is mentally ill or mentally retarded or has a related condition, to the Commissioner of Behavioral and Developmental Services commissioner.

**Sec. A-27. 22 MRSA §7933, sub-§2,** as amended by PL 1997, c. 610, §2 and PL 2001, c. 354, §3, is further amended to read:

**2. Who may bring action.** The commissioner or acting commissioner may bring an action in Superior Court requesting the appointment of a receiver. ~~In an action brought regarding a private psychiatric hospital, prior to or at the time of bringing the action, the commissioner shall consult and work collaboratively with the Commissioner of Behavioral and Developmental Services.~~

**Sec. A-28. 22 MRSA §8104, sub-§1**, as corrected by RR 1995, c. 2, §46 and amended by PL 2001, c. 354, §3, is further amended to read:

**1. Interagency licensing method.** The Commissioner of Education, ~~the Commissioner of Human Services~~ and the Commissioner of ~~Behavioral and Developmental~~ Health and Human Services, or their designees, shall jointly establish a method for interagency licensing of residential child care facilities subject wholly or partly to licensing by ~~at least 2~~ both of the departments. The method must provide for the following:

- A. Development of common licensing rules;
- B. Periodic review of licensing rules;
- C. Delegation of departmental responsibilities; and
- D. Determination of licensing fees.

**Sec. A-29. 30-A MRSA §401, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is amended to read:

**1. Sheriff's duties.** The sheriff shall act as the chief county law enforcement officer and is responsible for administering and directing the sheriff's department as authorized by the county budget. The sheriff shall inform the county commissioners of sheriff's department activities on a regular basis ~~and shall meet with the commissioners as required under subsection 3.~~

**Sec. A-30. 30-A MRSA §3821, sub-§3**, as amended by PL 1995, c. 88, §1, is further amended to read:

**3. Availability for inspection.** Both the register and the record must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the licensing authority or any full-time law enforcement officer as defined in Title 25, section ~~2805~~ 2801-A, subsection 4. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.

**Sec. A-31. 30-A MRSA §4314, sub-§3, ¶E**, as amended by PL 2003, c. 595, §1 and c. 614, §4, is repealed and the following enacted in its place:

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted in accordance with the procedures, goals and guidelines established in this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment;

**Sec. A-32. 30-A MRSA §4349-A, sub-§3**, as amended by PL 2003, c. 641, §17, is repealed.

**Sec. A-33. Effective date.** That section of this Act that repeals the Maine Revised Statutes, Title 30-A, section 4349-A, subsection 3, takes effect July 1, 2005.

**Sec. A-34. 31 MRSA §526, sub-§20**, as amended by PL 2003, c. 631, §47 and c. 673, Pt. WWW, §21 and affected by §37, is repealed and the following enacted in its place:

20. Certificate of conversion. Certificate of conversion of a limited partnership to another type of business entity as provided by section 418, a fee in the amount of \$145; and

**Sec. A-35. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 31, section 526, subsection 20 applies retroactively to August 1, 2004.

**Sec. A-36. 31 MRSA §751, sub-§25**, as amended by PL 2003, c. 631, §62 and c. 673, Pt. WWW, §29 and affected by §37, is repealed and the following enacted in its place:

25. Certificate of conversion. Certificate of conversion of a limited liability company to another type of business entity as provided by section 746, a fee of \$145; and

**Sec. A-37. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 31, section 751, subsection 25 applies retroactively to August 1, 2004.

**Sec. A-38. 31 MRSA §871, sub-§18**, as amended by PL 2003, c. 631, §75 and c. 673, Pt. XXX, §8 and affected by §10, is repealed and the following enacted in its place:

18. Annual report. For filing of an annual report under section 873, a fee of \$85;

**Sec. A-39. Retroactivity.** That section of this Act that repeals and replaces the Maine Revised



Statutes, Title 31, section 871, subsection 18 applies retroactively to January 1, 2005.

**Sec. A-40. 32 MRSA §94**, as amended by PL 1995, c. 488, §4, is further amended to read:

**§94. Sunset**

The operations and conduct of Maine Emergency Medical Services must be reviewed in accordance with ~~the Maine Sunset Act, Title 3, chapter 35, no later than June 30, 2003.~~

**Sec. A-41. 34-A MRSA §9881, sub-§4**, as enacted by PL 2003, c. 495, §1, is repealed.

**Sec. A-42. 34-B MRSA §1201-A, last ¶**, as enacted by PL 1991, c. 781, Pt. D, §2 and affected by §4, is repealed.

**Sec. A-43. 34-B MRSA §1205, sub-§1**, as amended by PL 1995, c. 560, Pt. K, §18, is further amended to read:

**1. Establishment.** The Office of Advocacy is established within the Office of Advocacy and Consumer Affairs of the department solely to investigate the claims and grievances of clients of the department, to investigate ~~with the Department of Human Services, as appropriate,~~ all allegations of adult and child abuse in state institutions and to advocate on behalf of clients for compliance by any institution, other facility or agency administered, licensed or funded by the department with all laws, administrative rules and institutional and other policies relating to the rights and dignity of clients.

**Sec. A-44. 34-B MRSA §1205, sub-§3, ¶E**, as repealed and replaced by PL 1989, c. 7, Pt. N, §3, is amended to read:

E. Act as an information source regarding the rights of all clients, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of the clients and about relevant legal decisions and other developments related to the field of mental health and mental retardation, both in this State and in other parts of the country; and

**Sec. A-45. 34-B MRSA §1205, sub-§3, ¶F**, as enacted by PL 1989, c. 7, Pt. N, §3, is amended to read:

F. Make and publish reports necessary to the performance of the duties described in this section. The chief advocate may report findings of the office to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press, and may authorize the advocates in the Of-

ice of Advocacy to so communicate. At least annually, the chief advocate shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over mental health and mental retardation; ~~and~~

**Sec. A-46. 34-B MRSA §1205, sub-§3, ¶G**, as enacted by PL 1989, c. 7, Pt. N, §3, is repealed.

**Sec. A-47. 34-B MRSA §1207, sub-§1, ¶B**, as amended by PL 1995, c. 691, §4 and PL 2001, c. 354, §3, is further amended to read:

B. Information may be disclosed if necessary to carry out any of the statutory functions of the department, the hospitalization provisions of chapter 3, subchapter ~~IV~~ 4, the purposes of sections 3607 and 3608, the purposes of Title 22, section 3554; or the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; ~~or the purposes of Title 18-A, section 5-601, subsection (b), when the Department of Human Services is requested by the Department of Behavioral and Developmental Services to act as public guardian or public conservator;~~

**Sec. A-48. 34-B MRSA §1207, sub-§1, ¶B-1**, as amended by PL 1991, c. 250, is repealed.

**Sec. A-49. 36 MRSA §2903-D, sub-§2, ¶B**, as enacted by PL 2001, c. 693, §7 and affected by §11, is amended to read:

B. The Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands, ~~established under~~ described in Title 12, section ~~7824~~ 1893, subsection 3, receives 85.07% of that amount.

**Sec. A-50. PL 2003, c. 20, Pt. FFF, §1, sub-§1**, as amended by PL 2003, c. 507, Pt. A, §1 and affected by §3 and amended by c. 673, Pt. K, §2, is repealed and the following enacted in its place:

1. The Commissioner of Administrative and Financial Services, referred to in this section as "the commissioner," and any insurance company or 3rd-party administrator, referred to in this section as "the carrier," insuring or administering the state employee health plan, referred to in this section as "the plan," shall jointly negotiate agreements with hospitals participating in the carrier's provider network to reduce the expense incurred by the plan in state fiscal year 2003-04 by the amount of at least \$18,020,851. In undertaking such negotiations the carrier must be deemed at all times to be the agent of the State. The

commissioner and the carrier acting at the direction of the commissioner may offer or negotiate such terms and conditions as the commissioner considers to be in the best interest of the State to reduce the expense of the state employee health plan, including, but not limited to, offering or negotiating reductions in standard hospital reimbursement rates, rebates and refunds and uniform terms relating to such reductions, rebates or refunds. The commissioner may not affect or seek to affect amounts paid to hospitals relating to any other customer of the carrier.

**Sec. A-51. PL 2003, c. 414, Pt. B, §26** is repealed and the following enacted in its place:

**Sec. B-26. 14 MRSA §3142, sub-§1, ¶C**, as amended by PL 2001, c. 471, Pt. A, §20, is further amended to read:

C. The suspension of any license, certification, registration, permit, approval or other similar document evidencing the granting of authority to hunt, fish or trap or to engage in a profession, occupation, business or industry, not including a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B. Licenses and registration subject to suspension include, but are not limited to:

- (1) Licenses issued by the Commissioner of Marine Resources, as provided in Title 12, section 6409;
- (2) Licenses issued by the Commissioner of Inland Fisheries and Wildlife, as provided in Title 12, section ~~7077~~ 10902, subsection ~~4-C~~ 3;
- (3) Watercraft, snowmobile and all-terrain vehicle registrations, as provided in Title 12, section ~~7077~~ 10902, subsection ~~4-C~~ 3; and
- (4) Motor vehicle licenses or permits issued by the Secretary of State, the right to operate a motor vehicle in this State and the right to apply for or obtain a license or permit, as provided in Title 29-A, section 2605.

**Sec. A-52. Effective date.** That section of this Act that repeals and replaces Public Law 2003, chapter 414, Part B, section 26 takes effect August 31, 2004.

**Sec. A-53. PL 2003, c. 451, Pt. Z, §1, sub-§1**, as amended by PL 2003, c. 507, Pt. A, §2 and affected by §3 and amended by c. 673, Pt. K, §1, is repealed and the following enacted in its place:

1. The Chancellor of the University of Maine System, referred to in this section as "the chancellor," and any insurance company or 3rd-party administrator acting at the direction of the State, referred to in this section as "the carrier," insuring or administering the University of Maine System health plan for employees and retirees, referred to in this section as "the plan," shall negotiate agreements with hospitals participating in the carrier's provider network to reduce the expense incurred by the plan in state fiscal year 2003-04 by the amount of \$2,250,000. It is not the intent of the Legislature to require negotiations to reduce such expenses beyond state fiscal year 2004. In undertaking such negotiations, the carrier is deemed at all times to be the agent of the State of Maine and the University of Maine System. The chancellor and the carrier, acting at the direction of the State, may offer or negotiate such terms and conditions as the chancellor considers to be in the best interest of the university to reduce the expense of the plan, including, but not limited to, offering or negotiating reductions in standard hospital reimbursement rates, rebates and refunds and uniform terms relating to such reductions, rebates or refunds. The chancellor may not affect or seek to affect amounts paid to hospitals relating to any other customer of the carrier. The hospital discount rate resulting from this specific arrangement is not intended to affect the underlying premium rates for any purpose. This pooling of funds by the State is not intended to affect plan cost recoveries, plan cost structures or the university's ability to negotiate with carriers regarding the plan.

**Sec. A-54. Retroactivity.** That section of this Act that repeals and replaces Public Law 2003, chapter 451, Part Z, section 1, subsection 1 applies retroactively to June 12, 2003.

**Sec. A-55. RR 2003, c. 1, §10** is amended to read:

**Sec. 10. Effective date.** That section of this report that corrects the Maine Revised Statutes, Title 12, section 13056, subsection 2, paragraph G takes effect ~~90 days after the adjournment of the Second Regular Session of the 121st Legislature~~ August 31, 2004.

**Sec. A-56. Retroactivity.** That section of this Act that amends Revisor's Report 2003, chapter 1, section 10, applies retroactively to April 30, 2004.

## PART B

**Sec. B-1. 1 MRSA §148**, as enacted by PL 2005, c. 20, §1, is reallocated to 1 MRSA §149.

**Sec. B-2. Effective date.** That section of this Part that reallocates the Maine Revised Statutes, Title 1, section 148 takes effect June 29, 2005.

**Sec. B-3. 7 MRSA §1809, sub-§1**, as repealed and replaced by PL 2001, c. 572, §38, is amended to read:

**1. Permit required.** The commissioner may require a person who imports animals into the State to obtain a permit before the time of entry. When a permit is required, the permit or permit number must accompany the shipment. The commissioner may refuse to grant a permit or may issue one subject to quarantine at destination if the animals do not meet importation requirements or do not comply with the inland fisheries and wildlife laws and rules adopted by the Commissioner of Inland Fisheries and Wildlife under Title 12, chapter ~~707~~ 915, subchapter ~~7~~ 15 or Title 12, section 12102 or 12704. The commissioner may require the owner to have those animals tested or examined by a veterinarian at the owner's expense. The commissioner may release those animals from quarantine only after the commissioner is satisfied that they are not a disease threat to other animals or humans.

**Sec. B-4. 20-A MRSA §11435**, as enacted by PL 1987, c. 807, §3, is amended to read:

**§11435. Review of authority**

For purposes of ~~the Maine Sunset Act~~, Title 3, chapter ~~23~~ 35, the authority ~~shall be considered is an independent agency, with its first justification report in accordance with Title 3, section 504, due in 1991, and the evaluation and analysis in accordance with Title 3, section 505, by the joint standing committee of the Legislature having jurisdiction over audit and program review due no later than December 31, 1992, but notwithstanding Title 3, sections 506 and 507, the authority shall not terminate subject to the review requirements specified in Title 3, section 959.~~

**Sec. B-5. 22 MRSA §4041, sub-§2, ¶C**, as amended by PL 1997, c. 715, Pt. B, §11, is further amended to read:

C. If the department discontinues efforts to return the child to a parent but does not seek termination of parental rights, then subsection ~~4~~ 1-A, paragraph A, subparagraph (1), division ~~(e)~~ (c), subdivision (v) and subsection ~~4~~ 1-A, paragraph A, subparagraph (2) still apply.

**Sec. B-6. 22 MRSA §4058**, as enacted by PL 1985, c. 739, §17, is amended to read:

**§4058. Review**

The provision in this chapter ~~4074~~ dealing with family rehabilitation and reunification ~~shall~~ must be reviewed in accordance with ~~the Maine Sunset Act~~, Title 3, chapter ~~23~~, ~~no later than June 30, 1989~~ 35.

**Sec. B-7. PL 2003, c. 673, Pt. TT, §3** is repealed.

**Sec. B-8. Retroactivity.** That section of this Part that repeals Public Law 2003, chapter 673, Part TT, section 3 applies retroactively to July 1, 2004.

**Sec. B-9. PL 2005, c. 21, §2** is amended to read:

**Sec. 2. PL 2001, c. 442, §5**, as amended by PL 2003, c. 387, §14, is further amended to read:

**Sec. 5. Status of employees who have retired and returned to covered employment under Maine State Retirement System; choice to retire rather than continue to work.** Notwithstanding the Maine Revised Statutes, Title 5, section 17651 and section 17652, recipients of a service retirement benefit from the Maine State Retirement System who have returned to covered employment under the retirement system in a position that would otherwise be covered by the retirement plan for state employees and teachers may not rejoin the retirement system, do not earn creditable service for their employment after retirement and do not earn any additional retirement benefits as a result of that employment. By retiring from a position covered under the retirement system, an employee exercises that employee's choice between continuing to work and thereby continuing to accrue retirement service credit and, potentially, an increased earnable compensation, and retiring, with both service credit and earnable compensation thereby becoming fixed. The employee's retirement constitutes the employee's knowing and voluntary waiver of any claim of any nature under federal or state law with respect to retirement system service credit or earnable compensation related to return to employment after retirement. Recipients of a service retirement benefit from the retirement system may participate in other retirement options available to similar employees, including the state program of tax-deferred arrangements under Title 5, chapter 67, at the discretion of their employer. ~~For purposes of participation in the state employee health insurance program pursuant to the Maine Revised Statutes, Title 5, section 285 or in dental health insurance coverage offered by the State, recipients of a service retirement benefit under the Maine State Retirement System who are retired state employees and who are reemployed as state employees must be treated as retirees under section 285, subsection 1-A for purposes of eligibility for coverage under the group plan.~~ A recipient of a service retirement benefit under the Maine State Retirement System who is a retired teacher and who returns to work as a teacher under this Act is eligible for coverage under the group health insurance plan for active teachers in the school administrative unit in which newly employed. For purposes of participation in the group accident and

sickness or health insurance for retired teachers pursuant to Title 20-A, section 13451, a recipient of a service retirement benefit under the Maine State Retirement System who is a retired teacher who returns to work under this Act is eligible upon ceasing work to return to coverage under the group health insurance plan in effect for active teachers in the school unit from which the teacher originally retired, including state payment of a percentage of the premium cost under section 13451.

### PART C

**Sec. C-1. 2 MRSA §101, sub-§1, ¶A**, as enacted by PL 2003, c. 469, Pt. B, §1, is amended to read:

A. Develop and issue the biennial State Health Plan, referred to in this chapter as "the plan," pursuant to section 103. ~~The first plan must be issued by May 2004 by December 1, 2005 and every 2 years thereafter;~~

**Sec. C-2. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 2, section 101, subsection 1, paragraph A takes effect 90 days after the adjournment of the First Special Session of the 122nd Legislature.

**Sec. C-3. 3 MRSA §959, sub-§1, ¶F**, as amended by PL 2003, c. 600, §1, is further amended to read:

F. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall use the following list as a guideline for scheduling reviews:

- (2) Office of Substance Abuse in 2005;
- (3) Maine Advisory Committee on Mental Retardation in 2007;
- (6) Department of Health and Human Services in 2009;
- (7) Board of the Maine Children's Trust Incorporated in 2011;
- (9) Maine Developmental Disabilities Council in 2011; ~~and~~
- (10) ~~Department of Behavioral and Developmental Services in 2005.~~

**Sec. C-4. 4 MRSA §153, first ¶**, as amended by PL 2003, c. 673, Pt. JJJ, §1, is further amended to read:

The State is divided into ~~29~~ 28 judicial divisions, named and defined as follows, and with places for holding court in those divisions as follows:

**Sec. C-5. 4 MRSA §153, sub-§11**, as amended by PL 1993, c. 675, Pt. B, §2, is further amended to read:

**11. Hancock.** ~~Central Hancock~~ consists of the entire County of Hancock, ~~except Bar Harbor, Mount Desert, Cranberry Isles, Southwest Harbor, Trenton, Swan's Island, Long Island Plantation and Tremont.~~ The District Court for ~~Central Hancock~~ must be held at Ellsworth, ~~except that one session per week may be held at Bucksport at the discretion of the Chief Judge.~~

**Sec. C-6. 4 MRSA §153, sub-§12** is repealed.

**Sec. C-7. 4 MRSA §154, sub-§5** is amended to read:

**5. Fifth District.** The 5th district consists of the divisions of ~~Central Hancock (Ellsworth), Southern Hancock (Bar Harbor)~~ and Waldo (Belfast).

**Sec. C-8. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 4, section 153, first paragraph and subsection 11 and section 154, subsection 5 and that repeal section 153, subsection 12 take effect June 30, 2005.

**Sec. C-9. 12 MRSA §6431, sub-§1-A**, as enacted by PL 2005, c. 6, §2, is amended to read:

**1-A. Most restrictive minimum size.** A person possessing a valid lobster and crab fishing license and who also owns or is incorporated or partnered in a vessel ~~holding a~~ or vessels that hold federal limited access lobster ~~permit~~ permits must comply with the most restrictive minimum lobster size for all federal lobster management areas declared on the federal permit, ~~as designated on that person's Maine lobster and crab fishing license application, whenever the fishing activity occurs.~~ The applicable most restrictive minimum lobster size is contained in the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster, wherever the fishing activity occurs.

**Sec. C-10. 12 MRSA §10853, sub-§7, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2, and affected by c. 614, §9, is repealed and the following enacted in its place:

A. Clients of the Department of Health and Human Services who reside in licensed facilities for persons with mental retardation or licensed facilities for the treatment of mental illness;

**Sec. C-11. 13-B MRSA §202, sub-§1, ¶T**, as enacted by PL 1989, c. 857, §52, is amended to read:

T. To engage in legislative liaison activities, including gathering information regarding legislation, analyzing the effect of legislation, communicating with Legislators and attending and giving testimony at legislative sessions, public hearings or committee hearings, notwithstanding any rule adopted by the Department of ~~Finance~~ Health and Human Services.

**Sec. C-12. 20-A MRSA §11415, sub-§1**, as amended by PL 1999, c. 443, §6, is further amended to read:

**1. Composition.** There are 7 ~~voting~~ members of the authority, § 6 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and confirmation by the Legislature.

**Sec. C-13. 22 MRSA §3741-M**, as enacted by PL 1997, c. 284, §1, is repealed.

**Sec. C-14. 22 MRSA §3762, sub-§2, ¶G**, as enacted by PL 1997, c. 530, Pt. A, §16, is amended to read:

G. Statewide organizations that work with women on self-sufficiency and employment opportunities, including a statewide nonprofit corporation that provides training and placement in trade and technical occupations that are not traditional for the persons served;

**Sec. C-15. 24 MRSA §2506, first ¶**, as amended by PL 2005, c. 221, §1, is further amended to read:

A health care provider or health care entity shall, within 60 days, report in writing to the disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider or entity whose employment or privileges have been revoked, suspended, limited or terminated or who resigned while under investigation or to avoid investigation for reasons related to clinical competence or unprofessional conduct, together with pertinent information relating to that action. Pertinent information includes: a description of the adverse action; the name of the practitioner involved; the date, the location and a description of the event or events giving rise to the adverse action; and identification of the complainant ~~involved in giving rise to~~ involved in giving rise to the adverse action. Upon written request, the following information must be released to the board or authority within 20 days of receipt of the request: the names of the patients whose care by the disciplined practitioner gave rise to the adverse action; medical records relating to the event or events giving rise to the adverse action; written statements signed or prepared by any witness or

complainant to the event; and related correspondence between the practitioner and the provider or entity. The report must include situations in which employment or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was the subject of disciplinary proceedings, and it also must include situations where employment or privileges have been revoked, suspended, limited or otherwise adversely affected by act of the health care practitioner in return for the health care provider's or health care entity's terminating such proceeding. Any reversal, modification or change of action reported pursuant to this section must be reported immediately to the practitioner's board or authority, together with a brief statement of the reasons for that reversal, modification or change. If the adverse action requiring a report as a result of a reversal, modification or change of action consists of the revocation, suspension or limitation of clinical privileges of a physician, physician assistant or advanced practice registered nurse by a health care provider or health care entity for reasons relating to clinical competence or unprofessional conduct and is taken pursuant to medical staff bylaws or other credentialing and privileging policies, whether or not the practitioner is employed by that health care provider or entity, then the provider or entity shall include in its initial report to the disciplined practitioner's licensing board or authority the names of all patients whose care by the disciplined practitioner gave rise to the adverse action. The failure of any health care provider or health care entity to report as required is a civil violation for which a fine of not more than \$5,000 may be adjudged.

**Sec. C-16. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 24, section 2506, first paragraph takes effect 90 days after the adjournment of the First Special Session of the 122nd Legislature.

**Sec. C-17. 25 MRSA §2803-B, sub-§2**, as amended by PL 2003, c. 656, §4 and c. 677, §4, is repealed and the following enacted in its place:

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; and policies for the recording and preservation of interviews of suspects in serious

crimes under subsection 1, paragraph K must be established no later than January 1, 2005.

**Sec. C-18. 25 MRSA §3701, sub-§7** is enacted to read:

**7. Solicitation agent.** "Solicitation agent" means a person or entity that receives payment for or retains any portion of the proceeds from soliciting. "Solicitation agent" includes, but is not limited to, a person or entity that receives or retains reimbursement for expenses related to soliciting.

**Sec. C-19. 25 MRSA §3702-C** is enacted to read:

**§3702-C. Solicitation unlawful**

A law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. Any violation of this chapter constitutes a violation of the Maine Unfair Trade Practices Act.

**Sec. C-20. 34-B MRSA §15004, sub-§1**, as enacted by PL 1997, c. 790, Pt. A, §1 and affected by §3, is amended to read:

**1. Membership.** The committee consists of the following ~~47~~ 16 members:

A. Three representatives of the joint standing committee of the Legislature having jurisdiction over health and human services matters who must serve on the committee at the time of their appointments and who may continue to serve while they are Legislators until they are replaced by a new appointment. One member is appointed by the President of the Senate. Two members are appointed by the Speaker of the House, representing each major political party;

B. One representative of the joint standing committee of the Legislature having jurisdiction over criminal justice matters, appointed by the Speaker of the House;

C. One representative of the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, appointed by the President of the Senate;

D. One representative of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, ap-

pointed jointly by the President of the Senate and the Speaker of the House;

E. ~~The commissioner,~~ the Commissioner of Corrections, the Commissioner of Education and the Commissioner of Health and Human Services, or designees of the commissioners who have authority to participate in full and to make decisions as required of committee members;

F. Three representatives of families whose children receive services for mental health, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House. One of the appointments of the President of the Senate to the initial committee must be for 2 years. All other appointments are for 3 years;

G. Three representatives of providers of children's mental health services who have clinical experience in children's mental health services, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House. One of the appointments of the Speaker of the House to the initial committee must be for 2 years. All other appointments are for 3 years; and

H. One representative of a statewide organization that advocates for children, appointed jointly by the President of the Senate and the Speaker of the House for a 3-year term.

**Sec. C-21. 36 MRSA §4641-C, sub-§11**, as amended by PL 1993, c. 398, §4, is further amended to read:

**11. Deeds of distribution.** Deeds of distribution made pursuant to Title 18-A or Title 18-B;

**Sec. C-22. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 4641-C, subsection 11 takes effect July 1, 2005.

**Sec. C-23. 38 MRSA §438-B, sub-§5**, as enacted by PL 2005, c. 226, §5, is amended to read:

**5. Effective date for statewide standards.** Except as provided in subsection 4, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide beginning on the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1999-2003 have either accepted the statewide standards in accordance with subsection 2 or have adopted an ordinance

identical to the statewide standards in accordance with subsection 3. Within 30 days of making the determination that the ~~251-municipality~~ 252-municipality threshold has been met, the Commissioner of Conservation shall notify the Secretary of State in writing and advise the secretary of the effective date for the statewide standards.

**Sec. C-24. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 38, section 438-B, subsection 5 takes effect 90 days after the adjournment of the First Special Session of the 122nd Legislature.

**Sec. C-25. PL 1999, c. 706, §9** is amended to read:

**Sec. 9. Transition to 4-year terms for Maine State Museum Commission members.** The limit of 2 consecutive terms for members of the Maine State Museum Commission applies to full terms beginning after the effective date of this Act. Members holding office on the Maine State Museum Commission on the effective date of this Act or successors appointed to serve the remainder of those terms remain in office until expiration of the terms. ~~After the effective date of this Act, the first 8 terms that expire must be filled by appointments, including reappointment of the incumbent, that expire on the anniversary date of that position in the year 2006. When the remaining 7 positions expire, they must be filled by appointments, including reappointment of the incumbent, that expire on the anniversary date of that position in the year 2008.~~

**Sec. C-26. PL 2005, c. 65, Pt. A, §3** is enacted to read:

**Sec. A-3. Effective date.** That section of this Act that repeals the Maine Revised Statutes, Title 32, chapter 105 takes effect December 31, 2005.

## PART D

**Sec. D-1. 20-A MRSA §8601-A, sub-§2-A** is enacted to read:

**2-A. Career and technical education.** "Career and technical education" has the same meaning as in section 8301-A, subsection 2-A.

**Sec. D-2. 20-A MRSA §8601-A, sub-§11,** as enacted by PL 1991, c. 518, §33, is repealed.

**Sec. D-3. Revision clause.** Wherever in the Maine Revised Statutes the words "vocational education" appear or reference is made to those words, those words are amended to read or mean, as appropriate, "career and technical education," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART E

**Sec. E-1. 12 MRSA §10206, sub-§1, ¶B,** as affected by PL 2003, c. 614, §9; amended by c. 655, Pt. B, §47 and affected by §422; and repealed by c. 695, Pt. B, §3 and affected by Pt. C, §1, is repealed.

**Sec. E-2. 12 MRSA §10308, sub-§5, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over ~~energy matters,~~ natural resources matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan.

**Sec. E-3. 12 MRSA §10902, sub-§9, ¶¶A, B, D, E and F,** as enacted by PL 2003, c. 695, Pt. B, §8 and affected by Pt. C, §1, are amended to read:

A. Operating an ATV on a temporarily closed trail as prohibited under section ~~13157~~ 13157-A, subsection ~~5-A~~ 24;

B. Abuse of another person's property as prohibited under section ~~13157~~ 13157-A, subsection 22;

D. Operating an ATV to endanger, as prohibited under section ~~13157~~ 13157-A, subsection 11;

E. Reckless operation of an ATV, as prohibited under section ~~13157~~ 13157-A, subsection 10;

F. Operating an ATV on the land of another without permission, as prohibited under section ~~13157~~ 13157-A, subsection ~~4-A~~ 1; or

**Sec. E-4. 12 MRSA §11106, sub-§1, ¶A,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. A resident or nonresident 16 years of age or older who has satisfied ~~section 11105~~ the requirements of subsection 2 may obtain an archery hunting license to hunt with bow and arrow from the commissioner or the commissioner's authorized agent.

**Sec. E-5. 12 MRSA §11107, sub-§§1 and 2,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

**1. Big game license.** A person 16 years of age or older at the beginning of the special season established under section 11404, subsection 1 may obtain a muzzle-loading ~~license~~ permit from the commissioner or the commissioner's authorized agent

if the person possesses a valid license to hunt big game with firearms.

**2. Junior license.** A person 10 years of age or older and under 16 years of age may obtain a muzzle-loading license permit from the commissioner or the commissioner's authorized agent if the person possesses a valid junior hunting license.

**Sec. E-6. 12 MRSA §11109, sub-§4**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**4. Muzzle-loading permit; issuance and agent's fee.** The commissioner, through the commissioner's agent, shall issue muzzle-loading licenses permits to eligible persons. The issuing agent shall charge a fee of \$1 for each license permit issued.

**Sec. E-7. 12 MRSA §11109, sub-§5**, as amended by PL 2005, c. 12, Pt. III, §5, is amended to read:

**5. Muzzle-loading permits and fees.** Muzzle-loading hunting licenses permits and fees are as follows:

A. A resident muzzle-loading hunting license permit is \$13;

B. A nonresident muzzle-loading hunting license permit is \$62; and

C. An alien muzzle-loading hunting license permit is \$72.

**Sec. E-8. 12 MRSA §12506, sub-§5**, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §253 and affected by §422, is repealed and the following enacted in its place:

**5. Exception to permit requirement.** Notwithstanding subsection 1:

A. A person may fish for alewives by use of a dip net or single hook and line for consumption by that person or members of that person's family, provided that the person takes or possesses no more than one bushel in any day and provided also that the alewives are not taken from any waters in which a municipality or other person has been granted exclusive rights under section 6131;

C. A person may fish for or possess alewives from inland waters if that person has been granted fishing rights under section 6131; and

D. A person may take suckers for use as bait for fishing in inland waters as provided in section 12551-A without a permit under subsection 2.

**Sec. E-9. 12 MRSA §12659-A, sub-§1, ¶¶A and B**, as enacted by PL 2003, c. 655, Pt. B, §282 and affected by §422, are repealed.

**Sec. E-10. 12 MRSA §12659-A, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §282 and affected by §422, is repealed.

**Sec. E-11. 12 MRSA §12659-A, sub-§§3, 4 and 5** are enacted to read:

**3. Unattended lines.** Except as provided in subsection 4, a person licensed to fish shall have all lines under that person's immediate supervision.

**4. Checking cusk lines.** In waters that are opened under section 12454, subsection 1, paragraph B, a person fishing through the ice for cusk in the nighttime shall visit at least once every hour all lines set by that person for cusk.

**5. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. E-12. 12 MRSA §12662, sub-§1**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §285 and affected by §422, is further amended to read:

**1. Prohibition.** Except as provided in section 12659-A 12454, subsection 1, paragraph B, a person may not ice fish from 1/2 hour after sunset to 1/2 hour before sunrise of the following morning.

**Sec. E-13. 12 MRSA §13058, sub-§1**, as affected by PL 2003, c. 614, §9; amended by c. 627, §1 and c. 655, Pt. B, §362 and affected by §422, is repealed and the following enacted in its place:

**1. Prohibition.** A person may not place or operate a motorboat or personal watercraft on the inland waters of the State unless a valid lake and river protection sticker issued annually under subsection 3 is affixed to each side of the bow above the water line and approximately 3 inches behind the validation sticker required under section 13056.

**Sec. E-14. 12 MRSA §13058, sub-§2**, as affected by PL 2003, c. 614, §9; amended by c. 627, §1; and repealed and replaced by c. 655, Pt. B, §363



and affected by §422, is repealed and the following enacted in its place:

**2. Violation.** A person who violates subsection 1 is subject to the provisions of this subsection.

A. A person who violates subsection 1 commits a civil violation for which a fine of not less than \$100 and not more than \$250 per violation may be adjudged. A fine imposed under this subsection may not be suspended by the court.

B. A person who violates subsection 1 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. E-15. 12 MRSA §13068, sub-§15**, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 627, §3 and repealed by c. 655, Pt. B, §379 and affected by Pt. B, §422, is repealed.

**Sec. E-16. 12 MRSA §13068-A, sub-§15**, as enacted by PL 2003, c. 655, Pt. B, §380 and affected by §422, is amended to read:

**15. Violation of surface use restriction order.**

A person may not operate, launch or remove a watercraft at a restricted-access site or refuse inspection of a watercraft in violation of an order issued under Title 38, section 1864.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$500 and not more than \$5,000 per violation may be adjudged. A fine imposed under this subsection may not be suspended by the court.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. E-17. 12 MRSA §13152, sub-§2**, as affected by PL 2003, c. 614, §9; repealed and replaced by PL 2003, c. 655, Pt. B, §401 and affected by §422; and repealed and replaced by PL 2003, c. 695, Pt. B, §10 and affected by Pt. C, §1, is repealed and the following enacted in its place:

**2. Training.** A person over 9 years of age and under 16 years of age must successfully complete a training program approved by the department prior to operating an ATV except on:

A. Land on which that person is domiciled;

B. Land owned or leased by that person's parent or guardian; or

C. A safety training site approved by the department.

A person under 16 years of age must attend the training program with that person's parent or guardian. The training program must include instruction on the safe operation of ATVs, the laws pertaining to ATVs, the effect of ATVs on the environment and ways to minimize that effect, courtesy to landowners and other recreationists and landowners and other materials as determined by the department.

**Sec. E-18. 12 MRSA §13154-A, sub-§6, ¶C**, as enacted by PL 2003, c. 655, Pt. B, §404 and affected by §422 and enacted by PL 2003, c. 695, Pt. B, §12 and affected by Pt. C, §1, is repealed and the following enacted in its place:

C. A safety training site approved by the department.

**Sec. E-19. 12 MRSA §13157**, as repealed by PL 2003, c. 655, Pt. B, §413 and affected by §422 and amended by c. 695, Pt. B, §§15 to 23 and affected by Pt. C, §1, is repealed.

**Sec. E-20. 12 MRSA §13157-A, sub-§1**, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

**Sec. E-21. 12 MRSA §13157-A, sub-§1-A** is enacted to read:

**1-A. Permission required.** A person may not operate an ATV on the land of another without the permission of the landowner or lessee. Permission is presumed on ATV trails that are conspicuously posted or in areas open to ATVs by landowner policy. Written permission of the landowner or lessee is required on cropland or pastureland or in an orchard. As used in this subsection, "cropland" means acreage in tillage rotation, land being cropped and land in bush fruits and "pastureland" means acreage devoted to the production of forage plants used for animal production.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated of having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. E-22. 12 MRSA §13157-A, sub-§21**, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

**Sec. E-23. 12 MRSA §13157-A, sub-§22, ¶¶B and C**, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, are amended to read:

B. Leave open a gate or bars on another person's land; or

C. Trample or destroy crops on another person's land; or

**¶D** **Sec. E-24. 12 MRSA §13157-A, sub-§22,** is enacted to read:

D. Remove or destroy signs or posted notices.

**Sec. E-25. 12 MRSA §13157-A, sub-§23,** as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

**Sec. E-26. 12 MRSA §13157-A, sub-§§24 to 27** are enacted to read:

**24. Operation of ATV on temporarily closed trail.** A person may not operate an ATV on any section of a trail posted with a notice of temporary closure in accordance with this subsection. The notice must specify the section of trail that is closed and the period of the closure and must be conspicuously posted at each end of the closed section of the trail.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated of having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**25. ATV noise and fire control devices.** The following provisions pertain to ATV muffling and fire control devices and noise level limits.

A. Except as provided in section 13159, a person may not:

(1) Operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust;

(2) Modify the exhaust system of an ATV in any manner that will increase the noise emitted above the following emission standard:

(a) Each ATV must meet noise emission standards of the United States Environmental Protection Agency and in no case exceed 96 decibels of sound pressure when measured from a distance of 20 inches using test procedures established by the commissioner; or

(3) Operate an ATV without a working spark arrester.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

(3) In addition to any penalties imposed under this subsection, the court may, subject to section 9321 and Title 17-A, chapter 54, order restitution for fire suppression costs incurred by state or municipal government entities in suppressing a fire caused by an ATV operating without a working spark arrester.

**26. Prohibited equipment.** A person may not operate an ATV that is equipped with a snorkel kit or other equipment designed to allow the ATV to be used in deep water except with the permission of the owner of the land on which the ATV is operated or as provided in section 13159.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated of having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**27. Operation of ATV in prohibited area.** The following provisions establish areas where the operation of an ATV is prohibited.

A. A person may not operate an ATV:

(1) On a salt marsh, intertidal zone, marine sand beach or sand dune or any cemetery, burial place or burying ground; or

(2) When the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation:

(a) On alpine tundra;

(b) On a freshwater marsh or bog, river, brook, stream, great pond, non-forested wetland or vernal pool; or

(c) In a source water protection area as defined in Title 30-A, section 2001, subsection 20-A.

The provisions of this subparagraph do not apply to a trail designated for ATV use by the Department of Conservation. The provisions of this subparagraph also do not apply to a person accessing land for maintenance or inspection purposes with the landowner's permission or to local, state or federal government personnel in the performance of official duties, provided there is no significant ground disturbance or sedimentation of water bodies.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. E-27. 12 MRSA §13159**, as amended by PL 2003, c. 655, Pt. B, §417 and affected by §422 and amended by c. 695, Pt. B, §24 and affected by Pt. C, §1, is repealed and the following enacted in its place:

**§13159. Racing meets**

Notwithstanding section 13155 and section 13157-A, subsection 15, subsection 16, paragraph A, subsection 17 and subsection 25, ATVs used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this chapter concerning registration, mufflers, snorkel kits and lights during the time of operation at these meets and at all prerace practices at the location of the meets.

**PART F**

**Sec. F-1. 17 MRSA §1031, sub-§1-B**, as amended by PL 2003, c. 452, Pt. I, §15 and affected by Pt. X, §2, is further amended to read:

**1-B. Aggravated cruelty to animals.** A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

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

Effective June 17, 2005, unless otherwise indicated.

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**CHAPTER 398**

**H.P. 287 - L.D. 385**

**An Act To Limit the Liability of Ambulance Services in Maine**

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

**Sec. 1. 14 MRSA §8102, sub-§1-A**, as amended by PL 1995, c. 161, §1, is repealed and the following enacted in its place:

**1-A. Emergency medical service.** "Emergency medical service" means:

A. A nonprofit, incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B, receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30-A, chapter 115 or 119, except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30-A, chapter 115 or 119; and

B. A for-profit, incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B only when the emergency medical service is acting within the scope of emergency response activities expressly authorized by a contract between the emergency medical service and the State, municipality, county or entity created under Title 30-A, chapter 115 or 119.

**Sec. 2. 32 MRSA §93-C** is enacted to read: