

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

- HH. Redfin pickerel, *Esox americanus americanus*, endangered;
- II. Juniper hairstreak, *Callophrys gryneus*, endangered;
- JJ. Rapids clubtail, *Gomphus quadricolor*, endangered;
- KK. New England cottontail, *Sylvilagus transitionalis*, endangered;
- LL. Black-crowned night heron, *Nycticorax nycticorax*, threatened;
- MM. Common moorhen, *Gallinula chloropus*, threatened;
- NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened;
- OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened;
- PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened;
- QQ. Sleepy duskywing, *Erynnis brizo*, threatened;
- RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened;
- SS. Brook floater, *Alasmidonta varicosa*, threatened;
- TT. Barrow's goldeneye, *Bucephala islandica*, threatened; and
- UU. Least bittern, *Ixobrychus exilis*, endangered.

See title page for effective date.

CHAPTER 167

H.P. 806 - L.D. 1088

**An Act To Amend Various
Department of Defense,
Veterans and Emergency
Management Laws**

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

Sec. 1. 37-B MRSA §264, sub-§3, as amended by PL 2003, c. 688, Pt. A, §42, is further amended to read:

3. Exceptions; authorization to sell. Notwithstanding subsection 2, paragraph B, the Adjutant General is authorized to sell the following armories and parcel of land:

- A. The Brunswick Armory ~~or the Bath Armory, but not both;~~
- B. The Newport Armory;

- C. The Rumford Armory;
- E. The South Portland Armory;
- F. The Millinocket Armory;
- G. A 6 1/2-acre parcel of land located on the northeasterly side of U.S. Route One across from the Belfast Armory and part of the parcel of land described in the Waldo County Registry of Deeds, Book 411, Page 446;
- H. The Caribou Armory, located at 55 Bennett Drive, Caribou, for market value but not including the organizational maintenance shop, known as OMS5, nor the metal storage building;
- I. The Fort Fairfield Armory located at 25 Columbia Street, Fort Fairfield by means of a quitclaim deed, subject to all easements of record, to the inhabitants of the Town of Fort Fairfield for the sum of \$1 as long as the inhabitants of the Town of Fort Fairfield agree to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise from the land or buildings constituting the Fort Fairfield Armory and this transfer is determined to be a transfer for not less than appraised value as specified in subsection 1 in view of the economic conditions of northern Aroostook County, the financial contributions made by the Town of Fort Fairfield to the armory and the environmental conditions existing at the site; ~~and~~
- J. The Saco Armory located at 75 Franklin Street, Saco, Maine, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory-;
- K. The Bath Armory located on Lincoln Street, Bath, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory;
- L. The Portland Armory located on Stevens Avenue, Portland, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory;
- M. The Westbrook Armory located on Stroudwater Street, Westbrook, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that

may arise in connection with the land or the buildings constituting the armory;

N. The Presque Isle Armory located on North Main Street, Presque Isle, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; and

O. The Caribou Armory, also known as the "Solman Armory," located on York Street, Caribou, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory.

Sec. 2. 37-B MRSA §504, sub-§3, ¶C, as amended by PL 2001, c. 662, §64, is repealed and the following enacted in its place:

C. All grave markers must be flat-type granite or 42-inch upright white marble grave markers as furnished by the United States Department of Veterans Affairs, National Cemetery Administration. All boxes used for burial must be protected with permanent vaults. Permanent vaults must be reinforced and properly cured and match pounds per square inch specifications imposed by the National Cemetery Administration. Vaults may be either water-resistant or waterproof or have drain holes in their liner boxes as long as they meet the stated specifications. Headstones and vaults are not provided at state expense.

Sec. 3. 37-B MRSA §504, sub-§4, ¶C, as amended by PL 1999, c. 401, Pt. II, §1, is further amended to read:

C. At the dependent's request, the director must allow an eligible dependent of a veteran to be buried in one of the cemeteries if, at the date of the dependent's death, the veteran would be eligible for burial. Dependents may be buried in the ~~earth or placed in a crypt~~ same grave as the veteran or adjacent to the veteran, in accordance with regional state veterans' cemetery procedures, without charge, so long as:

- (1) If the veteran dies first, the dependents specify in writing their intention to be so buried;
- (2) If the dependent dies first, the veteran specifies in writing the intention to be buried in ~~one of the cemeteries~~ the same grave as the dependent or adjacent to the dependent; or
- (3) Eligible family members of members of the armed services or veterans who are permanently buried overseas, buried at sea,

missing in action and declared dead, or whose bodies are inaccessible for other reasons, may be buried in one of the cemeteries if the deceased member of the armed services or veteran was eligible for the burial at the time of death.

Sec. 4. 37-B MRSA §504, sub-§4, ¶E, as amended by PL 1999, c. 401, Pt. II, §1, is further amended to read:

E. Remains of eligible veterans or eligible dependents previously buried in other ~~locations~~ cemeteries may be reinterred in one of the cemeteries upon request, ~~provided that~~ as long as no cost other than that which would be incurred in an original burial is borne by the State.

Sec. 5. 37-B MRSA §504, sub-§5, as amended by PL 1999, c. 401, Pt. II, §1, is repealed and the following enacted in its place:

5. Weekend visitation. The superintendent shall arrange for public access during weekend daylight hours and regularly scheduled weekday visiting hours unless closure of the cemetery is considered necessary by the superintendent for security or public safety purposes.

Sec. 6. 37-B MRSA §505, sub-§2, ¶A, as amended by PL 2005, c. 273, §2, is further amended to read:

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Child" means a child whose mother or father is or was a veteran and the child:
 - (a) Is at least 16 years of age;
 - (b) Has graduated from high school; and
 - (c) Enrolled in a degree program prior to turning 22 years of age and is not over 25 years of age at the time of application for a benefit under this subsection. If the child is unable to enroll in a degree program prior to turning 22 years of age due to service in the United States Armed Forces, then the child may apply to begin this benefit until reaching 26 years of age. Other requirements must be met as described in paragraph F.

"Child" also means a stepchild who is a member of a veteran's household either at the time of application or, in the event of the veteran's death, at the time of death, and who continues as a member of the household after the death of the veteran. At least 5 years must have elapsed since the veteran married the parent of the stepchild before the stepchild is eligible for educational benefits, and the

biological parent of the stepchild must reside in the veteran's household while the stepchild receives educational benefits.

(2) "Spouse" means the person currently legally married to a living veteran or the widow or widower of a deceased veteran, not previously divorced from that veteran.

(3) "Veteran" means any person who served in the military or naval forces of the United States and entered the service from this State or resided in this State for 5 years immediately preceding application for aid and, if living, continues to reside in this State and who:

(a) Has a total permanent disability resulting from a service-connected disability as a result of service;

(b) Was killed in action;

(c) Died from a service-connected disability as a result of service;

(d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or

(e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

The continuous residency requirement of this subparagraph does not apply to a person who is receiving educational benefits under this chapter on or before January 1, 2006.

Sec. 7. 37-B MRSA §505, sub-§2, ¶E, as enacted by PL 2001, c. 662, §66, is amended to read:

E. Spouses of veterans who are attending state-supported postsecondary vocational schools or institutions of collegiate grade must be admitted free of tuition including mandatory fees and lab fees for a certificate program or an associate's, bachelor's and or master's degree programs program. Room and board may not be waived. Spouses are entitled to receive up to 8 semesters of educational benefits and have 10 years from the date of first entrance to complete the program.

Sec. 8. 37-B MRSA §505, sub-§2, ¶F, as enacted by PL 2001, c. 662, §66, is amended to read:

F. A child of a veteran who is attending state-supported postsecondary vocational schools or institutions of collegiate grade must be admitted free of tuition including mandatory fees and lab

fees for associate's and bachelor's programs. The tuition waiver provided under this paragraph may be reduced by an amount necessary to ensure that the value of this waiver, combined with all other grants and benefits received by the student, does not exceed the total cost of education. Room and board may not be waived. A child of a veteran has 6 academic years from the date of first entrance to complete 8 semesters. The director may waive the limit of 6 consecutive academic years when the recipient's education has been interrupted by severe medical disability or illness making continued attendance impossible. Students must maintain at least a 2.0 or "C" grade point average to continue receiving educational benefits. If a student's grade point average falls below 2.0 or a "C," then the student has one semester to bring the grade point average up to at least 2.0 or a "C." If after that semester the student's grade point average is below 2.0 or a "C," the student loses educational benefits under this paragraph until the student achieves a grade point average of at least 2.0 or a "C."

Sec. 9. 37-B MRSA §601, as amended by PL 1999, c. 288, §1, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to senile dementia patients, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to senile dementia patients, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans' Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department

of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces for no less than 180 days or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons.

Sec. 10. 37-B MRSA §703, sub-§2-C is enacted to read:

2-C. Emergency management exercise. "Emergency management exercise" means a focused practice activity that places participants in a simulated situation requiring them to function in the capacity that would be expected of them in a real event and is conducted to test an organization's plans and policies to evaluate an organization's capability to execute one or more portions of its response or contingency plans and to train personnel.

Sec. 11. 37-B MRSA §704, as amended by PL 2005, c. 634, §11, is further amended by adding at the end a new paragraph to read:

The director shall develop and conduct an annual statewide program of emergency management exercises to test the policies and plans of the state, county and local emergency management agencies. The program must address all disasters identified pursuant to section 783, subsection 1.

Sec. 12. 37-B MRSA §1130, sub-§2, as enacted by PL 2001, c. 460, §3, is amended to read:

2. Purposes. The department may use the fund provides to provide low-interest loans to municipalities for engineering, legal and construction costs involved in acquiring title to, establishing a long-term management plan for, repairs to, reconstruction of, breaching of or removal of a dam or to pay emergency costs incurred for actions taken pursuant to section 1114.

See title page for effective date.

CHAPTER 168 H.P. 549 - L.D. 728

An Act To Enhance the Wise Use and Sound Management of Maine's Wildlife Resources

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

Sec. 1. 12 MRSA §10260 is enacted to read:

§10260. Black Bear Research Fund

The Black Bear Research Fund, referred to in this section as "the fund," is established within the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding studies related to the management of black bears. Revenue from the non-resident late season bear hunting permit under section 11151-A and the bear trapping permit under 12260-A must be deposited in the fund. The commissioner may accept and deposit into the fund monetary gifts, donations or other contributions from public or private sources for the purposes specified in this section. The fund must be held separate and apart from all other money, funds and accounts.

Sec. 2. 12 MRSA §11109, sub-§3, ¶I, as amended by PL 2005, c. 12, Pt. III, §4, is further amended to read:

I. A nonresident big game hunting license, which permits hunting of all legal species including deer and bear subject to the permit requirements in chapter 915, subchapter 3, is \$102.

Sec. 3. 12 MRSA §11109, sub-§3, ¶L, as amended by PL 2005, c. 12, Pt. III, §4, is further amended to read:

L. An alien big game hunting license, which permits hunting of all legal species including deer and bear subject to the permit requirements in chapter 915, subchapter 3, is \$127.

Sec. 4. 12 MRSA §11151-A is enacted to read:

§11151-A. Nonresident late season bear hunting permit

1. Permit required. Except as otherwise authorized pursuant to this Part or for a nonresident who holds a valid bear hunting permit under section 11151, a nonresident may not hunt for bear during the regular firearm season on deer under section 11401 without a valid permit issued pursuant to this section.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.