

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

work with communities to identify levels of need and where and how to allocate pet-friendly shelters. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 10. Report from Maine Emergency Management Agency regarding plans for ongoing medical care for persons transferred during emergencies. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management shall work with communities to develop plans to ensure that persons who require medical care and are transferred from hospitals, nursing homes or their own personal residences during emergencies receive continued medical care. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committees are authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 11. Report from Maine Emergency Management Agency regarding plans for identification of persons needing transportation and how to evacuate those persons. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management shall work with communities to identify persons who require transportation in the event of an emergency and to develop plans to ensure that those persons are transported. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 12. Implementation of disability indicator. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Maine Developmental Disabilities Council and the Public Utilities Commission, shall develop and implement a plan, including a funding mechanism, to provide a statewide disability indicator system to allow individuals with disabilities and special health needs to provide a means of identifying special assistance needed in an emergency. The director shall report regarding the implementation of the plan and identify any policy or legislative changes that may be required to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The

joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 13. Report from Maine Emergency Management Agency regarding building communications system needs. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Chief Information Officer and the Statewide Radio Network Board, shall seek and coordinate from each of the fire chiefs across the State a list of those facilities in each chief's community that pose radio communications challenges and, after application of a recognized standardized risk assessment, are identified as having a high potential of high vulnerability in an emergency event. The director shall report findings and recommendations, including any necessary legislation, to the Joint Standing Committee on Criminal Justice and Public Safety by January 1, 2008. The joint standing committee is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Sec. 14. Report from Maine Emergency Management Agency regarding regulation of fuel tanks. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management, in cooperation with the Department of Professional and Financial Regulation and the Department of Environmental Protection, shall research the public safety factors involved in determining whether fuel tanks should be attached to buildings in order to withstand high winds and flooding and whether all fuel tanks should have emergency shut-off valves. The director shall report findings and recommendations, including any necessary legislation, to the Homeland Security Advisory Council by January 1, 2008. The Homeland Security Advisory Council is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

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

Effective June 29, 2007.

CHAPTER 463

S.P. 356 - L.D. 1104

An Act To Amend Certain Provisions of Fish and Wildlife Law

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

Sec. 1. 12 MRSA §10206, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Sucker and yellow perch permit revenues.

All fees collected ~~under~~ pursuant to section 12506 accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$42 accrues to the General Fund for each eel pot or eel weir permit issued ~~under~~ pursuant to section 12506.

Sec. 2. 12 MRSA §10853, sub-§14 is enacted to read:

14. Game warden killed in line of duty. A complimentary license to hunt and fish may be issued, upon application, to the spouse or child of a game warden who has been killed in the line of duty. These licenses must be issued in accordance with criteria established by the Maine Chiefs of Police Association and the Maine Law Enforcement Officer Memorial board, upon confirmation by the Game Warden Colonel that the applicant is qualified for such a license.

Sec. 3. 12 MRSA §11152, sub-§1, as amended by PL 2005, c. 477, §5, is further amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt antlerless deer as authorized in this section unless that person has a valid permit issued under this section.

A. ~~Except as provided in paragraph B, each~~ 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.

B. ~~A violation of this subsection in Washington County is a Class D crime for which a minimum fine of \$1,000 must be imposed, and the court shall impose a sentencing alternative involving a term of imprisonment of at least 3 days, none of which may be suspended.~~

Sec. 4. 12 MRSA §11152, sub-§1-A is enacted to read:

1-A. Antlerless deer in Washington County. Except as otherwise provided in this Part, a person may not hunt or possess an antlerless deer in Washington County. A person may possess an antlerless deer in Washington County that has been lawfully registered in another county.

A person that violates this subsection commits a Class D crime for which a minimum fine of \$1,000 must be imposed, and the court shall impose a sentencing alternative involving a term of imprisonment of at least 3 days, none of which may be suspended.

Sec. 5. 12 MRSA §11211, sub-§2, ¶A, as enacted by PL 2003, c. 655, Pt. B, §141 and as affected by §422, is amended to read:

A. A person who violates subsection 1 commits a civil violation for which a fine of not ~~more~~ less than \$100 nor ~~less~~ more than \$500 may be adjudged.

Sec. 6. 12 MRSA §12506, as amended by PL 2005, c. 683, Pt. A, §§16 to 18, is further amended to read:

§12506. Eel, sucker and yellow perch harvesting method permit; elver prohibition; limitations on alewife harvesting

1. Permit required. Except as otherwise authorized pursuant to this Part and except as provided in subsection 5-A, a person may not fish for or possess the following fish using the harvesting methods listed in subsection 2 without a valid permit issued under this section:

- A. ~~Alewives;~~
- B. Eels;
- C. Suckers;
- D. Lampreys; or
- E. Yellow perch.

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.

2. Issuance. The commissioner may adopt rules providing for the issuance of permits to fish for or possess the following fish using the following harvesting methods in the inland waters of the State, provided the permits do not interfere with any rights granted under section 6131:

- A. Eels using eel pots or weirs;
- B. Suckers and yellow perch using trap nets, dip nets or spears; and
- C. Lampreys by hand or using hand-held dip nets; and
- D. ~~Alewives using trap nets, dip nets, spears or fish pumps.~~

The commissioner may place conditions on the use of gear allowed under this subsection and may prohibit or restrict the use of any gear used to concentrate species for harvest under this subsection.

Each day a person violates a condition or restriction placed on the use of gear allowed under this subsection, that person commits a Class E crime.

3. Fees; transfer of permit. The minimum fee for an individual permit for ~~alewives~~, suckers, lampreys and yellow perch is \$44. A crew permit may be sold for ~~alewives~~, suckers, lampreys and yellow perch for \$102, authorizing up to 3 persons to engage in the permitted activity. The annual fee for an eel pot or

weir permit is \$102. An eel pot or eel weir permit is not transferable.

4. Five-year limited entry; eel weirs. A person is ineligible to receive an eel weir permit unless that person possessed a valid eel weir permit for calendar year 1995. The department shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A regarding the issuance of eel weir permits. The number of weirs and the number of square miles of watersheds in this State fished by eel weirs ~~can~~ may be no more than those permitted in calendar year 1995.

5-A. Limitations on alewife harvesting. ~~Notwithstanding subsection 1:~~ Except as provided in this subsection a person may not harvest alewives.

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 downstream from any ~~waters in which~~ location where a municipality or other person has been granted exclusive rights under section 6131; and

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

~~C. 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.~~

A person that violates this subsection commits a Class E crime.

5-B. Harvesting suckers for bait without a permit. Notwithstanding subsection 1, 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.

6. Eels and elvers prohibitions. The following prohibitions apply to the harvesting of eels and elvers in inland waters.

A. A person may not fish for or take elvers from inland waters.

B. A person other than the owner of a weir used to fish for or take eels in inland waters may not tend that weir while the weir is immersed unless that person has in the person's possession written permission from the owner to tend the weir or is in the presence of the owner and has the owner's permission to tend the weir.

A person who violates this subsection commits a Class E crime.

7. Other harvesting methods for suckers. Notwithstanding subsection 1, a person licensed or otherwise entitled to fish in Maine waters may take

suckers for that person's use in all rivers, brooks and streams that are open to fishing between April 1st and June 30th of each calendar year by the use of a hand spear, by bow and arrow or by snagging.

A. A person may not use a bow and arrow to harvest suckers unless the arrow used has a barbed or pronged point and the arrow is attached to the bow with a line.

B. The following penalties apply to violations of paragraph A.

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

(2) A person who violates paragraph A 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. 7. 12 MRSA §12708, sub-§1, ¶B, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §295 and affected by §422, is further amended to read:

B. The following areas are classified as state-owned wildlife management areas, or "WMAs":

(1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS - Piscataquis County;

(2) Brownfield WMA - Brownfield, Denmark, Fryeburg - Oxford County;

(3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec County;

(4) Caesar Pond WMA - Bowdoin - Sagadahoc County;

(5) Chesterville WMA - Chesterville - Franklin County;

(6) Coast of Maine WMA - all state-owned coastal islands that are owned or managed by the Department of Inland Fisheries and Wildlife;

(7) Dickwood Lake WMA - Eagle Lake - Aroostook County;

(8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot County;

(9) Fahi Pond WMA - Embden - Somerset County;

(10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock County;

(11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor, Vassalboro - Kennebec County;

- (12) Great Works WMA - Edmunds Township - Washington County;
- (13) Jamies Pond WMA - Manchester, Farmingdale, Hallowell - Kennebec County;
- (14) Jonesboro WMA - Jonesboro - Washington County;
- (15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;
- (16) Kennebunk Plains WMA - Kennebunk - York County;
- (17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft, Garland - Penobscot County and Piscataquis County;
- (18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill - Waldo County;
- (19) Long Lake WMA - St. Agatha - Aroostook County (all of Long Lake within the Town of St. Agatha);
- (20) Madawaska WMA - Palmyra - Somerset County;
- (20-A) Maine Youth Conservation WMA - T32MD - Hancock County;
- (21) Mainstream WMA - Cambridge, Ripley - Somerset County;
- (22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus - Aroostook County;
- (23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York County;
- (24) Mercer Bog WMA - Mercer - Somerset County;
- (25) Merrymeeting Bay WMA - Dresden, Bowdoinham, Woolwich, Bath, Topsham - Lincoln County and Sagadahoc County;
- (26) Morgan Meadow WMA - Raymond - Cumberland County;
- (27) Mt. Agamenticus WMA - York, South Berwick - York County;
- (28) Muddy River WMA - Topsham - Sagadahoc County;
- (29) Narraguagus Junction WMA - Cherryfield - Washington County;
- (30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;
- (31) Orange River WMA - Whiting - Washington County;
- (32) Peaks Island WMA - Portland - Cumberland County;
- (33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;
- (34) Steve Powell WMA - Perkins Township - Sagadahoc County (being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island, formerly known as Alexander Islands);
- (35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;
- (36) James Dorso Ruffingham Meadow WMA - Montville, Searsmont - Waldo County;
- (37) St. Albans WMA - St. Albans - Somerset County;
- (38) Sandy Point WMA - Stockton Springs - Waldo County;
- (39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland County and York County;
- (40) Steep Falls WMA - Standish, Baldwin - Cumberland County;
- (41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;
- (42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;
- (43) R. Waldo Tyler Weskeag Marsh WMA - South Thomaston, Thomaston, Rockland, Owl's Head - Knox County; ~~and~~
- (43-A) Kennebec River Estuary WMA - Arrowsic, Bath, Georgetown, Phippsburg, West Bath, Woolwich - Sagadahoc County;
- (43-B) Tolla Wolla WMA - Livermore - Androscoggin County;
- (43-C) Green Point WMA - Dresden - Lincoln County;
- (43-D) Hurds Pond WMA - Swanville - Waldo County;
- (43-E) Sherman Lake WMA - Newcastle, Damariscotta - Lincoln County;
- (43-F) Ducktrap River WMA - Belmont, Lincolnville - Waldo County; and
- (44) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas.

Sec. 8. Appropriations and allocations.

The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF**

**Administrative Services - Inland Fisheries and
Wildlife 0530**

Initiative: Deappropriates funds for the Administrative Services - Inland Fisheries and Wildlife program.

GENERAL FUND	2007-08	2008-09
All Other	(\$1,627)	(\$3,254)
GENERAL FUND TOTAL	(\$1,627)	(\$3,254)

Sec. 9. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, sections 10206 and 12506 take effect January 1, 2008.

See title page for effective date, unless otherwise indicated.

CHAPTER 464

H.P. 1368 - L.D. 1929

**An Act To Assist in the
Cleanup of Waste Motor Oil
Disposal Sites**

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

Sec. 1. 10 MRSA §963-A, sub-§17-A is enacted to read:

17-A. Final remedy selection. "Final remedy selection" means:

A. In the case of the Department of Environmental Protection, a final determination by the Commissioner of Environmental Protection or the commissioner's designee of the appropriate response action at a waste motor oil disposal site that is an uncontrolled hazardous substance site; and

B. In the case of the United States Environmental Protection Agency, the remedy selected in a final record of decision for the so-called Hows Corner Federal Superfund Site in Plymouth, Maine.

Sec. 2. 10 MRSA §963-A, sub-§47-B is enacted to read:

47-B. Response costs. "Response costs" means:

A. Costs incurred or costs that will be incurred by a responsible party for investigation, study, removal, remediation, institutional controls, alternative water supplies, operation, maintenance, monitoring or other acts or activities to protect

human health and the environment at a waste motor oil disposal site;

B. Costs incurred or costs that will be incurred by the Department of Environmental Protection or the United States Environmental Protection Agency in conducting, monitoring or supervising work at a waste motor oil disposal site, in reviewing or developing plans, reports and other items at a waste motor oil disposal site and for administrative activities, including providing notice to responsible parties, at a waste motor oil disposal site;

C. Loans issued pursuant to section 1023-M;

D. A payment or payments, including any settlement premium, that a responsible party is required to make pursuant to a final de minimis or cash-out settlement among the United States, the State and one or more responsible parties; and

E. Damages for injury to or destruction or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss, resulting from hazardous substances at a waste motor oil disposal site pursuant to Title 38, chapter 13-B and 42 United States Code, Section 9601 et seq.

Sec. 3. 10 MRSA §963-A, sub-§47-C is enacted to read:

47-C. Potentially responsible party (PRP) group. "Potentially responsible party (PRP) group" means a group of responsible parties organized to manage liabilities at a waste motor oil disposal site listed in subsection 51-E and that have negotiated final settlement agreements with the United States Environmental Protection Agency or the Department of Environmental Protection.

Sec. 4. 10 MRSA §963-A, sub-§51-D is enacted to read:

51-D. Waste motor oil. "Waste motor oil" means any lubricating oil classified for use in an internal combustion engine, transmission, gear box, differential or hydraulics for a motor vehicle, a boat, an off-highway recreational vehicle, commercial or household power equipment, earth-moving equipment, special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, that through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties.

Sec. 5. 10 MRSA §963-A, sub-§51-E is enacted to read:

51-E. Waste motor oil disposal site. "Waste motor oil disposal site" means the following 4 sites where waste motor oil was stored and that are now contaminated and subject to such response action re-