

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

POSITIONS -	0.000	1.000
LEGISLATIVE COUNT		
Personal Services	\$0	\$51,844
All Other	\$0	\$7,119
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HIGHWAY FUND TOTAL	\$0	\$58,963

Sec. 10. Effective date. This Act takes effect September 1, 2008.

Effective September 1, 2008.

CHAPTER 532

H.P. 1475 - L.D. 2089

An Act To Allow Certain Assistance to Guides and Hunters

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

Sec. 1. 12 MRSA §12861 is enacted to read:

§12861. Transportation of guide's clients by unlicensed person

Notwithstanding section 10001, subsection 28 and Title 29-A, section 552, a person licensed to guide hunters under this chapter may employ the services of a person not licensed as a guide to transport hunters along a public or private road in a motor vehicle for the sole purpose of delivering those hunters to a predetermined destination prior to or at the conclusion of the time those hunters are engaged in hunting. For purposes of this section, "motor vehicle" does not include a snowmobile or an all-terrain vehicle.

1. Prohibition. A person, while transporting hunters pursuant to this section, may not:

A. Engage in hunting;

B. Transport hunting equipment for that person's own use unless that hunting equipment is fastened in a case;

C. Accompany hunters into the fields or forests; or

D. Assist in hunting activities, including, but not limited to, accompanying hunters to a hunting stand or bait site, searching for wounded animals or locating, retrieving or field dressing harvested animals.

2. Penalty and vicarious liability. This subsection applies to violations of subsection 1.

A. A person who violates subsection 1 commits a Class E crime. When a person is convicted of violating subsection 1, the guide employing that

person must be issued a warning by a law enforcement officer, as defined in Title 25, section 2801-A, subsection 5.

B. A person licensed as a guide who receives 3 or more warnings pursuant to paragraph A within a 5-year period commits a civil violation for which a fine of not less than \$100 and not more than \$500 may be adjudged. The commissioner may suspend the guide license of a person adjudicated of a violation of this paragraph for a period of up to one year.

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

3. Repeal. This section is repealed July 31, 2010.

See title page for effective date.

CHAPTER 533

H.P. 1390 - L.D. 1952

An Act To Streamline the Administration of Significant Vernal Pool Habitat Protection

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

Whereas, the determination of whether or not a vernal pool habitat is significant for the purposes of the Natural Resources Protection Act is necessary to ensure proper protection of the resource; and

Whereas, the timeframe for making a determination of whether a vernal pool habitat is not significant and therefore not protected under the Natural Resources Protection Act needs to be expanded prior to the commencement of the next field determination season; and

Whereas, in order to reduce confusion, clarification of the specific types of rare species that must be evaluated in determining whether a vernal pool habitat is significant is needed prior to the commencement of the next field determination season; 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:

Sec. 1. 38 MRSA §480-FF, as enacted by PL 2007, c. 290, §10, is amended to read:

§480-FF. Notification of identification; shorebird nesting, feeding and staging areas

If an area is identified by the Department of Inland Fisheries and Wildlife as the type of area listed in section 480-B, subsection 10, paragraph B, sub-paragraph (3) after the effective date of this section, the department shall notify each municipality in which the significant wildlife habitat is located and members of the Legislature who represent residents of the municipality in which the significant wildlife habitat is located. The department and the Department of Inland Fisheries and Wildlife shall report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and inland fisheries and wildlife matters on any action taken pursuant to this section.

Sec. 2. Rulemaking; Department of Inland Fisheries and Wildlife. The Department of Inland Fisheries and Wildlife shall amend its rules on significant wildlife habitat to update the definition of "vernal pools" to be consistent with the requirements of section 3 where applicable. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, notwithstanding Title 38, section 480-BB.

Sec. 3. Rulemaking; Department of Environmental Protection. The Department of Environmental Protection shall amend its rules on significant wildlife habitat to incorporate the requirements of this section. The requirements specified in this section are not intended to replace existing requirements in rules, except that, if there is a conflict between the requirements specified in this section and the rules, the rules must be revised to reflect the requirements specified in this section.

1. The following requirements apply to the identification of significant vernal pool habitats and must be employed when implementing significant wildlife habitat rules adopted by the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife pursuant to the Maine Revised Statutes, Title 38, section 480-BB.

A. When a vernal pool habitat has not previously been determined to be significant and the Department of Environmental Protection or the Department of Inland Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat is significant, either department may determine that the vernal pool habitat is not significant if:

(1) The vernal pool is located in southern Maine and dries out after spring filling and before July 15th based on winter, spring and early summer precipitation; or

(2) The vernal pool is located in northern Maine and dries out after spring filling and before July 31st based on winter, spring and early summer precipitation.

B. In addition to state threatened and endangered species, for purposes of determining whether a vernal pool habitat is significant, the rare species that must be considered are limited to: Ribbon Snakes, Wood Turtles, Swamp Darner Dragonflies and Comet Darner Dragonflies.

C. In order to be identified as part of a significant vernal pool habitat, the vernal pool may not have a permanent flowing inlet or outlet.

2. The Department of Environmental Protection may delete a note in rule concerning rare indicator species, notwithstanding Resolve 2005, chapter 183, section 1, subsection 10.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, notwithstanding Title 38, section 480-BB.

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

Effective March 31, 2008.

CHAPTER 534

H.P. 1456 - L.D. 2072

An Act To Conform the Laws Governing Underground Oil Storage Tanks to the Requirements of the Federal Energy Policy Act

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

Sec. 1. 38 MRSA §563, sub-§9, as amended by PL 2005, c. 491, §1, is further amended to read:

9. Annual compliance inspection. The owner of an underground oil storage facility is responsible for ensuring that each underground oil storage tank and associated piping at the facility are inspected annually for compliance with the requirements of this subchapter and any rules adopted under this subchapter and the requirements for gasoline vapor control in rules adopted under section 585-A. The owner shall correct or arrange for correction of any deficiencies detected