

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

Liquified Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

CHAPTER 651
S.P. 776 - L.D. 1982

An Act To Amend Certain Provisions of the Fish and Wildlife Laws

C. The conversion factors established in this paragraph must be used in converting to gasoline gallon equivalents.

(1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and there are 123.66 standard cubic feet per gasoline gallon equivalent.

(2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are 425.93 standard cubic feet per gasoline gallon equivalent.

(3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

Sec. 3. 36 MRSA §3321, sub-§1, as enacted by PL 2001, c. 688, §8, is amended to read:

1. Generally. Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203, ~~subsection subsections 1 and 1-B~~ are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index as computed in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports to suppliers, distributors and retail dealers.

Sec. 4. Transition. For taxes imposed during the fiscal year beginning July 1, 2008, the State Tax Assessor is authorized to calculate tax rates under the Maine Revised Statutes, Title 36, section 3203, subsection 1-B in a manner that most closely reflects the relative British Thermal Unit values between the fuel types listed in that subsection based on the tax rates for gasoline and diesel on July 1, 2008. This section applies retroactively.

See title page for effective date.

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 Department of Inland Fisheries and Wildlife is the primary agency charged with the mission of managing and safeguarding the State's fish and wildlife resources; and

Whereas, the department cannot effectively carry out its mission without clear guidance from the Legislature as manifested in the Maine Revised Statutes; and

Whereas, this legislation makes important changes to the laws that govern the department's activities and need to take effect immediately to ensure the department has proper legislative guidance in continuing to carry out its mission; 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. 5 MRSA §12004-I, sub-§70, as amended by PL 2003, c. 414, Pt. B, §10 and affected by c. 614, §9, is repealed.

Sec. 2. 12 MRSA §10001, sub-§53, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

53. Resident. ~~"Resident"~~ For the purposes of this subsection, "resident" means a citizen of the United States or an alien who has been domiciled in the State for one year who has been domiciled in this State continuously during the 3 months next prior to the date on which the person applies for any license or permit under this Part, or an alien who has been so domiciled for one year. A person may not be considered a resident if the person has not:

- A. If registered to vote, is registered in this State;
- B. If licensed to drive a motor vehicle, has made application for or possesses a motor vehicle operator's license issued by the State;

C. If owning a motor vehicle located within the State, has registered each such vehicle in the State; and

D. ~~Complied~~ Is in compliance with the state income tax laws.

A person who is a full-time student at a college or university in the State, ~~who has resided in the State continuously for 3 months~~ and has satisfied the requirements of paragraphs A to D is rebuttably presumed to ~~have been domiciled~~ be a resident in the State during that period.

Sec. 3. 12 MRSA §10156, sub-§3, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. At the request of the commissioner, to conduct an examination of applicants for the whitewater guide's license as provided in section 12909, except that oral examinations are conducted by 2 members; ~~and~~

Sec. 4. 12 MRSA §10156, sub-§3, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. To advise the commissioner on granting and revoking whitewater guide's licenses; ~~and~~

Sec. 5. 12 MRSA §10156, sub-§3, ¶D is enacted to read:

D. To advise the commissioner on establishing and reviewing safety requirements for whitewater trips, developing a safety information program and reviewing the safety record of whitewater guides and outfitters.

Sec. 6. 12 MRSA §10254, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 7. 12 MRSA §10259, sub-§3, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

3. Budget. The expenditures from the fund are subject to legislative approval in the same manner as the General Fund budgets of the department and the Department of Conservation, Bureau of Parks and Lands are approved. ~~The department and the Department of Conservation, Bureau of Parks and Lands shall report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on its planned expenditures for the next fiscal year, its actual and planned expenditures for the current fiscal year and its final expenditures for the last fiscal year.~~

Sec. 8. 12 MRSA §10757-A is enacted to read:

§10757-A. Failure to pay fees

The commissioner may revoke all licenses, permits or registrations issued to any person under this Part who has failed to pay the license, permit or registration fees due to either a license agent or the department. In addition, any fees associated with insufficient funds may be recovered by the agent or the department.

Sec. 9. 12 MRSA §10851, sub-§1, ¶D, as amended by PL 2007, c. 433, §1, is further amended to read:

D. For a resident 70 years of age or older. A person who holds a valid senior lifetime license under this section upon turning 70 years of age may obtain at no cost ~~a hunting license, fishing license, trapping license, archery license under section 11109, subsection 7, a pheasant hunting permit under section 11156, a muzzle loading hunting license under section 11109, subsection 4, a migratory waterfowl permit under section 11157, a spring and fall wild turkey hunting permit under section 11155 and a bear hunting permit under section 11154~~ all hunting permits and licenses authorized in this Part and may renew at no cost a guide license under section 12853. A person who is 70 years of age or older may purchase a senior lifetime license that entitles the holder to all the privileges described in this paragraph for a one-time \$8 fee.

Sec. 10. 12 MRSA §10853, sub-§4, as amended by PL 2005, c. 477, §2, is further amended to read:

4. Resident disabled veteran. A resident disabled veteran may ~~apply to the commissioner for one or more of the following complimentary permits and licenses: a license to hunt with a firearm, a license to trap, a license to fish, archery hunting licenses as provided in section 11109, subsection 7, a pheasant hunting permit as provided in section 11156, a muzzle loading hunting permit as provided in section 11109, subsection 4, a migratory waterfowl permit under section 11157, a bear hunting permit under section 11154~~ obtain upon application, at no cost, all hunting, trapping and fishing licenses, including permits, stamps and other permission needed to hunt, trap and fish, and, upon meeting the qualifications as established in section 12853, subsection 4, a guide license. The commissioner shall issue ~~the permit or permits or license or licenses~~ all fishing, trapping and hunting licenses and permits requested under this subsection if the commissioner determines the applicant is a resident disabled veteran and is not otherwise ineligible to hold that permit or license. For the purposes of this subsection, "resident disabled veteran" means a person who:

- A. Is a resident as defined in section 10001, subsection 53;
- B. Is a veteran as defined in Title 37-B, section 505, subsection 2, paragraph A, subparagraph (3); and
- C. Has a service-connected disability evaluated at:
 - (1) One hundred percent; or
 - (2) Seventy percent or more as a result of honorable military service and who has served in a combat zone during any armed conflict in which participants were exposed to war risk hazards as defined in 42 United States Code, Section 1711 (b).

Each application must be accompanied by satisfactory evidence that the applicant meets the requirements of this subsection. An applicant for a license or permit under this section is subject to the provisions of this Part, including, but not limited to, a lottery or drawing system for issuing a particular license or permit. A permit or license issued under this subsection remains valid for the life of the permit or license holder, as long as the permit or license holder continues to satisfy the residency requirement in section 10001, subsection 53 and the permit or license is not revoked or suspended.

Sec. 11. 12 MRSA §10853, sub-§14, as enacted by PL 2007, c. 463, §2, is amended to read:

14. Game warden killed in line of duty. A complimentary license to hunt, trap and fish, including permits, stamps and other permissions needed to hunt, 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. 12. 12 MRSA §12460-A, sub-§3, as enacted by PL 2005, c. 547, §1, is amended to read:

3. Repeal. This section is repealed July 1, ~~2009~~ 2012.

Sec. 13. 12 MRSA §12763, sub-§3, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 14. 12 MRSA §12804, sub-§4, as amended by PL 2003, c. 573, §7 and affected by c. 614, §9, is repealed.

Sec. 15. 12 MRSA §12910, sub-§3, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 16. 12 MRSA §12910, sub-§4, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §333 and affected by §422, is repealed.

Sec. 17. 12 MRSA §12910, sub-§5, as enacted by PL 2003, c. 655, Pt. B, §334 and affected by §422, is repealed.

Sec. 18. 12 MRSA §13104, sub-§12-A, ¶A, as enacted by PL 2003, c. 655, Pt. B, §389 and affected by §422, is amended to read:

A. A person shall:

- (1) Provide a registration certificate or an online registration receipt for inspection by any law enforcement officer on demand; and
- (2) Display a registration number assigned to a snowmobile in such form and manner as the commissioner may determine, except that an antique snowmobile is not required to display registration numbers. A person may operate a snowmobile registered online without displaying a registration number until that person receives the registration certificate from the department or for 30 days after registering the snowmobile online, whichever occurs first.

Sec. 19. 12 MRSA §13106-A, sub-§26, as enacted by PL 2005, c. 73, §1, is amended to read:

26. Operating snowmobile left of center of snowmobile trail. A person may not operate a snowmobile to the left of the center on a snowmobile trail that is funded in whole or part by the Snowmobile Trail Fund when approaching or navigating a curve, corner, grade or hill. For purposes of this subsection, "snowmobile trail" means a trail that is at least wide enough to allow 2 snowmobiles to pass safely in opposite directions and where the snow over the entire width of the trail has been mechanically packed and groomed for the purpose of snowmobile traffic.

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

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. 20. 12 MRSA §13155, sub-§7, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. An all-terrain vehicle owner who transfers ownership or discontinues its use may, within 10 days from the date of transfer or discontinuance, apply to the commissioner for registration of another all-terrain vehicle. The fee for the transfer is ~~\$2~~ \$4, and the registration is valid for the remain-

der of the registration year for which the previous all-terrain vehicle had been registered.

Sec. 21. 17 MRSA §2264-B, sub-§5, as amended by PL 2003, c. 452, Pt. I, §39 and affected by Pt. X, §2, is further amended to read:

5. License suspension. Surrender the person's motor vehicle operator's license for a period not exceeding 30 days and the person's hunting and fishing licenses issued by the Department of Inland Fisheries and Wildlife for a period of up to one year if the violation occurred in a state-owned wildlife management area as designated in Title 12, section 12708 or a wildlife sanctuary as designated in Title 12, section 12706. The court may suspend an operator's license for any violation of section 2264-A that involves the use of a motor vehicle.

Sec. 22. 38 MRSA §969, sub-§4, as enacted by PL 1997, c. 330, §1, is amended to read:

4. Reporting requirements. The commission shall submit a report by February 1, 1998 and each subsequent year to the joint standing committees of the Legislature having jurisdiction over natural resources matters, energy and utilities matters, ~~fisheries and wildlife matters~~ and appropriations and financial affairs, identifying the amount collected and how the fund was disbursed by the commission.

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

Effective April 18, 2008.

CHAPTER 652

S.P. 754 - L.D. 1960

An Act Regarding Axle Weight on Tri-axle Farm Trucks

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

Sec. 1. 29-A MRSA §2357, sub-§2, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. For a tri-axle unit, 54,000 pounds; ~~and~~

Sec. 2. 29-A MRSA §2357, sub-§2, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. On the tri-axle unit of a 4-axle single-unit vehicle hauling forest products, 64,000 pounds; ~~and~~
and

Sec. 3. 29-A MRSA §2357, sub-§2, ¶E is enacted to read:

E. On the tri-axle unit of a 4-axle single-unit vehicle registered as a farm truck under section 505 and hauling potatoes, 64,000 pounds. This paragraph is repealed October 1, 2013.

Sec. 4. Report. The Chief of the State Police and the Commissioner of Transportation shall report no later than January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over transportation matters an evaluation of the impact on roads and bridges of axle weight tolerances for tri-axle units of 4-axle single-unit vehicles used to haul forest products and potatoes. The report must include accident report data and citations for violations of the Maine Revised Statutes, Title 29-A, section 2357, subsection 2, paragraphs D and E and must also include recommendations for continuance, discontinuance or modification of tri-axle weight tolerances for 4-axle single-unit vehicles used to haul forest products and potatoes. The joint standing committee of the Legislature having jurisdiction over transportation matters may submit legislation related to the subject matter of the report under this section to the First Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 653

H.P. 1466- L.D. 2080

An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

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 unification of state and county correctional services will require concentrated planning and continued coordination of efforts for successful implementation; and

Whereas, authorizing the transitional team to meet immediately will contribute to this effort and help lay the foundation for the work of the corrections working group and the State Board of Corrections; 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: