

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

rations; subject to qualification and application for, and issuance to the corporation of, a certificate of authority as an insurer by the superintendent under this Title.

**Sec. 20. 24-A MRSA §6717, sub-§4**, as enacted by PL 1997, c. 435, §1, is amended to read:

**4. Effect of transfer.** Upon any transfer authorized pursuant to this section, the captive insurance company ceases to be domiciled in this State, and its corporate or other legal existence in this State ceases upon the ~~issuance of a certificate of discontinuance~~ filing of the notice under this section by the Secretary of State.

**Sec. 21. 31 MRSA §625, sub-§1, ¶D**, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

D. The future effective date or time of cancellation, which must be a date or time ~~certain not more than 90 days after the filing of the certificate~~, if it is not to be effective upon the filing of the certificate; and

**Sec. 22. 31 MRSA §825, sub-§1, ¶D**, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

D. The future effective date or time of renunciation, which must be a date or time ~~certain not more than 90 days after the filing of the certificate~~, if it is not to be effective upon the filing of the certificate; and

**Sec. 23. 31 MRSA §1009, sub-§1, ¶C**, as enacted by PL 2005, c. 543, Pt. A, §2, is amended to read:

C. For filing a statement of conversion under section ~~1092 or~~ 1093, the fee is \$150;

**Sec. 24. 31 MRSA §1092**, as enacted by PL 2005, c. 543, Pt. A, §2, is repealed.

See title page for effective date.

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## CHAPTER 57

### S.P. 286 - L.D. 739

#### An Act To Clarify That the Assessor and Treasurer Are Incompatible Municipal Offices

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

**Sec. 1. 30-A MRSA §2526, sub-§8**, 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 further amended to read:

**8. Treasurers and tax collectors.** Treasurers and tax collectors of towns may not ~~be selectmen~~ simultaneously serve as municipal officers or as elected or appointed assessors until they have completed their duties and had a final settlement with the town.

A. The same person may serve as treasurer and tax collector of a municipality.

See title page for effective date.

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## CHAPTER 58

### H.P. 339 - L.D. 451

#### An Act To Clarify the Law Regarding Reinstatement of a Driver's License

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

**Sec. 1. 29-A MRSA §2551-A, sub-§3, ¶A**, as enacted by PL 2005, c. 606, Pt. A, §7, is amended to read:

A. A conviction of operating a motor vehicle without a license if the license had expired and was not suspended or revoked; ~~and~~

**Sec. 2. 29-A MRSA §2551-A, sub-§3, ¶B**, as enacted by PL 2005, c. 606, Pt. A, §7, is amended to read:

B. A conviction of operating after suspension when the suspension is based upon a failure to pay child support; and

**Sec. 3. 29-A MRSA §2551-A, sub-§3, ¶C** is enacted to read:

C. A conviction of operating after suspension when the suspension is based solely on a failure to pay the reinstatement fee required by section 2486.

See title page for effective date.

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## CHAPTER 59

### S.P. 255 - L.D. 680

#### An Act To Hold Municipal Officers Harmless for a Determination That a Town Way or Public Easement Is Considered Abandoned

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

**Sec. 1. 23 MRSA §3028**, as repealed and replaced by PL 1991, c. 195, is amended to read:

**§3028. Abandonment of public ways; determination of status of any town way or public easement**

**1. Presumption of abandonment.** It is prima facie evidence that a town or county way not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years has been discontinued by abandonment. A presumption of abandonment may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as if it were a public way. A proceeding to discontinue a town or county way may not prevent or estop a municipality from asserting a presumption of abandonment. A municipality or its officials are not liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section is relegated to the same status as it would have had after a discontinuance pursuant to section 3026, except that this status is at all times subject to an affirmative vote of the legislative body of the municipality within which the way lies making that way an easement for recreational use. A presumption of abandonment is not rebutted by evidence that shows isolated acts of maintenance, unless other evidence exists that shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

**2. Status of town way or public easement.** The determination of the municipal officers regarding the status of a town way or public easement is binding on all persons until a final determination of that status has been made by a court, unless otherwise ordered by a court during the pendency of litigation to determine the status.

**3. Removal of obstructions.** If the municipal officers have determined under subsection 2 that the way is a town way or public easement and a court has not ordered otherwise, the municipality or an abutter on the way, acting with the written permission of the municipal officers, may remove any gates, bars or other obstructions in the way.

**4. Quasi-judicial act.** The determination of the municipal officers regarding the status of a town way or public easement pursuant to subsection 2 is a quasi-judicial act under Title 14, section 8104-B, subsection 2.

See title page for effective date.

**CHAPTER 60  
S.P. 25 - L.D. 66**

**An Act To Amend Maine's  
Endangered and Threatened  
Species List by Removing the  
Bald Eagle**

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

**Sec. 1. 12 MRSA §12803, sub-§3, ¶U,** as enacted by PL 2003, c. 573, §6 and affected by §8 and c. 655, Pt. C, §§3 and 6, is repealed.

**Sec. 2. 12 MRSA §12810** is enacted to read:

**§12810. Delisted species**

**1. Definition.** For purposes of this section, "delisted species" means a species that was listed as a state endangered or threatened species under section 12803 and after 2007 was removed from that list by the Legislature. The following is a delisted species:

A. Bald eagle, *Haliaeetus leucocephalus*.

**2. Prohibited acts regarding delisted species.** Except as otherwise authorized by the commissioner pursuant to this Part, a person may not intentionally:

A. Import into the State or export out of the State a delisted species. A person who violates this paragraph commits a Class D crime;

B. Hunt, trap or possess a delisted species within the State. A person who violates this paragraph commits a Class D crime;

C. Process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, a delisted species or any part of a delisted species. A person who violates this paragraph commits a Class D crime; or

D. Feed, set bait for or harass a delisted species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime.

See title page for effective date.