

# 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**

B. Any fees, fines and penalties recovered by the court from any prosecution by wardens pursuant to their acting, under section 10353, subsection 3, with the same powers and duties as sheriffs; ~~and,~~

**Sec. 3. 12 MRSA §10203, sub-§1, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

**Sec. 4. 12 MRSA §10203, sub-§7** is enacted to read:

**7. Department-owned property.** Money received from the sale, lease or rental of department-owned property or products must be deposited into the program account that originally expended funds for that property.

**Sec. 5. 12 MRSA §10262** is enacted to read:

**§10262. Warden Service Aircraft Fund**

**1. Fund established.** The Warden Service Aircraft Fund, referred to in this section as "the fund," is established through the Office of the State Controller as a nonlapsing fund under the jurisdiction of the Bureau of Warden Service within the department, referred to in this section as the "bureau," to ensure the viability of its aviation program.

**2. Funding.** The bureau may assess charges consisting of direct operating costs of the aircraft to agencies of the State for the use of the bureau's aircraft resources for purposes other than warden service activities and shall deposit any such money received into the fund. The bureau may apply for and accept any appropriation, grant, gift or service made available from any public or private source consistent with the purpose of this section and shall deposit any such money into the fund.

**3. Fund uses.** The bureau may use the fund to purchase aviation equipment and pay for operational expenses, including but not limited to maintenance, repairs, fuel and spare parts, in accordance with the bureau's plan to diversify and modernize its aviation program.

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF**

**Enforcement Operations - Inland Fisheries and  
Wildlife 0537**

Initiative: Provides funding for aviation equipment and operational expenses.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$20,000	\$20,000

OTHER SPECIAL	\$20,000	\$20,000
REVENUE FUNDS TOTAL		

See title page for effective date.

**CHAPTER 147**

**H.P. 140 - L.D. 161**

**An Act To Amend the Special  
Education, School Health and  
School Nutrition Laws  
Regarding Scoliosis Screening,  
the School Lunch Program,  
Transitional Services, Gifted  
and Talented Education  
Programs and the Maine  
Mentoring Partnership Grant  
Program**

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

**Sec. 1. 20-A MRSA §6452,** as amended by PL 1989, c. 730 and PL 2003, c. 689, Pt. B, §§6 and 7, is repealed.

**Sec. 2. 20-A MRSA §7801, first ¶,** as amended by PL 2007, c. 539, Pt. JJJJ, §1, is further amended to read:

It is the purpose of this chapter to plan, coordinate and implement service for ~~youth~~ students with ~~handi-~~ disabilities, 14 years of age or older and under 26 years of age, who are in transition from school to the community. It is also the purpose of this chapter to provide for an efficient and streamlined system of services across state agencies to include local and private entities that effectively deliver a combination of services that meet the needs of ~~youth~~ students with ~~handicaps~~ disabilities by:

**Sec. 3. 20-A MRSA §7802, sub-§2,** as enacted by PL 1985, c. 768, §1, is amended to read:

**2. Students with disabilities in transition.** ~~"Handicapped youths~~ Students with disabilities in transition" are those ~~youths~~ students with disabilities who have attained the age of 14 years and meet the eligibility criteria as defined in the United States Rehabilitation Act, Public Law 93-112, Section 504, as amended.

**Sec. 4. 20-A MRSA §7802, sub-§3,** as amended by PL 2007, c. 539, Pt. JJJJ, §3, is further amended to read:

**3. Services.** "Services" means those activities undertaken to provide special education, habilitation, rehabilitation, vocational and related services to ~~handicapped persons~~ students with disabilities in tran-

sition from school to community. These services may include, but are not limited to:

- A. Identification of all ~~handicapped youth~~ students with disabilities in transition in schools and in the community;
- B. Referral to appropriate community services and information regarding their location;
- C. Technical assistance for student education and transition plan development and implementation;
- D. Program development and evaluation;
- E. Case management and student tracking;
- F. Family training, counseling and support;
- G. Employer training, counseling and support;
- H. Facilitation of interagency communication and collaboration; and
- I. Planning and conducting skill development training.

**Sec. 5. 20-A MRSA §7803-A**, as amended by PL 2007, c. 539, Pt. JJJJ, §7, is further amended to read:

**§7803-A. Transition services**

Each school administrative unit shall provide an annual statement of the transition services needed by a ~~handicapped youth~~ student with a disability in transition enrolled in that unit. The statement of transition services must be provided to all ~~handicapped youth~~ students with disabilities in transition who are 16 years of age or older and enrolled in school and may be provided to younger students when the school administrative unit finds it necessary. When appropriate, a cooperative agreement among the ~~Department of Education~~ department, the Department of Health and Human Services, the Department of Corrections and the Department of Labor must be included as part of the annual statement describing the responsibilities of and coordination required by those agencies. If a cooperating agency fails to provide agreed-upon services, the school administrative unit may notify the chair of the committee, who may reconvene the cooperating agencies for the purposes of developing alternative strategies to meet the transition objectives. This section does not require any school administrative unit to provide noneducational services to students.

**Sec. 6. 20-A MRSA §7804, sub-§1-A**, as amended by PL 2007, c. 539, Pt. JJJJ, §8, is further amended to read:

**1-A. Grants.** The committee, as established in section 7803, may provide funds to support the effective delivery of regional services to ~~handicapped youth~~ students with disabilities in transition by coordinating existing programs, when possible, and establishing a

mechanism for ongoing coordination of programs for ~~handicapped youth~~ students with disabilities in transition at a local or regional level, including local educational agencies, community mental health centers, regional mental retardation services, regional rehabilitation programs and other public and private agencies as appropriate. Each project must establish a method to identify unserved and underserved ~~handicapped youth~~ students with disabilities in transition and develop services for these ~~youths~~ students.

**Sec. 7. 20-A MRSA §7804, sub-§2**, as amended by PL 2007, c. 539, Pt. JJJJ, §8, is further amended to read:

**2. Rules.** The committee shall adopt rules that, among other provisions, require that existing resources for providing services to ~~handicapped youth~~ students with disabilities in transition be exhausted prior to using grants funds to provide services.

**Sec. 8. 20-A MRSA §8102**, as amended by PL 2003, c. 477, §§7 and 8, is further amended to read:

**§8102. Grants to school administrative units**

The department may, from federal or other funds available to it, grant funds to a school administrative unit to ~~undertake~~ provide gifted and talented education programs. A grant must be made on the basis of the requirements of the department.

**1. Guidelines for the identification of gifted and talented students.** The commissioner ~~shall~~ may adopt or amend rules for the identification of gifted and talented students and for gifted and talented education programs.

**2. Programs for gifted and talented students.** A school administrative unit requesting funds to ~~undertake~~ provide a gifted and talented education program shall develop a proposed program of identification and education in accordance with guidelines established by the commissioner.

~~**3. Time limits.** The following limits apply:~~

~~A. On or before June 30th, the school administrative unit shall submit to the department its proposed program.~~

~~B. By September 1st, the commissioner shall notify the school administrative unit whether the proposal has been funded for the following fiscal year.~~

**4. Technical assistance.** The commissioner may provide technical assistance to a school administrative unit for planning for gifted and talented education programs.

**Sec. 9. 20-A MRSA §8104**, as amended by PL 2003, c. 477, §§10 and 11, is repealed.

**Sec. 10. 20-A MRSA §8105** is enacted to read:

**§8105. Rules**

The commissioner may adopt or amend rules to implement this chapter, including the identification of students, needs and resource assessment and program planning, development and implementation. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 11. 20-A MRSA §9901**, as enacted by PL 2005, c. 639, §1, is repealed.

**Sec. 12. 34-B MRSA §3004, sub-§3, ¶D**, as enacted by PL 1985, c. 768, §5, is amended to read:

D. Participate in the coordination of services for persons with chronic mental illnesses with local transitional services coordination projects for ~~handicapped youth students with disabilities~~, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

**Sec. 13. 34-B MRSA §5433, sub-§5**, as enacted by PL 1985, c. 768, §7, is amended to read:

**5. Transitional services coordination projects.** Participate in the coordination of services for ~~mentally retarded persons~~ individuals with developmental disabilities with local transitional services coordination projects for ~~handicapped youths~~ students with disabilities, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

**Sec. 14. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 308, in the chapter headnote, the words "transitional services coordination projects for handicapped persons" are amended to read "transitional services coordination projects for students with disabilities" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 15. Rulemaking.** No later than January 8, 2010, the Department of Education shall submit to the Legislature provisionally adopted rules necessary to implement the requirements of the Maine Revised Statutes, Title 20-A, section 6662, subsection 2 for the 2010-2011 school year. Rules provisionally adopted by the department pursuant to this section must align the standards for food and beverages sold or distributed on school grounds but outside of school meal programs with the nutritional standards established for the total food service program as defined in Department of Education rules Chapter 51.

See title page for effective date.

**CHAPTER 148****S.P. 73 - L.D. 223**

**An Act To Ensure That Money  
from the Surcharge on  
Registration of Pet Food for  
the Sterilization of Animals is  
Received in a Timely Manner**

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

**Whereas**, Public Law 2005, chapter 281 imposed a surcharge of \$20 on registered pet food; and

**Whereas**, funds must be available to the Companion Animal Sterilization Fund early in the calendar year so that animals may be spayed or neutered in a timely manner; 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. 7 MRSA §714, sub-§4**, as amended by PL 2007, c. 459, §2, is further amended to read:

**4. Surcharge on registration of pet food.** For each product name of pet food registered in accordance with subsection 1, the applicant shall pay a \$20 surcharge in addition to the registration fee, except that a home-based manufacturer of pet food shall pay a total annual surcharge of \$20. The commissioner shall deposit the surcharge directly into the Animal Welfare Fund established under section 3906-B, subsection 2 Companion Animal Sterilization Fund established under section 3910-B as it is received until the total of the surcharges received for that registration year equals \$100,000.

The commissioner shall deposit all surcharges received for a registration year in excess of \$100,000 into the Animal Welfare Fund established under section 3906-B, subsection 2.

**Sec. 2. 7 MRSA §3906-B, sub-§2**, as amended by PL 2005, c. 281, §3, is further amended to read:

**2. Animal Welfare Fund.** The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 1/2 of feed registration fees collected under sec-