

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.

Augusta, Maine
2009

C. the insurer issuing the policy covering the primary residence continues to have no duty to defend if the insurance policy for child care business liability is cancelled or nonrenewed during the term of the policy covering the primary residence.

See title page for effective date.

CHAPTER 186

H.P. 560 - L.D. 824

An Act To Allow Authorized Agents to Process Moose Hunting Lottery Applications and Antlerless Deer Permit Applications

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

Whereas, in order for agents authorized by the Commissioner of Inland Fisheries and Wildlife to process moose hunting lottery applications for this year, this Act must take effect immediately; 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. 12 MRSA §10801, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Appointment. The commissioner may appoint clerks of towns, the State Tax Assessor or such other agents as the commissioner considers necessary to issue licenses and permits. For purposes of this section, "licenses and permits" includes, but is not limited to, moose lottery applications under section 11154 and antlerless deer permit applications under section 11152. The commissioner shall determine the period during which the agents perform their duties. In the case of services performed for the commissioner by the State Tax Assessor, the provisions of this chapter regarding agents' fees do not apply.

Sec. 2. 12 MRSA §10803, as enacted by PL 2003, c. 655, Pt. B, §91 and affected by §422, is amended to read:

§10803. Agent fee cap

A clerk or agent appointed by the commissioner under section 10801 to issue licenses or permits or

process applications for the moose lottery or antlerless deer permits may charge agent fees as provided in this Part up to a maximum of \$6 during a single transaction. For purposes of this section, "transaction" means a single event in which one or more licenses or permits are issued to a person in that person's name.

Sec. 3. 12 MRSA §11152, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §121 and affected by §422, is further amended to read:

3. Rulemaking. The commissioner may adopt rules necessary for the administration, implementation, enforcement and interpretation of this section, except that the commissioner is not authorized to establish an antlerless deer permit system unless otherwise specified in this section. The commissioner may appoint clerks or agents under section 10801 to process applications for permits issued under this section. A clerk or agent appointed by the commissioner to process applications shall charge a fee of \$2 for each application processed by that clerk or agent under this section. Rules adopted by the commissioner that provide for permits to be issued to nonresident or alien hunters must provide that:

- A. The percentage of antlerless deer permits issued to nonresident and alien hunters may not exceed the average percentage of applicants for antlerless deer permits over the previous 3 years who were nonresidents or aliens; and
- B. No more than 15% of the antlerless deer permits issued in any one district or in any one zone may be issued to nonresident and alien hunters.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA §11154, sub-§6, as amended by PL 2005, c. 12, Pt. III, §10, is further amended to read:

6. Application procedure. An eligible person wishing to apply for a permit must file a written application for a permit on a form furnished by the commissioner. The application fee is nonrefundable. A person may file no more than one application. A person who submits more than one application is disqualified from the selection of permittees. The application must be accompanied by an application fee of:

- A. For a resident:
 - (1) Seven dollars for a one-chance application;
 - (2) Twelve dollars for a 3-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 3-chance application; and

- (3) Twenty-two dollars for a 6-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 6-chance application; or
- B. For a nonresident:
 - (1) Fifteen dollars for a one-chance application;
 - (2) Twenty-five dollars for a 3-chance application;
 - (3) Thirty-five dollars for a 6-chance application; and
 - (4) Fifty-five dollars for a 10-chance application; multiple 10-chance options may be purchased.

A clerk or agent appointed by the commissioner under section 10801 may process an application under this subsection. The clerk or agent shall charge a fee of \$2 for each application under this subsection processed by that clerk or agent.

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

Effective May 21, 2009.

**CHAPTER 187
H.P. 486 - L.D. 703**

**An Act Regarding Claims for
Civil Perjury**

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

Sec. 1. 14 MRSA §870 is repealed and the following enacted in its place:

§870. Judgment by perjury; action on case

1. Action; within 3 years. When a judgment has been obtained against a party by the perjury of a witness introduced at the trial by the adverse party, the injured party may, within 3 years after that judgment or after final disposition of any motion for relief from the judgment, bring an action against such adverse party, or any perjured witness or confederate in the perjury, to recover the damages sustained by the injured party by reason of such perjury. The judgment in the former action does not bar an action under this section.

2. Specificity of claim. A claim under this section must identify the specific testimony alleged to be false at the initial filing of the claim.

3. Record; evidence. A claim may not be submitted under this section solely on the same record as

in the former trial. Evidence discoverable by due diligence before the trial cannot be introduced as new evidence to establish perjury.

4. Standard of proof. The plaintiff in an action under this section must prove the alleged perjury by clear and convincing evidence.

5. Affirmative defense. It is an affirmative defense to an action under this section that the plaintiff has no new evidence to present concerning the alleged perjury.

6. Strictly construed. The pleading and proof requirements of this section must be strictly construed.

See title page for effective date.

**CHAPTER 188
H.P. 697 - L.D. 1009**

**An Act To Allow Lobster
License Exemptions to Persons
with Certain Medical Criteria**

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

Sec. 1. 12 MRSA §6310, sub-§2, ¶A, as enacted by PL 1999, c. 643, §1, is amended to read:

A. A Class I, Class II or Class III lobster and crab fishing license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in 1997, 1998 or 1999, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person may not request an appeal under this subparagraph after December 31, 2001;

(2) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in licensing year 2000 or in subsequent years, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documenta-