

# 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**

Sec. 7. 14 MRSA §7302 is repealed and the following enacted in its place:

**§7302. Venue**

Except as provided in section 509 and in Title 4, section 155, subsection 3-A, an action for replevin may be brought in either District Court or Superior Court in the county or division where a plaintiff or defendant resides or where any of the personal property sought to be replevied is located.

Sec. 8. 32 MRSA §11013, sub-§3, ¶N, as enacted by PL 1985, c. 702, §2, is repealed and the following enacted in its place:

N. Threatening to bring legal action in the debt collector's own name or instituting a suit on behalf of others or furnishing legal advice, except that a debt collector who is also an attorney may bring an action under this paragraph in the name of the creditor in any division or county permitted by 15 United States Code, Section 1692i and may furnish legal advice to the creditor with respect to a debt.

See title page for effective date.

**CHAPTER 246**

**H.P. 528 - L.D. 777**

**An Act To Provide for an  
Expiration Date for Certain  
Harassment Notices**

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

Sec. 1. 17-A MRSA §506-A, sub-§1, ¶A, as enacted by PL 2001, c. 383, §66 and affected by §156, is amended to read:

A. The person engages in any course of conduct with the intent to harass, torment or threaten another person ~~after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace or by a court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, section 4006 or 4007 or, if the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees.~~ Violation of this paragraph is a Class E crime; or:

(1) After having been notified, in writing or otherwise, not to engage in such conduct by:

(a) Any sheriff, deputy sheriff, constable, police officer or justice of the peace. The notification not to engage in such conduct expires one year from the date of issuance; or

(b) A court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, section 4006 or 4007; or

(2) If the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees.

Violation of this paragraph is a Class E crime; or

See title page for effective date.

**CHAPTER 247**

**H.P. 673 - L.D. 971**

**An Act To Amend the Laws  
Governing Liquor Liability  
and Licensing**

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

Sec. 1. 28-A MRSA §2509, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. **Limitation on damages for losses other than expenses for medical care and treatment.** In actions for damages permitted by this Act, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices or aids, against both a server and the server's employees and agents, may not exceed ~~\$250,000~~ \$350,000 for any and all claims arising out of a single accident or occurrence.

See title page for effective date.

**CHAPTER 248**

**H.P. 944 - L.D. 1343**

**An Act To Promote Consumer  
Fairness in Tax Refund  
Anticipation Loans**

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

Sec. 1. 9-A MRSA §8-106, sub-§6, as enacted by PL 1991, c. 330, §2, is amended to read:

6. In the case of a tax refund loan, if it is the practice of the creditor to demand repayment upon delivery of the refund, the annual percentage rate is based on the creditor's reasonable estimate of the time the refund will be delivered.

**Sec. 2. 9-A MRSA §10-102, sub-§1, ¶A**, as amended by PL 2005, c. 274, §4, is further amended to read:

A. "Loan broker" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment of money or other valuable consideration, any of the following services:

- (1) Improving a consumer's credit record, history or rating;
- (2) Arranging for or obtaining an extension of credit for a consumer; or
- (3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2).

"Loan broker" also means any person who serves as a facilitator of a refund anticipation loan or refund anticipation check, whether or not in return for the separate payment of money or other valuable consideration.

**Sec. 3. 9-A MRSA §10-102, sub-§2-A** is enacted to read:

**2-A.** "Facilitator of a refund anticipation loan or refund anticipation check" means a person who individually or in conjunction or cooperation with another person:

- A. Solicits the execution of, processes, receives or accepts application or agreement for a refund anticipation loan or refund anticipation check;
- B. Services or collects upon a refund anticipation loan or refund anticipation check; or
- C. Facilitates the making of a refund anticipation loan or refund anticipation check in any other manner.

If there is no 3rd-party facilitator of a refund anticipation loan or refund anticipation check because a creditor directly solicits the execution of, receives or accepts application or agreement for a refund anticipation loan or refund anticipation check, that creditor is considered a facilitator of a refund anticipation loan or refund anticipation check for purposes of this subsection. For purposes of this subsection, "creditor" means any person who makes a refund anticipation loan or who takes assignment of a refund anticipation loan.

**Sec. 4. 9-A MRSA §10-102, sub-§4** is enacted to read:

**4.** "Refund anticipation check" means a check, stored value card or other payment mechanism repre-

senting the proceeds of the consumer's tax refund that was issued by a depository institution or other person that received a direct deposit of the consumer's tax refund or tax credit and for which the consumer has paid a fee or other consideration.

**Sec. 5. 9-A MRSA §10-102, sub-§5** is enacted to read:

**5.** "Refund anticipation loan" means a loan that is secured by or that the creditor arranges to be repaid directly or indirectly from the proceeds of the consumer's income tax refund or tax credits. A refund anticipation loan also includes any sale, assignment or purchase of a consumer's tax refund at a discount or for a fee, whether or not the consumer is required to repay the buyer or assignee if the federal Internal Revenue Service reduces the consumer's tax refund.

**Sec. 6. 9-A MRSA §10-102, sub-§6** is enacted to read:

**6.** "Refund anticipation loan fee" means the charge, fee or other consideration charged or imposed directly or indirectly by the creditor for the making of or in connection with a refund anticipation loan. "Refund anticipation loan fee" includes any charge, fee or other consideration for a deposit account if the deposit account is used for the receipt of the consumer's tax refund to repay the amount owed on the loan.

**Sec. 7. 9-A MRSA §10-102, sub-§7** is enacted to read:

**7.** "Refund anticipation loan interest rate" or "interest rate" means the interest rate that must be disclosed pursuant to section 8-106, subsection 6.

**Sec. 8. 9-A MRSA §10-202**, as amended by PL 2005, c. 274, §6, is further amended to read:

**§10-202. Bond**

Each application must be accompanied by evidence of a surety bond, in a form approved by the administrator in the aggregate amount of \$25,000, to run to the State for use by the State and any person or persons who may have a cause of action against a loan broker. Notwithstanding this section, the aggregate amount of a surety bond accompanying the application of a loan broker conducting business solely as a facilitator of a refund anticipation loan or refund anticipation check must be \$10,000. The terms of the bond must run concurrent with the period of time during which the license is in effect.

**Sec. 9. 9-A MRSA §10-310** is enacted to read:

**§10-310. Requirements related to refund anticipation loan and refund anticipation check**

**1.** A facilitator of a refund anticipation loan or refund anticipation check shall make the following disclosures in accordance with this section.

A. A facilitator of a refund anticipation loan or refund anticipation check shall prominently display a schedule showing the current fees for a refund anticipation loan or refund anticipation check at its place of business. Each fee schedule must include at least 5 examples of refund anticipation loans in different amounts ranging from \$300 to \$5,000.

B. A facilitator of a refund anticipation loan or refund anticipation check shall post the following notice to consumers: "When you take out a refund anticipation loan, you are borrowing money against your tax refund. If your tax refund is less than expected, you will still owe the entire amount of the loan. If your refund is delayed, you may have to pay additional costs. You can get your refund in 8 to 15 days without paying any extra fees and taking out a refund anticipation loan. You can have your tax return filed electronically and your refund deposited directly into your own bank account without obtaining a refund anticipation loan or paying fees for an extra product."

C. At the time a person applies for a refund anticipation loan or refund anticipation check, the facilitator of a refund anticipation loan or refund anticipation check shall disclose, on a form separate from the application, the refund anticipation loan fee or refund anticipation check fee; the fee for tax preparation or any other fee; the time within which the proceeds of the refund anticipation loan or refund anticipation check will be paid if the loan or check is approved; and the interest rate, calculated pursuant to section 8-106, subsection 6, if the person is applying for a refund anticipation loan.

D. Prior to the consummation of the refund anticipation loan or refund anticipation check transaction, the facilitator of a refund anticipation loan or refund anticipation check shall also provide a copy of the completed loan or check application and agreement and, for a refund anticipation loan, the disclosures required by Article 8.

E. If a person applies for a refund anticipation loan, the facilitator of a refund anticipation loan or refund anticipation check shall orally inform the applicant that the product is a loan that lasts only one to 2 weeks, that the applicant is liable for the full amount of the loan if the anticipated tax refund is less than expected, the amount of any loan fees and the interest rate for the loan. If a person applies for a refund anticipation check, the facilitator of a refund anticipation loan or refund anticipation check shall orally inform the applicant of any check fee and that the applicant can receive a refund without a loan or extra fees if the refund is filed electronically and the applicant chooses direct deposit to the applicant's own bank account.

2. A facilitator of a refund anticipation loan or refund anticipation check is prohibited from engaging in any of the following activities.

A. A facilitator of a refund anticipation loan or refund anticipation check may not assess or impose any fee, charge or other consideration in the making of a refund anticipation loan or refund anticipation check unless that fee, charge or other consideration is included in the disclosed refund anticipation loan fee and the refund anticipation loan interest rate charged by the creditor or bank that provides the loan or check. In addition, any such fee, charge or other consideration, from whatever source, must be disclosed on the written agreement required by section 10-302. A facilitator of a refund anticipation loan or refund anticipation check may charge a fee for tax preparation if the same fee in the same amount is charged to customers who do not receive a refund anticipation loan, refund anticipation check or any other tax-related financial product.

B. A facilitator of a refund anticipation loan or refund anticipation check may not engage in unfair or deceptive acts or practices in the facilitating of a refund anticipation loan or refund anticipation check, including making any oral statements contradicting any of the information required to be disclosed under this Article.

C. A facilitator of a refund anticipation loan or refund anticipation check may not threaten to take any action prohibited by this Article in facilitating a refund anticipation loan or refund anticipation check.

D. A facilitator of a refund anticipation loan or refund anticipation check may not directly or indirectly arrange for any 3rd party to charge any interest, fee or charge related to a refund anticipation loan or refund anticipation check, including but not limited to charges for insurance, check cashing or attorney's fees or other collection costs.

E. A facilitator of a refund anticipation loan or refund anticipation check may not include any of the following provisions in a refund anticipation loan application or agreement:

- (1) A hold-harmless clause;
- (2) A confession-of-judgment clause;
- (3) A waiver of the right to a jury trial in any action;
- (4) Any assignment of or order for payment of wages or other compensation for services;
- (5) An agreement that the consumer will not assert any claim or defense arising out of the contract or seek any remedies pursuant to this Title;

(6) A waiver of any requirement of this Article;

(7) A waiver of the right to injunctive, declaratory or other equitable relief or relief on a classwide basis; or

(8) A requirement that any aspect of a resolution of a dispute between the parties to the agreement be kept confidential.

F. A facilitator of a refund anticipation loan or refund anticipation check may not take or arrange for a creditor to take a security interest in any property of the consumer other than the proceeds of the consumer's tax refund to secure payment of a refund anticipation loan.

G. A facilitator of a refund anticipation loan or refund anticipation check may not directly or indirectly engage in the collection of an outstanding or delinquent refund anticipation loan for any creditor or assignee.

H. A facilitator of a refund anticipation loan or refund anticipation check may not refer, facilitate or solicit consumers on behalf of a 3rd party engaged in check cashing for a fee or permit 3rd-party check cashing for a fee in any place of business in which refund anticipation loans or refund anticipation checks are facilitated.

I. A facilitator of a refund anticipation loan or refund anticipation check may not facilitate any refund anticipation loan that is secured by or that the creditor arranges to be repaid directly from the proceeds of the consumer's state tax refund.

J. A facilitator of a refund anticipation loan or refund anticipation check may not make a misrepresentation of fact in obtaining or attempting to obtain a registration as a facilitator.

K. A facilitator of a refund anticipation loan or refund anticipation check may not advertise or market a refund anticipation loan without including in the advertising or marketing materials a disclosure that the product is a loan and that tax refunds can be obtained without a loan or extra fees if tax returns are electronically filed with direct deposit.

L. A facilitator of a refund anticipation loan or refund anticipation check may not advertise or market a refund anticipation check without including in the advertising or marketing materials a disclosure that there is a fee associated with the check and that tax refunds can be obtained without a loan or extra fees if tax returns are electronically filed with direct deposit.

See title page for effective date.

**CHAPTER 249  
H.P. 252 - L.D. 316**

**An Act To Allow Eleven Large  
Game Shooting Areas in the  
State**

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

**Sec. 1. 7 MRSA §1332**, as amended by PL 2003, c. 386, §5, is further amended to read:

**§1332. Animal Industry Fund**

The Treasurer of State shall establish a separate account known as the Animal Industry Fund. This fund does not lapse but must be carried forward. Except as provided in section 1346, license fees collected under section 1333, subsection 3 and license and tagging fees collected under section 1342, subsections 3 and 4 and section 1342-A must be deposited in the account. Funds from this account may be used to pay for administrative costs associated with licenses issued under sections 1333 and 1342 and 1342-A, tags issued under section 1342 and other costs associated with administration and enforcement of this chapter and chapter 202-A.

**Sec. 2. 7 MRSA §1342, first ¶**, as enacted by PL 1999, c. 765, §3, is amended to read:

Beginning October 1, 2000, a person may not establish or operate a commercial large game shooting area unless that person has a valid license issued in accordance with this section or section 1342-A.

**Sec. 3. 7 MRSA §1342, 2nd ¶**, as enacted by PL 1999, c. 765, §3, is amended to read:

~~The Commissioner~~ Except as provided in section 1342-A, the commissioner may issue a license under this chapter only to a person who operated a commercial large game shooting area during the period beginning October 1, 1999 and ending March 15, 2000 and only for large game offered for harvesting within that area during that time period.

**Sec. 4. 7 MRSA §1342, sub-§1**, as enacted by PL 1999, c. 765, §3, is amended to read:

**1. Application.** An applicant for a commercial large game shooting area license must submit an application on a form provided by the commissioner along with the required license fee as provided under subsection 3. An application under this subsection must be submitted for a specific parcel of land, and the applicant must demonstrate in accordance with subsection 9 that the applicant has operated a commercial large game shooting area on that parcel of land between October 1, 1999 and March 15, 2000. The application must include the name and address of the person applying for the license and a map locating the proposed site in relation to known or easily identifi-