

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

**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**  
**2010**

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

Effective March 25, 2010.

**CHAPTER 549**

**H.P. 1106 - L.D. 1569**

**An Act To Clarify the Informed Growth Act**

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

**Whereas,** recent local interpretations of the Informed Growth Act have been inconsistent, resulting in unpredictability for developers; and

**Whereas,** it is important for economic growth to clarify the Informed Growth Act to encourage timely local economic development; 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. 30-A MRSA §4366, sub-§6,** as enacted by PL 2007, c. 347, §1, is amended to read:

**6. Large-scale retail development.** "Large-scale retail development" means any retail business establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion or renovation of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large-scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

**Sec. 2. 30-A MRSA §4372** is enacted to read:

**§4372. Existing structure**

This subchapter does not apply to a retail business establishment proposing to occupy an existing building in which the most recent occupant was a large-scale retail development as long as no increase greater than 20,000 square feet in gross floor area is proposed.

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

Effective March 25, 2010.

**CHAPTER 550**

**S.P. 615 - L.D. 1650**

**An Act To Amend Provisions of Certain Laws Relating to Fish and Wildlife**

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

**Whereas,** this legislation is intended to advance the date upon which the open water fishing season for 2010 begins; 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 §10351, sub-§2,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**2. Deputy game wardens.** The commissioner may appoint, on a temporary basis, ~~assistant~~ deputy game wardens.

**Sec. 2. 12 MRSA §10352, sub-§2,** as amended by PL 2007, c. 421, §1, is further amended to read:

**2. Compensation.** The compensation of the wardens appointed pursuant to section 10351, subsection 1 is determined under the Civil Service Law. ~~Assistant~~ Deputy game wardens appointed pursuant to section 10351, subsection 2 are not entitled to compensation but, at the discretion of the Game Warden Colonel and approval of the commissioner, may be compensated for mandatory assignments and for attendance at mandatory training or other required meetings or classes and reimbursed for approved expenses.

**Sec. 3. 12 MRSA §11224, sub-§1,** as enacted by PL 2007, c. 168, §5, is amended to read:

**1. Prohibition.** A person may not waste a wild bird or wild animal that has been wounded or killed by that person while hunting. For purposes of this section, "waste" means to intentionally leave a wounded or killed animal in the field or forest without making a

reasonable effort to retrieve and render it for consumption or use. This subsection does not apply to coyote.

**Sec. 4. 12 MRSA §11302, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**1. Limit on number of dogs.** A person may not, while either hunting alone or hunting with other persons, use more than ~~4~~ 6 dogs at any one time to hunt bear.

**Sec. 5. 12 MRSA §11801, sub-§2, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Employ the use of a dog or dogs in any manner while hunting wild turkeys except during the fall wild turkey hunting season;

**Sec. 6. 12 MRSA §12001, sub-§1**, as amended by PL 2009, c. 46, §1, is further amended to read:

**1. Open night hunting season.** Notwithstanding the night hunting prohibitions in section 11206-A, there is an open season for hunting coyotes at night in all counties of the State from December 16th to ~~June 1st~~ August 31st.

**Sec. 7. 12 MRSA §12051, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**1. Open training season.** Unless otherwise provided in this Part, a person may not train dogs on wild birds and wild animals except as follows.

A. A person may train dogs on foxes, rabbits and raccoons from July 1st through the following March 31st, including Sundays.

B. A person may train sporting dogs on wild birds at any time, including Sundays.

C. A resident may train up to ~~4~~ 6 dogs at any one time on bear from ~~August~~ July 1st to the first day of the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9.

A person may not engage in activities authorized under this subsection unless that person possesses a valid hunting license issued under section 11109.

A person who violates this subsection commits a Class E crime.

**Sec. 8. 12 MRSA §12457, sub-§1, ¶A**, as amended by PL 2005, c. 477, §15, is further amended to read:

A. The area within 150 feet of any operational fishway, except:

(1) At the following places, the fishway and the area within 75 feet of any part of the fishway are closed to fishing at all times:

(a) Grand Falls Powerhouse Dam on the St. Croix River in Baileyville; and

(b) Woodland Dam on the St. Croix River in Baileyville;

(2) At the following places, the area within the fishway and within 75 feet of the downstream mouth of the fishway is closed to fishing at all times:

(a) East Grand Lake Dam in Forest City Township, T9 R4 NBPP, except that fishing upstream from the dam at the top of the fishway is lawful;

(2-A) At the following places, the area within 75 feet of the mouth of the fishway is closed to fishing at all times:

(a) Spednic Lake Dam in Vanceboro;

(3) At the so-called ice control dam on the Narraguagus River in the Town of Cherryfield, the area within 100 feet of the dam must be closed to fishing at all times;

(4) At East Outlet Dam in Sapling Township, T1R7, in Somerset County and in Big Moose Township, T2R6, in Piscataquis County at the outlet of Moosehead Lake, the fishway and the area within 50 feet of any part of the fishway must be closed to fishing at all times; and

(5) There is no fishing in or from the fishway at the Sheepscot Lake Dam in the Town of Palermo in Waldo County, Chain of Ponds Dam in Chain of Ponds Township in Franklin County or Long Pond Dam in Seven Ponds Township in Franklin County;

**Sec. 9. 38 MRSA §571**, as repealed and replaced by PL 1977, c. 696, §344, is repealed and the following enacted in its place:

**§571. Corrupting waters forbidden**

**1. Prohibition.** A person may not:

A. Intentionally or knowingly poison, defile or in any way corrupt the water of any well, spring, brook, lake, pond, river or reservoir used for domestic drinking purposes;

B. Knowingly corrupt the sources of any public water supply, or the tributaries of those sources of supply, in a manner that affects the purity of the water supplied;

C. Knowingly defile waters identified in paragraphs A and B in any manner, whether the water is frozen or not; or

D. Put a carcass of any dead animal or other offensive material in waters identified in paragraphs A and B or on the ice of those waters. A person may place the carcass of a dead animal on the ice of a brook, great pond or river for purposes of coyote hunting as long as the carcass is removed before the ice supporting that carcass is gone. This paragraph does not authorize a person to enter the property owned by another person without the permission of the property owner.

2. Penalty. A person who violates this section commits a Class A crime.

**Sec. 10. Open water fishing season.** Except as otherwise provided in a rule adopted by the Department of Inland Fisheries and Wildlife that is specific to a particular body of water in the State, the open water fishing season for 2010 begins on the effective date of this Act. The rules adopted by the department governing open water fishing and ice fishing for the 2008-2009 season remain in effect until April 1, 2010. This section is repealed April 1, 2010.

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

Effective March 25, 2010.

**CHAPTER 551**

**S.P. 575 - L.D. 1497**

**An Act To Amend the Law  
Pertaining to Smoke Detectors  
and Carbon Monoxide  
Detectors**

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

**Whereas,** smoke detectors and carbon monoxide detectors clearly save lives and property and widespread use must be promoted; 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. 25 MRSA §2464, sub-§2,** as repealed and replaced by PL 2009, c. 162, §1, is repealed.

**Sec. 2. 25 MRSA §2464, sub-§2-A** is enacted to read:

**2-A. Smoke detectors required.** The owner shall properly install, or cause to be properly installed, in accordance with the manufacturer's requirements at the time of installation, smoke detectors in:

A. A single-family dwelling the construction of which is completed after January 1, 1982;

B. Each unit in a building of multifamily occupancy;

C. An addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling and the construction of which is completed after September 19, 1985; and

D. A conversion of a building to a single-family dwelling completed after September 19, 1985.

A smoke detector installed or replaced, after the effective date of this subsection, within 20 feet of a kitchen or of a bathroom containing a tub or shower must be a photoelectric-type smoke detector except that ionization detectors are permitted within the bedrooms even if the bedroom is within 20 feet of a kitchen or bathroom containing a tub or shower.

**Sec. 3. 25 MRSA §2464, sub-§6,** as amended by PL 2009, c. 162, §2, is further amended to read:

**6. Liability.** Nothing in this section gives rise to any action against an owner required to comply with subsection ~~2~~ 2-A or subsection 9, paragraph A if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

**Sec. 4. 25 MRSA §2464, sub-§9,** as enacted by PL 2009, c. 162, §3, is amended to read:

**9. Rental units.** In ~~an apartment~~ a unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide smoke detectors if they are not already present. The smoke detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the smoke detectors. If the landlord did not know and had not been notified of the need to repair or replace a smoke detector, the landlord's failure to repair or replace the smoke detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; ~~and~~

B. The tenant shall keep the smoke detectors in working condition by keeping charged batteries in ~~battery-operated~~ the smoke detectors, by testing