

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

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Augusta, Maine
2011

**CHAPTER 355
H.P. 825 - L.D. 1113**

**An Act To Encourage Fishing
for Individuals with Disabilities**

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 must take effect immediately so that persons with disabilities who need assistance to fish can get that assistance from a caregiver during this fishing season; 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 §10853, sub-§10, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

10. Persons with developmental disabilities. A complimentary license to fish must be issued to any person with ~~mental retardation~~ a developmental disability, as defined in Title 34-B, ~~section 5001~~ section 19503, subsection 3, upon application to the commissioner when that application is accompanied by a statement signed by the person's physician that states that the applicant's functional limitations substantially limit that person's ability to fish independently. The application must be accompanied by certified evidence that the applicant meets the defined condition. This complimentary license remains effective for the life of the license holder, if the license is not revoked or suspended.

Sec. 2. 12 MRSA §10853, sub-§15 is enacted to read:

15. Assisting a person with disabilities. The commissioner may allow a licensee who has received a complimentary fishing license under subsection 2, 3, 4, 7, 10 or 12 to have a person accompany and assist that licensee in fishing. The person accompanying and assisting the holder of a complimentary fishing license as provided in this subsection may do so without obtaining a separate fishing license. This subsection does not authorize the person accompanying and assisting the licensee to assist that licensee with more than one fishing rod and reel. The person accompanying and assisting the licensee must remain within the immediate proximity of the licensee while that licensee is fishing.

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

Effective June 15, 2011.

**CHAPTER 356
S.P. 410 - L.D. 1313**

**An Act To Amend the Motor
Vehicle Laws**

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

Whereas, it is important to provide immediate relief to small business owners and automobile dealers in light of economic conditions through a moratorium on dealer plate reductions and dealer license denials for failure to sell the required number of motor vehicles as provided in statute; and

Whereas, it is important to provide immediate recognition of the sacrifices of all military service members; 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. 16 MRSA §614, sub-§1, as amended by PL 1999, c. 155, Pt. A, §5, is further amended to read:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources ~~or~~ the Department of Inland Fisheries and Wildlife; or the Department of the Secretary of State, Bureau of Motor Vehicles, office of investigations; or the Department of Conservation, Division of Forest Protection when the reports or records pertain to arson are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

- A. Interfere with law enforcement proceedings;

- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Constitute an unwarranted invasion of personal privacy;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by the confidential source;
- F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;
- G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;
- H. Endanger the life or physical safety of any individual, including law enforcement personnel;
- I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;
- J. Disclose information designated confidential by some other statute; or
- K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

Sec. 2. 29-A MRSA §101, sub-§70, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

70. Special mobile equipment. "Special mobile equipment" means a self-propelled device operated over the highways that is motor vehicle with permanently mounted equipment not designed or used primarily for the transportation of persons or property, including. "Special mobile equipment" includes, but is not limited to, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, trucks used only to plow snow and to carry sand only for ballast, well drillers and wood-sawing equipment used for hire or similar types of equipment.

Special mobile equipment that makes frequent movement over public ways, including, but not limited to, self-propelled well drillers or air compressors, is considered is divided into Class A and Class B special mobile equipment. All other Well drillers must be registered as Class A special mobile equipment may be considered. All other special mobile equipment may be registered either as Class A or Class B equip-

~~ment at the option of the registrant special mobile equipment.~~

Sec. 3. 29-A MRSA §456-A, sub-§8, as amended by PL 2007, c. 383, §3, is repealed and the following enacted in its place:

8. Eligibility; trucks. A lobster registration plate may be issued for:

- A. A vehicle that qualifies for a specialty license plate under section 468, subsection 8; and
- B. A truck registered under section 504, subsection 1.

Sec. 4. 29-A MRSA §460-A is enacted to read:

§460-A. Honorary consul

1. Honorary consul registration plates authorized. The Secretary of State, on payment of taxes required in Title 36, section 1482, fees required in section 501, subsection 1 and an additional fee equal to the cost of producing the plates, rounded to the nearest dollar, and upon application shall issue one pair of specially designed number plates for one designated motor vehicle owned or controlled by each honorary consul who is a citizen or resident of the United States and authorized by the United States to perform consular duties. The cost of producing the special plates is determined by the bureau. A specially designed plate and its registration certificate may be used in place of the regular plate and registration.

2. Period of validity. Honorary consul plates issued pursuant to subsection 1 are valid only while the owner of the plates is authorized to perform consular duties.

3. Design. The Secretary of State shall determine the color, shape, size, lettering and numbering of the honorary consul registration plates issued pursuant to subsection 1, which must bear the words "Honorary Consul."

Sec. 5. 29-A MRSA §468, sub-§10, as enacted by PL 2007, c. 383, §5, is amended to read:

10. Additional versions or classes of the specialty plate. All requirements set forth in this section must be followed for each additional class or version of The Secretary of State may issue a specialty plate in a motorcycle or commercial vehicle class if:

- A. At least 10,000 sets of the specialty plate have been issued for automobiles and pickup trucks;
- B. The sponsor of the specialty plate under this subsection provides a list of 500 names, dated signatures and current plate numbers of supporters who have signed a statement declaring they intend to purchase and display the motorcycle or commercial vehicle class of specialty license plate; and

C. The sponsor collects from each supporter who signs the statement under paragraph B a contribution of \$25 for each set of plates and provides to the Secretary of State the sum of these contributions in the amount of \$12,500, which is nonrefundable.

Upon receipt of the \$12,500 provided under paragraph C, the Secretary of State shall prepare enabling legislation and a proposed plate design for submission to the Legislature and shall deposit the \$12,500 in the Specialty License Plate Fund established under section 469.

Sec. 6. 29-A MRSA §501, sub-§1, as amended by PL 2007, c. 647, §2 and affected by §8, is further amended to read:

1. Automobiles; pickup trucks. The fee for an automobile, pickup truck or sport utility vehicle used for the conveyance of passengers or interchangeably for passengers or property is \$35.

An automobile or sport utility vehicle used for the conveyance of passengers or property is a "combination" vehicle and may be issued a special plate with the word "combination" instead of "Vacationland." A passenger vehicle used under contract with the State, a municipality or a school district to transport students must be designated as "combination." A vehicle owned or operated by parents or legal guardians is exempt from this subsection.

Commercial plates may not be issued for or displayed on an automobile.

A sport utility vehicle may be registered either as an automobile or a truck. A sport utility vehicle with a gross vehicle weight or combined gross vehicle weight in excess of 10,000 pounds and used in the furtherance of a commercial enterprise must be registered as a truck according to its actual gross weight as provided in section 504.

The gross weight of a pickup truck registered as provided by this subsection may not exceed 6,000 pounds. An owner of a pickup truck who operates the pickup truck with a gross weight in excess of 6,000 pounds or the pickup truck drawing a semitrailer with a combined gross weight in excess of 6,000 pounds must register the truck as provided in section 504.

A combination of vehicles consisting of a pickup truck as defined in section 101, subsection 55 and a semitrailer with a registered weight of 2,000 pounds or less may be operated at the combined gross weight of the pickup truck and the semitrailer.

A combination of vehicles consisting of a motor vehicle and a camp trailer is not required to be registered for the gross weight of the combination.

Beginning July 1, 2009, \$10 of the fee must be transferred on a quarterly basis by the Treasurer of State to

the TransCap Trust Fund established by Title 30-A, section 6006-G.

Sec. 7. 29-A MRSA §501, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 8. 29-A MRSA §510, sub-§5 is enacted to read:

5. Tow dollies. Registration is not required for a tow dolly.

Sec. 9. 29-A MRSA §513, sub-§1-A, as enacted by PL 2005, c. 501, §1, is amended to read:

1-A. Registration required. Special Except as provided in subsection 3, special mobile equipment used on public ways, including, but not limited to, equipment that is rented from a location in this State or outside this State, regardless of whether the main office or headquarters of the owner of the equipment is located in this State or outside this State, must be registered in this State in accordance with this chapter.

Sec. 10. 29-A MRSA §513, sub-§3 is enacted to read:

3. Exemption from registration. Special mobile equipment that is used exclusively on the closed portion of a public way for the limited purposes of constructing or repairing that public way and that is transported by another vehicle to and from the construction project is exempt from registration under this chapter. For purposes of this subsection, the special mobile equipment must be operated only within the boundaries of a closed way. Notwithstanding section 1601, the owner or operator of special mobile equipment that is exempt from registration pursuant to this subsection shall maintain the amounts of financial responsibility specified in section 1605.

Sec. 11. 29-A MRSA §515-B, sub-§4, as enacted by PL 1999, c. 734, §1, is amended to read:

4. Recognition plates. A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motorcycle or register a motorcycle and who otherwise qualifies for the issuance of special Purple Heart motorcycle registration plates may apply to the Secretary of State for a special single plate recognizing that award. The Secretary of State shall design and identify these special single plates for recognition purposes only. Special single plates may not be attached to a motorcycle. Only one plate may be issued to each recipient ~~and a one-time fee of \$5 charged.~~

Sec. 12. 29-A MRSA §523, sub-§3-A, as amended by PL 2009, c. 80, §2, is further amended to read:

3-A. Motorcycle plates; veterans. In addition to any plate issued pursuant to subsection 3, the Secretary of State, on application and evidence of payment

of the excise tax required by Title 36, section 1482, ~~and the registration fee required by section 515, subsection 1 and a one-time additional fee of \$5,~~ shall issue a registration certificate and a special veterans registration plate for ~~one up to 3~~ designated ~~motorcycle~~ motorcycles owned or controlled by a person who has served in the United States Armed Forces and who has been honorably discharged or to a person who has served in the United States Armed Forces for at least 3 years and continues to serve.

Each application must be accompanied by the applicant's Armed Forces Report of Transfer or Discharge, DD Form 214, certification from the United States Department of Veterans Affairs or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge, or a letter from the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services verifying active duty military service and length of service.

The Secretary of State shall recall a special veterans registration plate of a recipient who has been less than honorably discharged from the United States Armed Forces.

All surplus revenue collected for issuance of the special veterans registration plates is retained by the Secretary of State to maintain and support this program.

Upon request the Secretary of State shall issue special veterans registration plates for a motorcycle that are also vanity plates. These plates are issued in accordance with this section and section 453. Vanity plates issued under this subsection may not duplicate vanity plates issued in another class of plate.

The surviving spouse of a recipient of a special veterans registration plate issued in accordance with this subsection may retain and ~~display use~~ display use the plate or plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the plate ~~on a motorcycle or plates,~~ but may retain ~~it as a keepsake them.~~ Upon the death of the surviving spouse, the family may retain the plate or plates, but may not use ~~it on a motorcycle them.~~

The Secretary of State may not issue special commemorative decals under subsection 5 or 6 for use on special veterans registration plates for a motorcycle.

Sec. 13. 29-A MRSA §524, as amended by PL 2007, c. 383, §16, is further amended to read:

§524. Other special veterans registration plates

1. United States Medal of Honor recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and set of special designating plates, to be used in lieu of regular registration plates, to any Maine resident who has been

awarded the Medal of Honor by the Congress of the United States when the application is accompanied by a copy of the military orders awarding the Medal of Honor.

These special designating plates must be of a design as determined by the Secretary of State.

The Secretary of State may issue Medal of Honor plates for display only on an automobile or truck registered for not more than 10,000 pounds.

2. Former prisoners of war; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any civilian citizen of the United States who was interned as a prisoner of war and to any person who served in the United States Armed Forces and who was a prisoner of war at any time during tenure of service, or the surviving spouse of a former prisoner of war who is deceased, when that application is accompanied by a copy of the appropriate military form or other official form issued by the Federal Government certifying that the person is a former prisoner of war. This special license plate is issued specifically to former prisoners of war and their spouses and the privilege of using the special plate is transferable only on the death of the former prisoner of war to the former prisoner's spouse. Upon the death of the former prisoner of war, the surviving spouse may retain and display the special license plate. Upon remarriage, the surviving spouse may not use the special license plate on a motor vehicle, but may retain it ~~as a keepsake.~~ Upon the death of the surviving spouse, the family may retain the special license plate, but not use it on a motor vehicle.

These special designating plates must be of a design as determined by the Secretary of State that is unique and not duplicated by any other design.

The Secretary of State may issue prisoner of war plates for display only on an automobile or truck registered for not more than 10,000 pounds.

3. Pearl Harbor survivors; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any person who served in the United States Armed Forces and who was stationed at Pearl Harbor, Oahu, Hawaii during the attack by Japanese forces on December 7, 1941, when that application is accompanied by appropriate military certification verifying the applicant's service at Pearl Harbor during the attack. This special license plate is issued specifically to Pearl Harbor survivors and the privilege of using the special plate is not transferable.

These special designating plates must be of a design as determined by the Secretary of State.

The Secretary of State may issue Pearl Harbor survivor plates for display only on an automobile or truck registered for not more than 10,000 pounds.

4. Purple Heart medal recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and a set of Purple Heart registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient.

An application for Purple Heart plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may issue Purple Heart plates for display only on an automobile or ~~pickup~~ truck registered for not more than 10,000 pounds. A Purple Heart recipient may be issued Purple Heart plates for no more than 2 vehicles.

The surviving spouse of a Purple Heart recipient issued plates in accordance with this subsection may retain and ~~display~~ use the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the Purple Heart plates on a motor vehicle, but may retain them ~~as a keepsake~~. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motor vehicle.

The Secretary of State shall determine the design of the Purple Heart plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee ~~of \$15~~ for vanity plates required in section 453 is credited to the Highway Fund.

A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motor vehicle or register a motor vehicle and who otherwise qualifies for the issuance of special Purple Heart registration plates may apply to the Secretary of State for a special single plate recognizing that award.

The Secretary of State shall design and identify these single plates for recognition purposes only. Single Purple Heart plates may not be attached to a motor vehicle. Only one plate may be issued to each recipient ~~and a one-time fee of \$5 charged~~.

The Secretary of State shall begin issuing Purple Heart plates in accordance with this subsection no later than November 1, 1995.

Sec. 14. 29-A MRSA §556, sub-§6, ¶E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

~~E. Motor carriers transporting passengers that receive~~ A passenger motor carrier receiving state, municipal or federal subsidies ~~are~~ is required to submit ~~their~~ the passenger motor carrier operating name and list of equipment to the ~~bureau~~ department and ~~are~~ is subject to the rules of the ~~bureau~~ Bureau of State Police pertaining to safety ~~promulgated~~ adopted under section 555. For the purpose of this section, the term "subsidies" includes assistance that is provided by the State Government, municipal government or Federal Government ~~that is used for purposes of planning~~ to offset operating losses or to acquire capital equipment.

Sec. 15. 29-A MRSA §651, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Warranty title; antique auto; horseless carriage; antique motorcycle; classic vehicle. The Secretary of State may, on documented and notarized evidence of ownership and payment of a \$40 fee, issue a warranty title to a Maine resident owner of an antique auto, horseless carriage, antique motorcycle or classic vehicle. A warranty title denotes that there are no known liens or encumbrances against the vehicle.

Sec. 16. 29-A MRSA §654, sub-§2, as amended by PL 2003, c. 652, Pt. A, §4 and affected by §7, is further amended to read:

2. Purchased from the dealer. If the application is for a vehicle purchased from a dealer, in addition to the requirement set forth in subsection 1, the application must be signed by the dealer and must contain the name and the address of any lienholder or assignee holding an interest created or reserved at the time of sale and the date of the lien. The dealer shall, within 30 days after the sale, deliver the application to the Secretary of State. The dealer must deliver a copy of the application to the lienholder.

Violation of this subsection is a traffic infraction for which a fine of not less than \$100 and not more than \$500 may be adjudged for each infraction.

Sec. 17. 29-A MRSA §705, sub-§6 is enacted to read:

6. Failure to satisfy security interests. If a licensed dealer takes a vehicle in trade on the purchase of another vehicle and there is an outstanding security interest, the licensed dealer shall satisfy all outstanding security interests within 10 days.

Violation of this subsection is a Class E crime.

Sec. 18. 29-A MRSA §1304, sub-§1, ¶F, as repealed and replaced by PL 1997, c. 393, Pt. A, §33 and affected by §34, is amended to read:

F. The Secretary of State may issue a restricted instruction permit to an applicant who is enrolled in a driver education program that includes practice driving. That permit is valid:

- (1) For a school year or other specified period; and
- (2) Only when the permittee is accompanied by a driver education teacher or a commercial driver education instructor, licensed by the Secretary of State under subchapter ~~III~~ 3.

An applicant with a physical, mental or emotional condition that impairs the safe operation of a motor vehicle may operate on a restricted instruction permit without being enrolled in a driver education program for the purpose of an initial behind-the-wheel assessment. The driver education teacher or commercial driver education instructor must be licensed as an occupational or physical therapist with the Department of Professional and Financial Regulation.

Sec. 19. 29-A MRSA §1406, sub-§4, as repealed and replaced by PL 2003, c. 434, §22 and affected by §37, is amended to read:

4. Renewals. Prior to the expiration of a license to operate a motor vehicle, the Secretary of State shall send the license holder a renewal ~~application~~ notice.

Sec. 20. 29-A MRSA §1412 is enacted to read:

§1412. Military service designation for active military personnel and veterans

The Secretary of State shall, at the request of an eligible applicant, issue a driver's license or nondriver identification card to that applicant with a military service designation that identifies the applicant as a person actively serving in the United States Armed Forces or as a veteran of the United States Armed Forces.

1. Eligibility. In order to make a determination of eligibility for a military service designation under this section, the bureau shall determine, based on an examination of an applicant's military identification, whether the following criteria are met:

A. The applicant is serving in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011); or

B. The applicant has served in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011) and has been honorably discharged. To receive the designation under this paragraph, the applicant must provide an

Armed Forces Report of Transfer or Discharge, DD Form 214, or a certification from the United States Veterans Administration or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge.

2. Renewal. A license or nondriver identification card with a military service designation issued in accordance with subsection 1, paragraph A may be renewed upon verification of continuing eligibility.

3. Design and location. The Secretary of State shall determine the design and location on the license and nondriver identification card for the military service designation under this section.

Sec. 21. 29-A MRSA §2089-A, sub-§5, as enacted by PL 2009, c. 55, §5, is amended to read:

5. Repeal. This section is repealed 90 days after the adjournment of the First Regular Session of the ~~125th~~ 126th Legislature.

Sec. 22. 29-A MRSA §2354-C, sub-§1, ¶A, as enacted by PL 2009, c. 326, §2, is amended to read:

A. The only allowable routes of travel are from the United States-Canada border in Calais north on U.S. Route 1 to Access Road in Baileyville, east on Access Road to Domtar Woodland Mill or its successor on Main Street and north on Main Street to the Louisiana-Pacific Oriented Strand Board mill or its successor in Baileyville; from the United States-Canada border in Madawaska then directly north or south into the Fraser Papers facility or its successor in Madawaska or up Bridge Street to Mill Street in Madawaska in order to reverse direction; and from the United States-Canada border in Van Buren on Bridge Street, ~~east into the rail yard in Van Buren, located approximately 2/10 of one mile west to Main Street, also designated as Route 1, then north on Main Street approximately 1 1/2 miles~~ from the border.

Sec. 23. 29-A MRSA §2382, sub-§5, as amended by PL 2007, c. 703, §25, is repealed and the following enacted in its place:

5. Long-term permits. The Secretary of State may grant permits for up to one year for trucks, truck tractors, semitrailers and Class A special mobile equipment. The fee for an overlimit permit is \$25 per month.

Sec. 24. PL 2011, c. 134 is repealed.

Sec. 25. Moratorium on dealer plate reduction and dealer license denial. Notwithstanding the Maine Revised Statutes, Title 29-A, section 903, from the effective date of this section to December 31, 2012 the number of dealer plates lawfully possessed by a motor vehicle dealer may not be reduced

and a motor vehicle dealer may not be denied renewal of that dealer's license solely because of a failure to meet minimum sales requirements under Title 29-A, section 903, subsection 3.

Emergency clause. In view of the emergency cited in the preamble, that section of this Act that imposes a moratorium on dealer plate reduction and dealer license denial and those sections of this Act that enact the Maine Revised Statutes, Title 29-A, section 1412 and repeal Public Law 2011, chapter 134 take effect when approved.

Effective June 15, 2011.

CHAPTER 357

S.P. 507 - L.D. 1575

An Act To Conform the Authority of the Department of Environmental Protection to Federal Law

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

Whereas, a recent letter from the Attorney General has brought into question the eligibility of members of the Board of Environmental Protection to legally serve; and

Whereas, this uncertainty has a negative impact on the work of State Government; and

Whereas, the economic health of the State of Maine will suffer if this uncertainty is not remedied with all due speed; 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. 38 MRSA §341-A, sub-§3, ¶B, as amended by PL 1997, c. 794, Pt. A, §2, is further amended to read:

~~B. When the State receives authority to issue permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not serve as commissioner who~~ The commissioner may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal

or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the commissioner receives, or during the previous 2 years prior to appointment has received, a significant portion of income directly or indirectly from license or National Pollutant Discharge Elimination System permit holders or applicants for a license or permit under the Federal Water Pollution Control Act. If the commissioner's authority is restricted under this paragraph, the commissioner shall delegate duties related to the restricted matter to employees of the department who do not hold major policy-influencing positions pursuant to Title 5, section 938 and who do not receive or have not received during the previous 2 years a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Duties that must be delegated include National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency. If a person with a conflict under this paragraph is nominated for the position of commissioner, the Governor shall submit to the President of the Senate and Speaker of the House of Representatives a plan for delegating the duties required to be delegated under this paragraph. The plan must be submitted with the information packet required to be provided by the Governor to the President of the Senate and Speaker of the House of Representatives under Title 3, section 154.

Sec. 2. 38 MRSA §341-A, sub-§3, ¶D is enacted to read:

D. The commissioner is subject to the conflict-of-interest provisions of Title 5, section 18.

Sec. 3. 38 MRSA §341-C, sub-§8, as amended by PL 1997, c. 794, Pt. A, §3, is further amended to read:

~~**8. Federal standards.** When the State receives authority to grant permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not~~