

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2012**

~~ing~~ hard-of-hearing and ~~late-deafened~~ late-deafened persons and possess the ability to communicate on a meaningful basis with those persons.

See title page for effective date.

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## CHAPTER 475

### H.P. 1218 - L.D. 1609

#### An Act To Ensure the Safety of Bait Used in Maine's Fishery

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

**Whereas,** local sources of bait are scarce and lobstermen are being driven to expand their search for bait; and

**Whereas,** the importation of marine and freshwater fish to be used as bait from various parts of the world may pose a risk to Maine's marine environment; and

**Whereas,** the fishing industry and marine scientists are concerned that Maine's lobster resource and other fisheries could be endangered by the introduction of this bait if it is contaminated by pathogens; and

**Whereas,** action must be taken immediately to prevent the use of bait that presents an unacceptable risk to Maine's marine environment and Maine's fisheries; 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 §6432-A, sub-§2,** as enacted by PL 2005, c. 203, §2 and affected by §3, is amended to read:

**2. Prima facie evidence.** The possession of offal or a marine organism prohibited pursuant to subsection 4 while fishing for or taking lobster or crabs is prima facie evidence of a violation of this section.

**Sec. 2. 12 MRSA §6432-A, sub-§§3 to 5** are enacted to read:

**3. Exception for freshwater organisms.** Notwithstanding subsection 1, a person may use a freshwater organism as bait to fish for or take lobster or crabs if that freshwater organism and the location from which that freshwater organism has been harvested

have been identified as acceptable on a list maintained by the commissioner pursuant to subsection 5.

**4. Use of marine organism as bait.** The commissioner may prohibit the use of marine organisms as bait to fish for or take lobster or crabs. A marine organism prohibited pursuant to this subsection and the location from which that marine organism is harvested must be identified on a list maintained by the commissioner pursuant to subsection 5.

**5. Lists of freshwater organisms acceptable as bait and prohibited marine organisms.** The commissioner may maintain a list of freshwater organisms that are acceptable as bait to fish for or take lobster or crabs, including the location from which those freshwater organisms are harvested. The commissioner may maintain a list of marine organisms that are prohibited as bait to fish for or take lobster or crabs, including the location from which those marine organisms are harvested. The commissioner may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that contain the criteria for inclusion on the lists.

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

Effective February 22, 2012.

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## CHAPTER 476

### S.P. 533 - L.D. 1623

#### An Act To Simplify Toll Discounts and Amend Certain Powers and Procedures of the Maine Turnpike Authority

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

**Whereas,** electronic tolling has rendered obsolete a 1981 statute requiring the Maine Turnpike Authority to offer a specific form of commuter discount; and

**Whereas,** the lingering mandate severely interferes with the turnpike authority's ability to deploy modern electronic toll systems; and

**Whereas,** effective use of electronic tolls is essential to yield greater traffic capacity at certain congested turnpike toll plazas; and

**Whereas,** an immediate resolution of these issues would permit the turnpike authority to offer improved service and simpler discounts to a broader cross-section of travelers without requiring them to make quarterly advance payments which might other-

wise be required before the end of the 90-day period; 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. 23 MRSA §1961, sub-§7**, as enacted by PL 2011, c. 302, §4, is amended to read:

**7. Funds for department projects.** As part of the budget presented in subsection 6, the authority shall allocate funds for department projects in an amount such that the 3-year rolling average of the allocation equals at least 5% of annual operating revenues. The requirement under this subsection is subordinate to the authority's obligation to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the authority. All department projects are subject to mutual agreement of the authority and the department.

For purposes of this subsection, annual operating revenues do not include any interest earned from the authority's capital and debt service reserve funds or the amount of tolls or other income that is discounted, rebated or refunded by the authority.

**Sec. 2. 23 MRSA §1963**, as amended by PL 1993, c. 410, Pt. MM, §1, is further amended to read:

**§1963. Maine Turnpike Authority**

In order to carry out the purposes of this chapter, the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, ~~shall continue~~ continues in existence with the powers and duties prescribed by this chapter until the Legislature provides for its termination and all outstanding indebtedness of the authority is repaid, or an amount sufficient to repay that indebtedness is set aside in trust. The authority shall continue to operate and maintain the turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, ~~together with connecting tunnels, bridges, overpasses, underpasses, interchanges and toll facilities.~~ The authority may operate and maintain other property and assets as are necessary or convenient for the construction, operation or maintenance of the turnpike, including, but not limited to, connecting tunnels, bridges, overpasses, underpasses, interchanges, toll facilities and parking lots.

**Sec. 3. 23 MRSA §1964, sub-§6**, as enacted by PL 1981, c. 595, §3, is amended to read:

**6. Operating revenues.** "Operating revenues" means ~~funds available to~~ income of the Maine Turn-

pike Authority from fees, fares, tolls, rental of concessions and miscellaneous revenue and interest ~~not otherwise pledged or dedicated.~~

**Sec. 4. 23 MRSA §1973, sub-§4**, as amended by PL 1995, c. 410, §§1 and 2, is further amended to read:

**4. Rates.** The rate of toll at each toll facility may be revised from time to time.

~~A. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates that may not exceed 50% of the normal passenger vehicle toll.~~

A-1. The authority is prohibited from imposing variable surcharges based on the time of day. ~~Notwithstanding any other provisions of law, the evaluation of congestion pricing as a reasonable transportation alternative to widening or expansion of the Maine Turnpike to 3 lanes in each direction from Exit 1 to Exit 6A on a projected basis without actual implementation of congestion pricing on a demonstration basis meets the criteria of section 73 and chapter 24.~~

B. ~~Reduced~~ A reduction in the rates of fees, fares and tolls ~~shall~~ may be made given to any class of vehicle based upon volume of use.

**Sec. 5. 23 MRSA §1980, sub-§2-A, ¶C**, as repealed and replaced by PL 2003, c. 591, §2, is amended to read:

C. The following procedures must be followed for the collection of tolls, administrative fees and civil penalties under this subsection.

(1) The authority shall send a notice of liability by ~~certified first class mail, return receipt requested,~~ to a person alleged to be liable as a registered owner under this subsection. The notice must be sent to the address of the registered owner on record with the authority if the registered owner is an electronic toll collection patron of the authority or, if no such record exists, the address of the registered owner on record with the Secretary of State. ~~A record of the certified mailing written statement by the authority that the notice of liability has been mailed~~ is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the failure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure. The notice must also include the name, address and telephone number of the violation clerk

responsible for enforcing the penalty for the failure to pay.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses and may result in revocation of the registration certificate and plates issued for the vehicle.

(4) Within 30 calendar days after the date of the issuance of the notice of liability, the registered owner to whom the notice is issued must:

- (a) Pay the amount of the toll for which the person is liable, the civil penalty or penalties provided for in paragraph A and an administrative fee of \$20 for each toll for which the person is liable but has not paid;
- (b) Send a written dispute by mail to the violation clerk named in the notice, as provided by paragraph I; or
- (c) Request a hearing with the violation clerk named in the notice as provided by paragraph J.

**Sec. 6. 23 MRSA §1980, sub-§2-A, ¶G,** as amended by PL 2011, c. 302, §17, is further amended to read:

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if a registered owner:

- (1) Does not dispute a notice of liability ~~and~~ or pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);
- (2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final decision of a violation clerk as provided in paragraphs I and J;
- (3) Does not pay the required tolls, administrative fees and civil penalties within 30 days of final adjudication of liability under paragraph K; or
- (4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of final adjudication of liability by an away agency with whom the authority has a recip-

rocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by ~~certified first class mail, return receipt requested,~~ informing the registered owner of the pending suspension.

**Sec. 7. 23 MRSA §1980, sub-§2-A, ¶H,** as repealed and replaced by PL 2003, c. 591, §2, is repealed.

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

Effective February 22, 2012.

**CHAPTER 477**

**H.P. 1339 - L.D. 1816**

**An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incidental to the operation of state departments and institutions will become due and payable immediately in order to achieve savings authorized in this Act; 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:**