

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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.

Augusta, Maine
2012

Sec. 10. 12 MRSA §8883-B, sub-§9 is enacted to read:

9. Rulemaking. No later than November 1, 2012, the bureau shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 12 MRSA §8886, sub-§1, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

1. Harvesting practices. Utilizing a sample of forest landowner reports and any other appropriate survey methods, the director shall tabulate an annual survey of the methods of harvesting and the harvest practices employed. The information on harvesting ~~shall~~ **must** include, but ~~is not~~ **is** limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods, including clear-cutting, ~~and~~ the extent of whole-tree harvesting of both solid and chipped wood, the number of clear-cuts over 75 acres in size, the total acres planted and the total acres pre-commercially thinned.

Sec. 12. Directive to amend certain rules pertaining to certification of clearcuts and notification of timber harvesting. No later than November 1, 2012, the Commissioner of Conservation shall amend the Department of Conservation Rule Chapter 20: Forest Regeneration and Clearcutting Standards to:

1. Remove the requirement that a licensed professional forester certify that regeneration standards have been met for Category 2 and Category 3 clearcuts;

2. Remove the requirement that a landowner file a report with the Department of Conservation, Bureau of Forestry along with certification that the regeneration standards have been met for Category 2 and Category 3 clearcuts; and

3. Remove that section of Rule Chapter 20 that establishes a process by which landowners file a notification with the bureau prior to beginning a timber harvesting operation. Notwithstanding the Maine Revised Statutes, Title 12, section 8867-A, revisions to Rule Chapter 20 in accordance with this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 533

S.P. 592 - L.D. 1732

An Act To Amend Certain Provisions of the Fish and Wildlife 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, certain changes to the laws governing inland fisheries and wildlife and snowmobiles need to be made before the current winter season is over; 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 §10155, sub-§1, as amended by PL 2011, c. 253, §3, is further amended to read:

1. Membership. Members of the board must be residents of the State. The board consists of the following 4 members:

A. Two employees of the department, appointed by the commissioner, one of whom may be a retired employee who has experience in taxidermy; and

B. ~~One~~ Two licensed ~~taxidermist~~ taxidermists with expertise in the art of taxidermy, appointed by the Governor; ~~and~~ .

~~C. One member of the general public with no affiliation to the art of taxidermy, appointed by the Governor.~~

Sec. 2. 12 MRSA §10801, sub-§6, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 3. 12 MRSA §11152, sub-§3, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 4. 12 MRSA §11152, sub-§7, as enacted by PL 2005, c. 142, §2, is amended to read:

7. Special antlerless deer permit. The commissioner shall issue a special antlerless deer permit to an eligible person who is ~~a resident and~~ is suffering from the loss of or the permanent loss of use of both lower extremities. The commissioner shall issue a permit upon application and after the applicant verifies that person's ambulatory disability with a letter signed by a physician ~~licensed in the State~~ confirming the person's condition. A person who is issued a special antlerless deer permit under this subsection may take an antlerless deer in any part of the State open to the taking of antlerless deer pursuant to subsection 3.

Sec. 5. 12 MRSA §12503, sub-§4, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B,

§249 and affected by Pt. B, §422, is further amended to read:

4. Groups of students. The commissioner may permit ~~student or youth groups of residents who attend high school or who are enrolled in special education courses for persons who are underprivileged, persons with handicaps or people with special learning needs~~ to fish without licenses for periods of not more than 3 days as long as the fishing activity is conducted as part of an educational program and is under the direct supervision of a teacher or instructor.

B. A permit holder:

- (1) May not allow fishing to go on for more than 3 days;
- (2) May not allow any fishing activity that is not conducted as part of an educational program; and
- (3) Shall provide direct supervision.

C. The following penalties apply to violations of this subsection.

- (1) A permit holder who violates paragraph B commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
- (2) A person who violates paragraph B after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Each day a person violates paragraph B is a separate offense.

Sec. 6. 12 MRSA §12763, sub-§3, as amended by PL 2007, c. 651, §13, is further amended to read:

3. Use of gill nets by department personnel. Department personnel and persons under contract with the department may use gill nets pursuant to this subsection. When requested by another agency to undertake a gill netting project, the department must be reimbursed by that agency for all costs relating to the gill netting project.

A. ~~The department~~ Department personnel and persons under contract with the department may not use gill nets in inland waters ~~provided that unless:~~

- (2) Both ends of the net are marked with buoys that are clearly visible from a distance of 300 feet and that identify the department; and
- (3) The results of each netting are forwarded on a weekly basis to the office of the commissioner. The records of the results must be

available for public inspection at the office of the commissioner.

A person under contract with the department may not use a gill net under this section unless the use is at the direction of and under the supervision of the commissioner or the commissioner's designee.

A-1. The following penalties apply to violations of paragraph A.

- (1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
- (2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 7. 12 MRSA §13051, sub-§2, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

- ~~(1) The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.~~
- (2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

- (a) Terminate the agency for the balance of the year; and
- (b) Order that the agency not be renewed for the next year;

Sec. 8. 12 MRSA §13060, as repealed and replaced by PL 2009, c. 340, §19, is repealed.

Sec. 9. 12 MRSA §13060-A is enacted to read:

§13060-A. Temporary registration certificate

1. Twenty-day certificate. The commissioner may issue temporary registration certificates to a registered dealer, who may, upon the sale or exchange of a boat, issue a temporary registration certificate to a new owner in order to allow the new owner to operate the boat for a period of 20 consecutive days after the date

of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is \$1.

2. Penalty. A person who operates a boat with an expired temporary registration certificate commits a civil violation for which a fine of not less than \$50 nor more than \$250 may be adjudged.

Sec. 10. 12 MRSA §13105, sub-§1, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

(1) ~~The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.~~

(2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(a) Terminate the agency for the balance of the year; and

(b) Order that the agency not be renewed for the next year.

Sec. 11. 12 MRSA §13106-A, sub-§5, ¶A, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

A. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed ~~300~~ 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert.

Sec. 12. 12 MRSA §13156, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

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

Effective March 18, 2012.

CHAPTER 534

S.P. 563 - L.D. 1664

An Act To Amend the Election Laws

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

Sec. 1. 21-A MRSA §23, sub-§7, as amended by PL 2011, c. 342, §6, is further amended to read:

7. Ballots and other election materials. ~~The For 22 months following an election in which a candidate for a federal office is on the ballot, the clerk shall keep the ballots, envelopes and applications from voters who voted by absentee ballot and other election materials listed in section 698 other than the incoming voting list tabulation materials related to those ballots and challenge certificates, if any, in the clerk's office or other secure location under the control of the clerk for 22 months following the election, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they must be kept by the Secretary of State until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this Title, referenda elections or special legislative elections must be kept for 2 months.~~

Sec. 2. 21-A MRSA §23, sub-§7-A, as enacted by PL 2011, c. 342, §7, is amended to read:

7-A. Incoming voting lists. ~~The For 5 years following any election, the clerk shall keep the incoming voting lists in the clerk's office for 2 years following the election or other secure location under the control of the clerk.~~

Sec. 3. 21-A MRSA §23, sub-§7-B is enacted to read:

7-B. Absentee envelopes and applications. ~~For 2 years following any election, the clerk shall keep the absentee ballot envelopes, including the unopened envelopes containing rejected absentee ballots, the applications for absentee ballots and the list of voters who were issued absentee ballots in the clerk's office or other secure location under the control of the clerk.~~

Sec. 4. 21-A MRSA §121, sub-§1-A, as amended by PL 2005, c. 453, §12, is further amended to read:

1-A. Identification and proof. Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 30 days of an election must be advised that the registrar might not receive the application before ~~that election~~