

# 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-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 29, 2016**

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

---

---

**Augusta, Maine**  
**2016**

**§473. Amusement ride inspection fee**

The amusement ride inspection fee is ~~\$75~~ \$100 per ~~inspector per hour with a minimum charge of \$75~~ amusement ride identified in an inspection application submitted to the Office of the State Fire Marshal pursuant to section 472, subsection 6. The applicant must pay the \$100 inspection fee for each amusement ride identified in the application, even if an amusement ride identified in the application is not available for inspection at the time the Office of the State Fire Marshal conducts its inspection. The applicant must pay an additional \$100 per amusement ride each time an amusement ride inspector must return to inspect a ride that was identified in the application but was not available for inspection during the prior inspection.

**Sec. 4. 8 MRSA §475, sub-§§3 and 4**, as amended by PL 2015, c. 148, §1, are amended to read:

**3. Inspection fee.** An amusement device may be inspected as determined necessary to protect the public safety by the commissioner. The amusement device inspection fee is ~~\$75~~ \$100 per ~~inspector per hour with a minimum charge of \$75~~ amusement device. If an amusement device is not available for inspection by the Office of the State Fire Marshal at the time agreed upon by the amusement ride inspector and the owner or operator of the device, the owner or operator of the amusement device must still pay the \$100 inspection fee for the amusement device and an additional \$100 per amusement device each time an amusement ride inspector must return to inspect a device that was not available for inspection during the prior inspection.

**4. Amusement device defined.** For purposes of this section, "amusement device" means a device by which a person is carried or conveyed or is allowed to move on, around or over a fixed course within a defined area intended to thrill, excite or amuse, including, but not limited to, bungee jumping and water slides, regardless of whether a fee to use the device is charged. "Amusement device" does not include ~~an amusement ride, vehicle or device the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001, or any coin-operated amusement device on a nonmoving base that is designed to accommodate one child;~~

- A. An amusement ride;
- B. An inflatable bounce house or similar inflatable structure;
- C. A vehicle or device the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001; or
- D. A coin-operated amusement device on a non-moving base that is designed to accommodate one child.

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

Effective March 31, 2016.

**CHAPTER 422**

**S.P. 625 - L.D. 1574**

**An Act To Protect Maine Voters from Intimidating Video Recording at the Polls**

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

**Sec. 1. 21-A MRSA §681, sub-§4**, as amended by PL 2007, c. 455, §35, is further amended to read:

**4. Outside the guardrail enclosure.** If sufficient space exists, party workers and others, in addition to the pollwatchers allowed pursuant to section 627, may remain in the voting place outside the guardrail enclosure as long as they do not attempt to influence voters or interfere with their free passage. If a person attempts to influence voters or interfere with their free passage, the warden shall have the person removed from the voting place. A person video recording in the voting place must remain outside the guardrail and may not conduct video recording closer than 15 feet from a voter being recorded, including when a voter is where a person is collecting voters' signatures. A person who video records a voter in violation of this subsection may be removed from the voting place by the municipal clerk at the recommendation of the warden as provided in section 662, subsection 2.

See title page for effective date.

**CHAPTER 423**

**S.P. 663 - L.D. 1636**

**An Act To Amend the Laws Relating to Endangered and Threatened Species**

**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 Department of Inland Fisheries and Wildlife's ability to effectively manage endangered and threatened species in conjunction with human activity is key to the protection and recovery of a listed species; and

**Whereas**, this legislation provides the Department of Inland Fisheries and Wildlife with tools necessary to properly manage listed endangered and threatened species; and

**Whereas**, it is critical that this legislation take effect immediately to ensure the Department of Inland Fisheries and Wildlife can properly manage 3 recently listed bat species in conjunction with timber harvesting and other human activities; 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 §12808**, as amended by PL 2005, c. 477, §23, is further amended to read:

**§12808. Unauthorized activities regarding endangered or threatened species**

For the purposes of this section and section 12808-A, "to take," "take" and "taking" mean the act or omission that results in the death of any endangered or threatened species.

**1. Prohibited acts regarding endangered or threatened species; negligence.** Except as provided in ~~subsections 2 and 3~~ section 12808-A, a person may not negligently:

- A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class E crime;
- B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime;
- C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime; or
- D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class E crime.

**1-A. Prohibited acts regarding endangered or threatened species; intentional.** Except as provided

in ~~subsections 2 and 3~~ section 12808-A, a person may not intentionally:

- A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime;
- B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime;
- C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class D crime; or
- D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime.

~~**2. Exceptions for certain purposes.** Notwithstanding subsections 1 and 1-A or section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may:~~

- ~~A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and~~
- ~~B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit.~~

~~**3. Exceptions; incidental take plan.** Notwithstanding subsection 1, the commissioner may:~~

- ~~A. Permit the taking of any endangered species or threatened species if:
 
  - ~~(1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;~~
  - ~~(2) The taking will not impair the recovery of any endangered species or threatened species; and~~
  - ~~(3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or~~~~

~~threatened species pursuant to paragraph B; and~~

~~B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:~~

- ~~(1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;~~
- ~~(2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;~~
- ~~(3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;~~
- ~~(4) The procedures for monitoring the effectiveness of the recovery measures in the plan;~~
- ~~(5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and~~
- ~~(6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be necessary for the recovery of species consistent with this section.~~

~~The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.~~

~~If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.~~

**Sec. 2. 12 MRSA §12808-A** is enacted to read:

**§12808-A. Authorized activities regarding endangered or threatened species**

Notwithstanding section 12808 and notwithstanding section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may authorize certain activities regarding endangered or threatened species in accordance with the following.

**1. Education, research, conservation and transportation.** Under such terms and conditions as the commissioner prescribes, the commissioner may:

A. Authorize an act prohibited by section 12808 or by rule for educational or scientific purposes or to enhance the recovery or survival of an endangered or threatened species; and

B. Authorize a person to transport without restriction but in accordance with the terms of any federal or state permit an endangered or threatened species into, within or out of the State.

**2. Specific activity; incidental take plan.** Under such terms and conditions as the commissioner prescribes, the commissioner may authorize a person to take an endangered or threatened species pursuant to an incidental take plan if:

A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;

B. The taking will not impair the recovery of any endangered or threatened species; and

C. The person develops and implements an incidental take plan in accordance with subsection 5 and that plan is approved by the commissioner. The commissioner may modify or waive the requirement under this paragraph if the commissioner determines the criteria in subsection 5 are substantially addressed in another permit, license or agreement.

The commissioner shall seek input from knowledgeable individuals or groups on each proposed incidental take plan developed under this subsection.

If the person violates any of the terms or conditions of an authorization granted pursuant to this subsection, the authorization must be immediately suspended or revoked and the person is subject to the prohibitions and penalties in section 12808 for that violation.

**3. Widespread activity; incidental take plan.** Under such terms and conditions as the commissioner prescribes, the commissioner may authorize the taking of an endangered or threatened species pursuant to a widespread activity incidental take plan developed by the commissioner in accordance with subsection 5 if:

A. The taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;

B. The taking will not impair the recovery of any endangered or threatened species; and

C. The commissioner determines that the activity is widespread, is conducted by a reasonably identifiable group of participants and poses a manageable risk of taking an endangered or threatened species.

The commissioner shall hold at least one public hearing and seek input from knowledgeable individuals or groups on each proposed incidental take plan developed under this subsection.

If a person violates any of the terms or conditions of an authorization granted pursuant to this subsection, the authorization must be immediately suspended or revoked for that person and that person is subject to the prohibitions and penalties in section 12808 for that violation.

**4. Broad activity exemption.** The commissioner may adopt rules to provide an exemption, under such terms and conditions as the commissioner determines necessary, for a specific activity otherwise prohibited by section 12808, if the commissioner determines the exemption:

- A. Addresses a specific activity that is widespread in its occurrence but may not have a reasonably identifiable group of participants;
- B. Poses little or no risk of taking an endangered or threatened species; and
- C. Will not individually or cumulatively impair the recovery of any endangered or threatened species.

The commissioner shall hold at least one public hearing and seek input from knowledgeable individuals or groups on each proposed rule to provide a broad activity exemption.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**5. Incidental take plan criteria.** The commissioner may approve or adopt an incidental take plan developed pursuant to subsection 2 or 3 that minimizes the incidental taking of an endangered or threatened species and that provides the following:

- A. A description of the specific activities sought to be authorized by the incidental take plan and an analysis of potential alternatives;
- B. The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the incidental take plan;
- C. The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the incidental take plan;
- D. The procedures for monitoring the effectiveness of the recovery measures in the incidental take plan;
- E. The anticipated costs of implementing the incidental take plan and the availability of necessary funding for the applicant to implement the plan; and

F. Other modifications to the incidental take plan or additional measures, if any, that the commissioner may require and such other matters as the commissioner determines to be necessary for the recovery of species consistent with this section.

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

Effective April 1, 2016.

**CHAPTER 424**

**H.P. 1095 - L.D. 1607**

**An Act To Implement the Recommendations of the Maine Affordable Housing Working Group**

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

**Sec. 1. 30-A MRSA §4753, sub-§3** is enacted to read:

**3. Universal application and waiting list.** The Maine State Housing Authority and municipal housing authorities shall establish a single, streamlined application for tenant-based rental assistance under the United States Housing Act of 1937, Public Law 412, Section 8 by which families may apply for housing assistance in any geographic area of the State and shall also establish a statewide, centralized waiting list for that tenant-based rental assistance. The Maine State Housing Authority and municipal housing authorities shall establish a method for individuals or families to submit applications and to update applications for rental assistance by electronic means.

The Maine State Housing Authority and the Department of Health and Human Services shall ensure that an application or an addendum to an application submitted pursuant to this subsection may also be used by individuals and families who choose to apply for the Bridging Rental Assistance Program established in Title 34-B, section 3011 and a federal shelter plus care program authorized by the federal McKinney-Vento Homeless Assistance Act, Public Law 100-77 (1987) as amended by the federal Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, Public Law 111-22, Division B (2009).

**Sec. 2. Examination of options to increase access to affordable housing for families with incomes at or below 30% of the area median income.** To the extent funds become available, the Maine State Housing Authority shall examine strategies to increase access to affordable housing for persons with incomes at or below 30% of the area median income, including, but not limited to, increasing the