

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
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J.S. McCarthy Co., Inc.
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1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

CHAPTER 301

H.P. 987 - L.D. 1292

AN ACT to Clarify Certain Provisions of the Marine Resources Laws.

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

Whereas, ambiguities exist in the marine resources laws; and

Whereas, these ambiguities create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and confusion be resolved in order to prevent any injustice to the citizens of Maine; 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 §6072, sub-§1, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Authority. The commissioner may lease areas in, on and under the coastal waters including the public lands beneath those waters and portions of the intertidal zone for scientific research or for aquaculture of marine organisms. The commissioner may grant a lease to any person. Except as provided in this Part, the commissioner's power to lease lands under this section shall be exclusive. For the purposes of this section, the deputy commissioner may serve in the place of the commissioner.

Sec. 2. 12 MRSA §6072, sub-§2, ¶B, as amended by PL 1981, c. 609, §1, is repealed and the following enacted in its place:

B. A lease may be granted for tracts not to exceed 5 acres in area. The commissioner may grant contiguous lease tracts to a single applicant; and

Sec. 3. 12 MRSA §6072, sub-§7, as enacted by PL 1977, c. 661, §5, is amended to read:

7. Decision. The commissioner may grant the lease, ~~with the advice and consent of the advisory council,~~ if he is satisfied that the proposed project will not unreasonably interfere with the ingress and egress of riparian owners, navigation, fishing or other uses of the area and is not in conflict with applicable coastal zoning statutes or ordinances. The commissioner may establish conditions that govern the use of the leased area and the limitations on the aquaculture activities. These conditions shall encourage the greatest multiple, compatible uses of the leased area, but shall also preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose.

Sec. 4. 12 MRSA §6072, sub-§12-A, ¶B, as enacted by PL 1981, c. 609, § 3, is amended to read:

B. The commissioner may grant lease transfers, ~~with the advice and consent of the advisory council,~~ if he determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7;
- (2) The transfer is not intended to circumvent the intent of subsection 8; and
- (3) The transfer is not for speculative purposes.

Sec. 5. 12 MRSA §6172, sub-§1, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

1. Commissioner's powers. The commissioner may examine the coastal waters and the intertidal zone and adopt regulations to close coastal waters or intertidal zone areas if he determines that any marine mollusks are or may become contaminated or polluted. The commissioner may adopt or amend regulations as he deems necessary, setting forth standards for closure of contaminated or polluted areas, giving consideration to established state water quality standards, the most recently adopted federal sanitation standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner so as to protect the public health and safety while allowing reasonable use of the state's shellfish.

Sec. 6. 12 MRSA §6172, sub-§3, as amended by PL 1981, c. 649, §1, is repealed and the following enacted in its place:

3. Repeal. The commissioner shall repeal a regulation closing an area or waters when the marine mollusks are no longer contaminated or polluted or when the waters meet the sanitary standards set forth in any department regulations. The commissioner shall use emergency regulatory procedures to open areas or waters that have been closed under emergency procedures of this section.

Sec. 7. 12 MRSA §6501, sub-§3, ¶A, as enacted by PL 1977, c. 661, §5, is amended to read:

A. Any person may fish for, take, possess or transport any species of fish if they have been taken by speargun, harpoon, minnow trap, hand dip net or hook and line and are only for personal use.

Sec. 8. 12 MRSA §6621, sub-§3, as repealed and replaced by PL 1981, c. 462, §1, is amended to read:

3. Exception. This section shall not apply to:

A. The taking of shellfish under the authority of section 6856; or

B. Shellfish kept or washed in waters sterilized with a system that has been approved in writing by the commissioner, provided that the waters are also approved for that use; or.

~~C. The handling of shellfish that are not intended for imminent human consumption.~~

Sec. 9. Present regulations. All regulations of the department promulgated under prior laws, and in effect on the effective date of this Act, shall remain in force until amended or repealed by the commissioner, as provided in this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 18, 1983.

CHAPTER 302

H.P. 768 - L.D. 998

AN ACT to Regulate Interstate Bank
Ownership.