

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

1. License required. It is unlawful for a person to operate a boat as a platform for the harvesting of sea urchins and scallops by hand, to act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand or to possess, strip, transport or sell scallops or sea urchins unless that person is licensed under this section, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops.

Sec. 2. 12 MRSA §6536 is enacted to read:

§6536. Scallop diving tender license

1. License required. It is unlawful for a person to operate a boat as a platform for the harvesting of scallops by hand, to act as a diving tender on a boat engaged as a platform for the harvesting of scallops by hand or to possess, ship, transport or sell scallops unless that person is licensed under this section, section 6535, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers who harvest scallops by hand and operate a boat as a platform for the harvesting of scallops by hand and may possess, ship, transport and sell scallops. A scallop diving tender license does not authorize the holder to harvest scallops.

3. Eligibility. A scallop diving tender license may be issued only to an individual and is a resident license.

4. Fee. The fee for a scallop diving tender license is \$89.

5. Prima facie evidence. The failure of at least one person on board the boat operated as a platform during periods of diving to harvest scallops to have a license issued under section 6701 is prima facie evidence of a violation of this section.

See title page for effective date.

CHAPTER 531

S.P. 657 - L.D. 1717

**An Act Allowing Towns to Form
Regional Shellfish Management
Committees**

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

Whereas, Maine's shellfish resource provides important economic and recreational benefits to the citizens of the State; and

Whereas, management of Maine's shellfish resource benefits from municipalities joining together to undertake programs over a wide area; and

Whereas, several Maine municipalities are in the process of joining in regional shellfish management efforts; 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 §6671, sub-§2, as amended by PL 1983, c. 838, §2, is further amended to read:

2. Municipal program and ordinance. Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance regulating the possession of shellfish in any area of the municipality as provided by this section. A municipal shellfish management committee comprised of residents of that municipality may be established to administer a municipal program.

Sec. 2. 12 MRSA §6671, sub-§3-A, ¶F, as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

F. When 2 or more municipalities have entered into ~~an agreement with one another for joint or cooperative action under this subsection~~ a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities ~~shall~~ must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license ~~shall~~ must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses ~~shall~~ are not be required.

Sec. 3. 12 MRSA §6671, sub-§7, as enacted by PL 1977, c. 661, §5, is amended to read:

7. **Joint programs; reciprocal privileges.** Municipalities may enter into ~~joint conservation~~ regional shellfish management agreements with other municipalities and adopt ~~joint~~ regional shellfish management programs. The agreements, and the programs and ordinances adopted under them, shall be are subject to the same requirements as municipal programs and ordinances. Resident privileges of one municipality in a ~~joint~~ regional shellfish management agreement may be extended to the residents of other municipalities in the agreement. Notwithstanding subsection 2, a regional shellfish management committee comprised of at least one resident from each municipality named in the regional agreement may be established to administer a regional program.

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

Effective March 12, 1996.

CHAPTER 532

S.P. 659 - L.D. 1719

An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board

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

Sec. 1. 5 MRSA §12004-G, sub-§30, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 5 MRSA §12004-I, sub-§2-B, as enacted by PL 1991, c. 779, §2, is repealed.

Sec. 3. 5 MRSA §12004-I, sub-§68-A is enacted to read:

68-A. State Expenses 12 MRSA Natural Conservation Only §51-A Resources District Advisory Council

Sec. 4. 12 MRSA §3, sub-§1, as amended by PL 1969, c. 477, §1, is repealed.

Sec. 5. 12 MRSA §3, sub-§1-A is enacted to read:

1-A. Department. "Department" means the Department of Agriculture, Food and Rural Resources.

Sec. 6. 12 MRSA c. 1, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

SOIL AND WATER CONSERVATION

Sec. 7. 12 MRSA §51, as amended by PL 1991, c. 837, Pt. A, §28, is repealed.

Sec. 8. 12 MRSA §51-A is enacted to read:

§51-A. Advisory council established

The State Conservation District Advisory Council, as established by Title 5, section 12004-I, subsection 68-A, advises the commissioner on matters affecting the operations and responsibilities of soil and water conservation districts. The State Conservation District Advisory Council consists of one representative from each of the soil and water conservation districts. The president and vice-president of the Maine Association of Conservation Districts and the State Conservationist of the United States Department of Agriculture, Natural Resources Conservation Service shall serve as ex officio, nonvoting members. The president and vice-president of the Maine Association of Conservation Districts shall also serve as chair and vice-chair. The advisory council shall:

1. Formulation of budget. Consult with the commissioner regarding the formulation of that part of the department's budget that pertains to the operations of the soil and water conservation districts;

2. Procedures for election of supervisors. Advise the Department of Agriculture, Food and Rural Resources on the appointment of soil and water conservation district supervisors and on procedures for the election of supervisors;

3. Consult in areas of expertise. Regularly consult with the Department of Agriculture, Food and Rural Resources on matters in which the soil and water conservation districts have individual or collective expertise, including agriculture, forestry, water quality, economic and community development and the protection of landowner rights;

4. Distribution of grant money. Advise the department on procedures for the distribution of federal, state or private grant money that passes through the department and is intended for the work of soil and water conservation districts; and