

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

equitable schedule for the payment of the refund. This subparagraph is repealed October 31, 1996, and no further applications for refunds may be accepted.

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

Sec. 7. 39-A MRSA §404, sub-§2, ¶¶D and E are enacted to read:

D. In determining membership in the association for the purposes of annual postinsolvency assessments, a successor employer approved for continuing self-insurance authority under section 403, subsection 14 or a successor employer qualifying and receiving a refund under section 403, subsection 14, paragraph H, subparagraph (1) is deemed to be a member of the association from the date of the former employer's initial self-insurance authorization.

E. In determining membership in the association for the purposes of annual or postinsolvency assessments, an employer that ceases to be an approved self-insurer under this Act at the time an insolvency occurs or has occurred, or during the 36-month period immediately preceding an insolvency, continues to be a member of the association for the purposes of annual or postinsolvency assessments even if that employer is acquired or merges with another entity, dissolves, ceases to do business in the State or otherwise changes business form resulting in a new legal entity. An employer qualifying for membership under this paragraph shall notify the Maine Self-Insurance Guarantee Association of all changes affecting ownership and provide information necessary for the association to be able to levy assessments. In addition to any other remedies provided by law, the superintendent is authorized to issue an order amending the terms and conditions of the termination plan of any former self-insurer in order to enforce this paragraph.

Sec. 8. 39-A MRSA §404, sub-§4, ¶A, as amended by PL 1995, c. 398, §5, is further amended by amending subparagraph (3) to read:

(3) Shall administer a fund, to be known as the Maine Self-Insurance Guarantee Fund, which must receive the assessments required in subparagraph (2). Prior to December 1, 1992, this fund may not exceed \$1,000,000, except that once the fund reaches \$1,000,000, the fund may not exceed \$1,000,000 plus all subsequent initial assessments of new member self-insurers that are required to be made in subpara-

graph (2), division (f). After November 30, 1992, this fund may not exceed \$2,000,000, except that once the fund reaches \$2,000,000, the fund may not exceed \$2,000,000 plus all subsequent initial assessments of new member self-insurers that are required to be made in subparagraph (2), division (f) and interest income. In the event the fund drops below \$2,000,000, and if the association determines it necessary in order to carry out the purpose of this section, the association is authorized to levy annual assessments as required in subparagraph (2) in addition to postinsolvency assessments as required by paragraph C. The costs of administration by the association must be borne by the fund and the association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the fund to effectuate the purpose of the association, subject to the approval of the Superintendent of Insurance.

(a) The association may purchase primary excess insurance from an insurer licensed in this State for the appropriate lines of authority to defray its exposure to loss occasioned by the default of one or more of its members. Any excess insurance so purchased must be limited to coverage of post-assessment liability of the association's members and the association shall fund any such purchase by levying a special assessment on its members for this purpose or by application of any unencumbered funds available that have not been raised by imposition of any preassessment or postassessment. The association may obtain from each member any information it may reasonably require in order to facilitate the securing of this primary excess insurance. The association shall establish reasonable safeguards designed to ensure that information so received is used only for this purpose and is not otherwise disclosed;

See title page for effective date.

CHAPTER 595

H.P. 1252 - L.D. 1714

An Act to Establish a Sea Urchin Management Plan

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

Whereas, more than 38,000,000 pounds of sea urchins having a total landed value of nearly \$35,000,000 were harvested in Maine's coastal waters during 1994; and

Whereas, sea urchins are among the 3 highest valued fisheries in the State; and

Whereas, this pressure on the sea urchin resource is rapidly depleting the resource; and

Whereas, the continuation of the sea urchin fishery depends on the maintenance of sustainable yields; 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. 5 MRSA §12004-I, sub-§57-B is enacted to read:

<u>57-B. Marine Resources Zones</u>	<u>Sea Urchin Zone Council</u>	<u>None</u>	<u>12 MRSA §6749-X</u>
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Sec. 2. 12 MRSA §6749-N, as amended by PL 1995, c. 392, §6, is further amended to read:

§6749-N. Closed areas; 1995 to 1999

Notwithstanding section 6749, in calendar years 1995, 1996, 1997 and 1998; it is unlawful for a person to fish for or take sea urchins from:

1. Zone 1. Zone 1, from ~~April~~ May 1st to ~~August~~ July 31st. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then running southerly to the TB1 whistle southwest of Junken Ledge, then running

southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

2. Zone 2. Zone 2, from May 1st to ~~October 1st~~ July 31st. For the purpose of this article, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.

Sec. 3. 12 MRSA §6749-O, sub-§§1 and 2, as enacted by PL 1995, c. 392, §7, are amended to read:

1. Handfishing and dragging licenses. The Except as provided in subsections 3 and 4, the commissioner may not issue a handfishing sea urchin license or a sea urchin dragging license for calendar year 1994, 1995, 1996, 1997 or 1998 to any person unless that person possessed that license in the previous calendar year.

2. Hand-raking and trapping license. The Except as provided in subsections 3 and 4, the commissioner may not issue a sea urchin hand-raking and trapping license for calendar year ~~1995 or~~ 1996 to any person unless that person possessed either a handfishing sea urchin license or a sea urchin dragging license in ~~the previous~~ calendar year 1995. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1997 or 1998 to any person unless that person possessed a sea urchin hand-raking and trapping license in the previous calendar year. A person who is issued a sea urchin hand-raking and trapping license may not be issued a handfishing sea urchin license or a sea urchin dragging license in the same calendar year.

Sec. 4. 12 MRSA §6749-P, as amended by PL 1995, c. 392, §8, is further amended to read:

§6749-P. Licenses by zone

For calendar years 1995, 1996, 1997 and 1998, a person eligible to purchase a license under section 6749-O may purchase those licenses only for Zone 1 or Zone 2. All of those licenses issued to any one person in any one year must be for the same zone. In calendar years 1997 and 1998, a person may not change from the zone in which the person harvested sea urchins in the previous calendar year unless the change is authorized in accordance with section 6749-Z. A handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license authorizes the licensed

activity only in the zone for which it is issued. A sea urchin dragging license must list the documentation or registration number of the vessel to be used by that licensee when dragging. A vessel documentation number or registration number may not be listed on more than one sea urchin boat license.

Sec. 5. 12 MRSA §§6749-V to 6749-Z are enacted to read:

§6749-V. Dragging closure

Notwithstanding section 6749-N, it is unlawful for a person to fish for or take sea urchins with a drag or any combination of drags in the coastal waters of the State from May 1st to September 30th.

§6749-W. Open days

1. Prohibition. It is unlawful for a person to fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

2. Designation of open days; Zone 1. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 1 under section 6749-N, subsection 1:

A. One hundred and fifty days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 150 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

3. Designation of open days; Zone 2. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 2 under section 6749-N, subsection 2:

A. One hundred and seventy days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 170 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

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

§6749-X. Sea Urchin Zone Council

1. Appointment; composition. The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of 18 members. The commissioner shall appoint the members as follows:

A. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 1;

B. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 2;

C. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 1;

D. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 2;

E. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 1;

F. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 2;

G. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 1;

H. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 2; and

I. Two scientists who have expertise in marine resources management.

In making appointments under paragraphs A, B, C and D, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

2. Term. Council members serve for 2 years and continue serving until a successor is duly appointed and qualified. When a vacancy occurs, the commissioner shall fill the vacancy by appointing a member from the same category of members listed in subsection 1 as the member who vacated the council.

3. Purpose. The council shall make recommendations to the commissioner concerning the designation of open days for the harvesting of sea urchins by

handfishing, dragging, hand-raking and trapping pursuant to section 6749-W.

4. Chair and officers. The council shall annually choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

5. Meetings. The council shall meet at least once each year. The council may also meet at other times at the call of the chair or the chair's designee or the call of the commissioner or the commissioner's designee.

§6749-Y. Penalty

Notwithstanding section 6204, a person who violates or fails to comply with this subchapter commits a Class D crime that is punishable by a fine of not less than \$500. The fine may not be suspended.

§6749-Z. Changing zones; 1997 and 1998

1. Authorization of changes. Beginning in calendar year 1997, a person eligible to purchase a license under section 6749-O who wishes to change the zone in which the person harvests sea urchins may not change zones unless the change is authorized by the commissioner in accordance with this section.

2. Zone change request on application. A person eligible to purchase a license under section 6749-O who wishes to change the zone in which that person was licensed to harvest sea urchins in the previous calendar year must indicate on a sea urchin harvesting license application a preference to change the zone in which the person harvests sea urchins. The commissioner shall stamp each sea urchin harvesting license application with the time and date of submission.

3. Conditions for authorization. The commissioner shall authorize zone change requests for a zone if the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. The total number of authorized change requests for a zone during a licensing year may not exceed the number by which the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. The commissioner shall authorize zone change requests in chronological order of requests received under this section.

Sec. 6. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, section 6749-N and enact Title 12, sections 6749-V and 6749-W take effect May 1, 1996.

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

Effective April 2, 1996, unless otherwise indicated.

CHAPTER 596

S.P. 638 - L.D. 1673

An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines

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

Sec. 1. 22 MRSA §395-B, sub-§1, as enacted by PL 1995, c. 368, Pt. W, §4, is amended to read:

1. Charity care guidelines. The department shall adopt reasonable guidelines for policies to be adopted and implemented by hospitals with respect to the provision of health care services to patients who are determined unable to pay for the services received. The department shall adopt income guidelines that are consistent with the guidelines applicable to the Hill-Burton Program established under 42 United States Code, Section 291, et seq. (1988). The guidelines and policies must include the requirement that upon admission or, in cases of emergency admission, before discharge of a patient, hospitals must investigate the coverage of the patient by any insurance or state or federal programs of medical assistance. The guidelines must include provisions for notice to the public and the opportunity for a fair hearing regarding eligibility for charity care.

See title page for effective date.

CHAPTER 597

H.P. 1265 - L.D. 1740

An Act to Exempt Working Rural Mail Carriers and Taxicab Operators from Certain Provisions of the Seat Belt Law

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