

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1407

S.P. 436

In Senate, April 6, 2011

### **An Act To Establish the Maine Wild Mushroom Harvesting Certification Program**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§47-H** is enacted to read:

3 **47-H.**

4	<u>Human Services:</u>	<u>Maine Wild</u>	<u>Expenses Only</u>	<u>22 MRSA §2175</u>
5	<u>Public Health</u>	<u>Mushroom</u>		
6		<u>Harvesting Advisory</u>		
7		<u>Committee</u>		

8 **Sec. 2. 22 MRSA §2175** is enacted to read:

9 **§2175. Maine Wild Mushroom Harvesting Certification Program**

10 **1. Program established.** The Maine Wild Mushroom Harvesting Certification  
11 Program is established to ensure that properly trained persons harvest, broker and sell  
12 wild mushrooms in order to protect public health and the safety of the food supply. The  
13 program is administered by the Department of Health and Human Services for the  
14 purpose of establishing educational, training and certification requirements for persons  
15 who commercially harvest, broker and sell wild mushrooms in this State. The  
16 Commissioner of Health and Human Services shall certify persons duly qualified in the  
17 field of wild mushroom harvesting, brokering and selling in accordance with the  
18 recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under  
19 subsection 5.

20 **2. Certification of wild mushroom harvesters.** The Commissioner of Health and  
21 Human Services, upon consultation with the Maine Wild Mushroom Harvesting Advisory  
22 Committee under subsection 5, shall certify persons, in accordance with the certification  
23 requirements developed by the committee pursuant to subsection 5, paragraph B, with  
24 appropriate mushroom harvesting, brokering and selling experience to sell, transfer or  
25 otherwise deliver wild mushrooms within the State. Certification is valid for a period not  
26 to exceed 5 years, unless the Department of Health and Human Services, by rule,  
27 establishes another certification period.

28 **3. Refusal to certify; revocation of certification.** The Department of Health and  
29 Human Services may decline to certify any person determined to lack appropriate  
30 experience or ability to safely harvest, broker or sell wild mushrooms, in accordance with  
31 recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under  
32 subsection 5 and rules adopted by the Department of Health and Human Services  
33 pursuant to this section. The Department of Health and Human Services may revoke, in  
34 accordance with the Maine Administrative Procedure Act, the certification of any person  
35 in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory  
36 Committee and rules adopted by the Department of Health and Human Services pursuant  
37 to this section.

38 **4. Registry.** The Department of Health and Human Services shall maintain a  
39 registry of all applicants for certification and of all certificates issued by the Department  
40 of Health and Human Services under this section.

1           **5. Maine Wild Mushroom Harvesting Advisory Committee.** The Maine Wild  
2 Mushroom Harvesting Advisory Committee, as established in Title 5, section 12004-I,  
3 subsection 47-H, and referred to in this subsection as "the committee," is governed by the  
4 following provisions:

5           A. The committee consists of the following 12 members:

6           (1) The director of the division of environmental health within the Department of  
7 Health and Human Services, or the director's designee, who shall serve as a  
8 cochair of the committee;

9           (2) The director of the division of quality assurance and regulation within the  
10 Department of Agriculture, Food and Rural Resources, or the director's designee,  
11 who shall serve as a cochair of the committee;

12           (3) The president of a statewide mycological association, or the president's  
13 designee;

14           (4) A representative of a statewide mycological association, appointed by the  
15 Governor;

16           (5) The Dean of the College of Natural Sciences, Forestry, and Agriculture at the  
17 University of Maine, or the dean's designee;

18           (6) The director of a northern New England poison control center, or the  
19 director's designee;

20           (7) A health inspector from the Department of Health and Human Services  
21 appointed by the Commissioner of Health and Human Services;

22           (8) A representative of a statewide restaurant association, appointed by the  
23 Governor;

24           (9) Two representatives of the wild mushroom foragers and brokers community,  
25 appointed by the Governor;

26           (10) A chef or other individual with experience in the commercial preparation of  
27 food, appointed by the Governor; and

28           (11) A person experienced in the wholesale sale and distribution of food  
29 products, appointed by the Governor;

30           B. The committee has the following duties:

31           (1) To advise the Commissioner of Health and Human Services with respect to  
32 the certification of individuals duly qualified by reason of training and experience  
33 to engage in the harvesting, brokering and selling of wild mushrooms in this  
34 State;

35           (2) To identify persons to serve as technical and educational advisors in the  
36 development and implementation of training programs for individuals seeking  
37 certification as wild mushroom harvesters;

38           (3) To design and establish wild mushroom harvesting training programs for  
39 certification pursuant to subsection 2 for the review and approval of the  
40 Commissioner of Health and Human Services;

1                   (4) To advise the Commissioner of Health and Human Services with respect to  
2                   wild mushroom harvesting training programs conducted at least annually; and

3                   (5) To advise the Commissioner of Health and Human Services with respect to  
4                   examinations conducted at least annually for those individuals seeking  
5                   certification pursuant to subsection 2;

6                   C. Each member of the committee serves for a period of 3 years or until the  
7                   member's successor is appointed. If a member is unable to complete the term, the  
8                   respective appointing authority shall appoint a person to serve out the remaining  
9                   portion of the unexpired term;

10                  D. The committee shall meet at least annually and more frequently if needed to carry  
11                  out its duties. Meetings may be called by the committee's cochairs or any other 2  
12                  members as is necessary to carry out the committee's duties;

13                  E. A quorum is a majority of the members of the committee. An affirmative vote of  
14                  a majority of the members present for a meeting is required for any action;

15                  F. The Department of Health and Human Services shall provide staff assistance to  
16                  the committee; and

17                  G. The Department of Health and Human Services shall reimburse travel expenses of  
18                  committee members from the Wild Mushroom Harvesting Fund established in  
19                  subsection 6, if funds are available.

20                  **6. Wild Mushroom Harvesting Fund.** The Wild Mushroom Harvesting Fund,  
21                  referred to in this subsection as "the fund," is established within the Department of Health  
22                  and Human Services as a separate nonlapsing account. The Commissioner of Health and  
23                  Human Services shall administer the fund on behalf of the Maine Wild Mushroom  
24                  Harvesting Advisory Committee under subsection 5.

25                  A. All fees assessed pursuant to subsection 7 by the Department of Health and  
26                  Human Services for training courses, materials and examinations must be deposited  
27                  into the fund.

28                  B. The Department of Health and Human Services may seek and accept gifts,  
29                  donations and grants from public or private sources for deposit into the fund to carry  
30                  out the purposes of this section.

31                  C. The Department of Health and Human Services may use the fund to defray the  
32                  reasonable costs incurred by the Maine Wild Mushroom Harvesting Advisory  
33                  Committee in carrying out its duties.

34                  D. The Department of Health and Human Services may use the fund to compensate  
35                  trainers for providing education and outreach associated with the Maine Wild  
36                  Mushroom Harvesting Certification Program established in subsection 1.

37                  **7. Fees.** The training, examination and certification fees may not exceed \$200 and  
38                  must be established by the Department of Health and Human Services by rule. Revenues  
39                  from applicants for certification pursuant to subsection 2 failing the examination must be  
40                  retained in the Wild Mushroom Harvesting Fund established in subsection 6.

