

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1337

H.P. 954

House of Representatives, April 4, 2013

**An Act To Revise the Maine Wild Mushroom Harvesting
Certification Program**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SIROCKI of Scarborough. (BY REQUEST)

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

2 **Sec. 1. 22 MRSA §2175, sub-§2-A** is enacted to read:

3 **2-A. License required.** A person may not sell, transfer or otherwise deliver wild
4 mushrooms within the State without a license issued by the Department of Health and
5 Human Services, except that a person does not need a license issued under this section to
6 sell, transfer or otherwise deliver wild mushrooms that the person has received through a
7 chain of custody that includes a person licensed under this section. The Department of
8 Health and Human Services shall issue a license to an applicant who holds a valid
9 certification according to subsection 2 and meets any additional requirements that may be
10 established by the department by rule.

11 **Sec. 2. 22 MRSA §2175, sub-§3**, as amended by PL 2011, c. 587, §1, is further
12 amended to read:

13 **3. Refusal to certify or license; revocation of certification or license.** The
14 Department of Health and Human Services may decline to certify or license any person
15 determined to lack the appropriate training to safely harvest, broker or sell wild
16 mushrooms, in accordance with recommendations of the Maine Wild Mushroom
17 Harvesting Advisory Committee under subsection 5 and rules adopted by the Department
18 of Health and Human Services pursuant to this section. The Department of Health and
19 Human Services may revoke, in accordance with the Maine Administrative Procedure
20 Act, the certification or license of any person in accordance with recommendations of the
21 Maine Wild Mushroom Harvesting Advisory Committee and rules adopted by the
22 Department of Health and Human Services pursuant to this section.

23 **Sec. 3. 22 MRSA §2175, sub-§7**, as amended by PL 2011, c. 587, §1, is further
24 amended to read:

25 **7. Fees; license renewal.** The ~~certification~~ license fees may not exceed \$20 and
26 must be established by the Department of Health and Human Services by rule. Licenses
27 under this section must be renewed annually, on a schedule determined by the
28 Department of Health and Human Services by rule. Revenues from applicants for
29 ~~certification~~ licenses pursuant to subsection ~~2~~ 2-A must be deposited into a special
30 revenue account dedicated to a health inspection program.

31 **Sec. 4. 22 MRSA §2175, sub-§§9 to 11** are enacted to read:

32 **9. Sustainability.** The Department of Health and Human Services may, by rule,
33 place limits on the number of licenses issued under this section or place limits on the time
34 or manner of harvest of wild mushrooms by license holders to ensure the sustainability of
35 wild mushroom resources.

36 **10. Penalties.** A person who violates subsection 2-A or 11 commits a civil violation
37 for which a fine of not less than \$1,000 nor more than \$5,000 may be adjudged. Each
38 violation of this section must be treated as a separate offense. The Department of Health
39 and Human Services may suspend the license of any person convicted of a 2nd or

1 subsequent violation of this section. The suspension period must be for at least one year
2 from the date of conviction and may be for up to 3 years.

3 **11. Liability insurance.** A person licensed under this section shall maintain a
4 financial responsibility policy of liability insurance in an amount set by the Department
5 of Health and Human Services by rule.

6 **SUMMARY**

7 This bill creates an annual licensing requirement, in addition to the existing
8 certification requirement, for certain persons selling, transferring or otherwise delivering
9 wild mushrooms within the State. This bill provides that a person does not need a license
10 to sell wild mushrooms that had been originally received from a licensed person. Fees
11 currently required for certification are shifted to the annual licensing system. This bill
12 adds a requirement that license holders maintain liability insurance, provides for a civil
13 penalty of \$1,000 to \$5,000 for each violation of the license or insurance requirement and
14 provides for license suspension for repeat offenses.