

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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THE KNOWLTON AND MCLEARY COMPANY

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1969

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
ONE HUNDRED AND FOURTH LEGISLATURE
1969

read as follows:

The appeal must be instituted by filing a complaint in the Superior Court at Kennebec County within 30 days after service of the final decision of the Hearing Commissioner, **except as otherwise provided in Title 28.**

Sec. 2. R. S., T. 28, § 402, amended. The last paragraph of section 402 of Title 28 of the Revised Statutes, as amended by section 1 of chapter 99 of the public laws of 1965, is repealed.

Sec. 3. R. S., T. 28, § 403, amended. Section 403 of Title 28 of the Revised Statutes, as amended by section 2 of chapter 99 of the public laws of 1965, is further amended to read as follows:

§ 403. Additional appeals

If any person is aggrieved by the decision of the ~~commission~~ **Administrative Hearing Commissioner** in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for, he may within 30 days thereafter appeal to the Superior Court, by filing a complaint therefor. The 30-day period for appeal shall commence on the effective date of any suspension or revocation of a license, and, in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the Superior Court shall stop the running of the limitation period. The court shall forthwith fix a time and place for immediate hearing and cause notice thereof to be given to the ~~commission~~ **Administrative Hearing Commissioner**. After hearing, the court may affirm, modify or reverse the decision of the ~~commission~~ **Administrative Hearing Commissioner**. Pending judgment of the court, the decision of the ~~commission~~ **Administrative Hearing Commissioner** in revoking or suspending any license shall be suspended, if notice of appeal is given to the ~~commission~~ **Administrative Hearing Commissioner** within 7 days of the sending of the decision of the ~~commission~~ **Administrative Hearing Commissioner** by registered or certified mail to the address given by the licensee at the time of his application for a license. Appeal by such aggrieved person to the law court from such decision may be taken. Upon such appeal the law court may, after consideration, reverse or modify any decree so made by the court based upon an erroneous ruling or finding of law.

Effective October 1, 1969

Chapter 249

AN ACT Relating to Biennial Elections of Penobscot Indians.

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

R. S., T. 22, § 4792, amended. Section 4792 of Title 22 of the Revised

Statutes, as amended, is further amended to read as follows:

§ 4792. Biennial elections

Biennially, on the even-numbered years, on the 2nd Tuesday of September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe, and a representative at the Legislature of this State, and ~~members of a tribal council to consist of 12 members of said tribe~~, each of whom must be at least 21 years of age. ~~At the election of September 8, 1970, 12 members of said tribe shall be elected to said tribal council. The 6 members receiving the highest number of votes in the 1970 election shall hold office for 4 years and the remaining 6 members shall hold office for 2 years, commencing on October 1, 1970, unless removed as provided, or resigned. In each subsequent election thereafter, 6 members of said tribe shall be elected to said tribal council and shall hold office for 4 years, commencing on the first day of October in the even-numbered years, or until their successors are elected.~~

The governor shall preside over all meetings of the council and be a member ex officio. In the absence of the governor, the lieutenant governor shall preside. Seven members of said council shall constitute a quorum thereof for the purpose of conducting the affairs of the tribe and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Tribal council members who are not in attendance at 3 successive tribal council meetings, or at 5 tribal council meetings during a 12-month period, shall be removed from said council by the governor, with the advice and consent of the council. Each council member must be given at least 24 hours advance notice of said meetings by the governor. The governor may excuse tribal council members from attendance at tribal council meetings in advance of such meetings for health or other personal reasons. Such excused absences shall not be counted as absences. Vacancies on the tribal council occurring as the result of removal shall be filled as provided below.

Only certified members of the tribe who are 21 years of age or older shall be eligible to vote. The commissioner shall give notice of the time and place, 7 days before said day of election, by posting notices thereof, one at his office and one in some conspicuous place on Old Town Island. Said commissioner shall receive, sort and count the votes given in at said election, in presence of the members of the tribe, and shall give to those elected certificates thereof. ~~All persons~~ The governor, lieutenant governor and representative at the Legislature so elected shall hold office for 2 years commencing on the first day of October on the even-numbered years beginning October 1, 1968, or until their successors are elected. At such time, all correspondence, records, files and other materials pertaining to Penobscot tribal government and tribal activities shall be turned over to the newly elected tribal governor by the former tribal officials.

Whenever any vacancy occurs the commissioner shall call a meeting of the tribe to fill such vacancy. Vacancies shall be filled through appointment by the tribal governor, with the advice and consent of the tribal council, with preference first given to unsuccessful candidates in the previous election, in descending order of the number of votes cast for such candidates. Vacancies so filled shall be for the unexpired terms. Tribal members who have been convicted of a felony shall not be permitted to hold any tribal office, either elective or appointive.

On the first Tuesday of August biennially on the even-numbered years, the Penobscot Indians shall hold a caucus for the purpose of nominating candidates to be elected as provided in this section. Such caucus shall have the right to establish, by majority vote, rules for the conduct of the following tribal election, providing that such rules do not violate the constitutional rights of any person.

The tribal governor shall call a general meeting of the tribe for the purpose of affirming or rejecting legislative proposals prepared by the tribal governor and council for submission to the State Legislature. Notice of the time and place of the general meeting shall be posted 7 or more days before said meeting day at the office of the tribal governor and one conspicuous place on Old Town Island. Legislative proposals that have received an affirmative vote of a majority of those present and voting at the general meeting of the tribe shall be given to the tribal representative to the State Legislature for submission to the State Legislature.

Effective October 1, 1969

Chapter 250

AN ACT Relating to Type of Dredge to Dig Clams in Waters Between Cape Elizabeth and Pemaquid Point.

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

R. S., T. 12, § 4352, sub-§ 6, additional. Section 4352 of Title 12 of the Revised Statutes, as amended, is further amended by adding a new subsection 6, to read as follows:

6. —between Cape Elizabeth and Pemaquid Point. This section does not apply to the operation of any hydraulic or mechanical clam dredge approved by the Department of Sea and Shore Fisheries operated below low water within an area between Cape Elizabeth and Pemaquid Point, provided that such operation is not used for taking marine worms, lobsters or other crustaceans and is done with the approval of the Department of Sea and Shore Fisheries. The department is authorized to charge an annual fee of \$50 to license each hydraulic or mechanical dredge and to collect a tax of 10¢ per bushel of soft-shell clams taken by such dredges and no more than 50 dredges shall be licensed in any calendar year.

A. All license fees and revenues derived under this subsection shall be used by the Department of Sea and Shore Fisheries for the purpose of studying the aftereffects on the aquatic growth and fish life in the dredged area.

(1) All information gathered as a result of the above study or studies shall be made available to the Department of Inland Fisheries and Game.