

# MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

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THE KNOWLTON AND McLEARY COMPANY  
FARMINGTON, MAINE  
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PUBLIC LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
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3. **Rules, regulations and procedures.** All existing regulations currently in effect and operation in the Departments of Forestry and Parks and Recreation or of any bureau, division, institution, administrative unit or officer thereof, shall continue in effect, unless in conflict with this Act, until rescinded, amended or changed.

“Regulation” shall include, but is not limited to, any regulation, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement, designation or agreement.

**Sec. 22. Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

Effective October 3, 1973

## CHAPTER 461

### AN ACT Relating to Qualifications for Jury Service of 18-year-old Voters.

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

R. S., T. 14, § 1211, amended. The first sentence of section 1211 of Title 14 of the Revised Statutes, as enacted by section 1 of chapter 391 of the public laws of 1971, is amended to read as follows:

A prospective juror is disqualified to serve on a jury if he: Is not a citizen of the United States, ~~20~~ 18 years old and a resident of the county; is unable to read, speak and understand the English language; is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion; or has lost the right to vote because of a criminal conviction.

Effective October 3, 1973

## CHAPTER 462

### AN ACT to Lease Management and Cultivation Areas in Maine's Coastal Waters.

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

**Sec. 1.** R. S., T. 12, § 3401, sub-§§ 8-A and 28-A, additional. Section 3401 of Title 12 of the Revised Statutes is amended by adding 2 new subsections, 8-A and 28-A, to read as follows:

8-A. Cultivation. "Cultivation" means the artificial control or manipulation by man of any marine species at some stage in its life history for the purpose of increasing yield or improving quality.

28-A. Species. "Species" as used in the laws administered by the Department of Sea and Shore Fisheries means the scientific name used in the classification of marine organisms.

Sec. 2. R. S., T. 12, c. 414, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 414 to read as follows:

## CHAPTER 414

### LEASING OF AREAS FOR CULTIVATION OF MARINE RESOURCES

#### § 3721. Areas that can be leased

The Commissioner of Sea and Shore Fisheries, with the consent of the advisory council, and if not in conflict with the Maine Coastal Plan and any applicable coastal zoning ordinances, may lease to a qualified person, persons or corporation areas in and on Maine coastal waters, public lands under Maine's coastal waters and portions of the intertidal zone for the harvesting and cultivation of fish or shellfish. The commissioner may grant a lease upon such terms and conditions as he may deem proper, but not for a term longer than 10 years or shorter than 5 years. No tract leased by the commissioner shall cover more than 5 acres. A person may lease as many tracts as the commissioner may grant providing that no one person or corporation shall be entitled to a total area of more than 200 acres.

#### § 3722. Application

A person or corporation desiring to obtain a lease for the use of a tract of Maine's coastal water areas, public land under Maine's coastal waters, or land in the intertidal zone must make application in writing to the Commissioner of Sea and Shore Fisheries containing the following information:

1. Description. Location and description of the area by metes and bounds or coordinates as appropriate;
2. Species. The specie or species to be managed or cultivated;
3. Project. A description of the proposed management or cultivation project in sufficient detail to enable the commissioner to determine:
  - A. The compatibility of the project with other present or potential uses of the requested area; and
  - B. Degree of exclusive use of the area essential to the proposed project;
4. Owner's permission. That the applicant either owns or has written permission from the owner to use whatever land above high water mark and

to exercise any riparian right on the flats necessary to successfully carry out the proposed project.

§ 3723. Satisfaction of certain requirements before notice of hearing

The commissioner shall give notice of a hearing on the application, if he is satisfied that all the following provisions are met:

1. Information. That the application contains sufficient information to show that the applicant is entitled to the lease provided in this chapter;
2. —true. That information contained in the application is true;
3. Riparian owners. That granting of the lease will not unreasonably interfere with the egress or ingress of any riparian owners;
4. Navigation. That the granting of the lease will not unreasonably interfere with navigation;
5. Preexisting uses. That granting of the lease not in conflict with the Maine Coastal Plan, applicable coastal zoning ordinances and does not unreasonably interfere with preexisting uses.

§ 3724. Notice

The commissioner shall give notice of hearings as follows:

1. Publication. The commissioner shall cause notice to be published once a week for 2 consecutive weeks 2 weeks prior to the hearing in some newspaper of general circulation in the county where the proposed location is situated, and notice posted in 2 public places 2 weeks prior to the hearing, in the municipality or municipalities where the waters or flats are situated or to which they are adjacent.
2. Time and place of hearing. The commissioner shall state in the notice, the time and place of hearing, the name of the applicants and the general area where work is to be undertaken.

§ 3725. Lease

The commissioner may grant the lease, if after the hearings, he is satisfied that all conditions are met and that the interests of the State will be promoted by cultivation or planting in the requested area.

1. Preference. In the case of more than one applicant for the lease of a given area, preference shall be given as follows:
  - A. On the flats, preference shall be given to the riparian owner;
  - B. In coastal water areas or public land under coastal waters, preference shall be given to:
    - (1) Fishermen who have traditionally and effectively fished in the area;

(2) The owner of an area above ordinary low water mark, if the lease is granted within 100 feet of ordinary low water mark.

2. Rents. The commissioner shall set the rents for the areas so leased.

§ 3725-A. To record lease

The applicant shall record the lease in the registry of deeds of each county where the flats, public land under coastal waters or coastal water areas are located. The applicant shall cause public notice of the issuance of the lease, a description of the area and an enumeration of all restrictions of activity in the area, by publishing information as to the location and nature of the lease once in a daily newspaper of general circulation in the county where the area to be used is located.

§ 3726. Area to be marked

The applicant shall mark the leased area in a manner prescribed by the commissioner.

§ 3727. Grievance procedure

Any person aggrieved by a decision of the Commissioner of Sea and Shore Fisheries upon an application for a cultivation or management lease under this section may petition directly to the Superior Court for a reversal or modification of such a decision, provided that:

1. Objections. The objections were raised at the hearing required by this chapter; and

2. Evidence. The evidence of law or facts to substantiate such objections were presented at such hearing;

3. Decision detrimental. Decisions made by the commissioner pertaining to enforcement of health regulations or a determination that cultivation of a particular species would be detrimental to marine fishery resources are not appealable.

§ 3728. Revocation of the lease

The commissioner may revoke any lease so granted, after notice and hearing, in accordance with section 3725, to the holder thereof, if no cultivation or management project is carried out within the year after the lease is granted, or such cultivation has been injurious to marine species in the area, or that conditions stipulated in the lease have not been met.

§ 3729. Rights

A holder of a lease under section 3725 shall have the exclusive right to cultivate and harvest the species stipulated in his lease. Holders of leases for cultivation of any species on flats or land under coastal waters are entitled to take all of that species in the specified leased area.

A holder of a lease under section 3725 must also obtain a special license under section 3703, subsection 1, paragraph A, if a variance is sought in the

applicability of the fishery laws and regulations administered by the Commissioner of Sea and Shore Fisheries.

§ 3730. Renewal of lease

Any holder of a lease granted under sections 3721 and 3725 shall, upon expiration of the lease, have preference in the releasing of the area unless the former lessee shall be in arrears for rent. An application for renewal shall be granted without notice or public hearing provided that no renewal shall be granted when the Commissioner of Sea and Shore Fisheries shall, for interests of the State, cease to lease said area.

§ 3731. Interference or unlawful taking

Any person who interferes with, annoys or molests another in the enjoyment of any lease authorized under this chapter shall be subject to a fine of not less than \$100 nor more than \$500 for each offense, or by imprisonment for not more than 90 days.

Effective October 3, 1973

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## CHAPTER 463

### AN ACT Authorizing Cumberland County to Participate in Social Services Program.

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

Whereas, the said 90-day period will not terminate until after several municipalities and counties may have taken budget and appropriation actions; and

Whereas, several municipalities and counties have requested authorization to participate in the social services programs which are effective July 1, 1973; 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:*

R. S., T. 30, § 417, additional. Title 30 of the Revised Statutes is amended by adding a new section 417 to read as follows:

§ 417. Priority social services programs

The county commissioners of Cumberland County may expend county funds, from whatever source received, for priority social services programs pursuant to the Priority Social Services Act of 1973 contained in Title 22,