

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

Sec. 2. 12 MRSA §6702, sub-§4, as enacted by PL 1983, c. 663, §2, is amended to read:

4. Exception. In any one day, any person licensed pursuant to section 6703 may take or possess not more than 2 bushels of shell scallops or 4 quarts of shucked scallops for personal use without a scallop license under this section.

Sec. 3. 12 MRSA §6702, sub-§5, as enacted by PL 1983, c. 663, §2, is amended to read:

5. Fee. The fee for a scallop boat license is ~~\$\$\$~~ \$53.

Sec. 4. 12 MRSA §6703 is enacted to read:

§6703. Noncommercial scallop license; fee

1. License required. It is unlawful for any person to engage in the activities authorized by this license under this section without a current noncommercial scallop license.

2. Licensed activity. The holder of a noncommercial scallop license may take scallops by hand or by use of a drag and may possess, ship or transport scallops he has taken.

3. License limitation. In any one day, the holder of a noncommercial scallop license may not take or possess more than 2 bushels of shell scallops or 4 quarts of shucked scallops. The holder of a noncommercial scallop license may take or possess scallops only for personal use and may not sell scallops he has taken.

4. Fee. The fee for a noncommercial scallop license is \$5.

Effective July 16, 1986.

CHAPTER 663

S.P. 778 - L.D. 1959

AN ACT to Clarify the Procedure for Appeals
of Decisions of the Public Utilities
Commission.

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

Sec. 1. 35 MRSA §303, as amended by PL 1975, c. 392, §2, is repealed and the following enacted in its place:

§303. Review of commission action

1. Final decisions. An appeal from a final decision of the commission may be taken to the Law Court on questions of law in the same manner as an appeal from a judgment of the Superior Court in a civil action. Any person who has participated in a commission proceeding and who is adversely affected by the final decision of the commission is deemed a party for purposes of taking an appeal from that decision. When a law or rule regulating the taking of an appeal from the Superior Court in a civil action uses the term "the court," "the clerk," "the clerk of courts" or a similar term, it shall for purposes of an appeal from the commission be read respectively as "the commission," "the Administrative Director of the Commission" or other appropriate term. The notice of appeal shall be accompanied by a brief statement of the nature of the proceeding before the commission, a copy of the decision, order or ruling complained of, a statement of the grounds upon which the order or ruling is claimed to be unlawful and a certificate that the attorney for the appellant is of the opinion that there is probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay.

2. Additional court review. An appeal may also be taken in the same manner as an appeal under subsection 1 when the justness or reasonableness of a rate, toll or charge by any public utility or the constitutionality of any ruling or order of the commission is in issue, notwithstanding that the ruling or order is not final.

3. Law Court jurisdiction is exclusive. The Law Court shall have exclusive jurisdiction over appeals and requests for judicial review of final decisions and of rulings and orders subject to subsections 1 and 2, with the exception of the Superior Court's jurisdiction to review rules under Title 5, section 8058.

4. Stay. While an appeal under subsection 1 is pending, no injunction may issue suspending or staying any order of the commission and the appeal shall

not excuse any person or corporation from complying with and obeying any order or decision or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement of the order or decision, except in such cases and upon such terms as the commission may order and direct. While an appeal under subsection 2 is pending final determination by the court, the Chief Justice, or in his absence any other justice, may enjoin or stay the effect of the ruling or order upon such terms and conditions as he may deem proper.

5. Additional evidence. No evidence beyond that contained in the record of the proceedings had before the commission may be introduced before the court, except that in cases where issues of confiscation or of constitutional right are involved, the court may order such additional evidence as it deems necessary for the determination of such issues to be taken before the commission upon such terms and conditions as to the court may deem proper. If the court orders additional evidence to be taken, the commission shall promptly hear and report that evidence to the court, so that the proof may be brought as nearly as reasonably possible down to the date of its report to the court. The commission may, after hearing the evidence, modify its findings as to facts and its original decision or orders by reason of the additional evidence so taken, and it shall file with the court that amended decision or orders and those modified or new findings. If the commission modifies or amends its original decision or orders, the appealing party or any other party aggrieved by the modified or amended decision or order may file with the court, within such time as the court may allow, a specification of errors claimed to have been made by the commission in the modified decision or orders, which specifications of errors shall be considered by the court in addition to the errors asserted in the original complaint on appeal.

6. Certification of decision. The result of the appeal shall be certified by the clerk of the Law Court to the administrative director of the commission and to the clerk of the Superior Court for Kennebec County. The prevailing party shall recover costs to be taxed by the Superior Court in accordance with the law for the taxation of costs on appeal in civil actions. Execution for these costs shall be issued from the Superior Court of Kennebec County in the same manner as in actions originating in the court. Double costs shall be assessed by the court

upon any party whose appeal appears to the court not to be a fit subject for judicial inquiry or appears to be intended for delay.

Sec. 2. 35 MRSA §304 is repealed.

Sec. 3. 35 MRSA §305, as amended by PL 1977, c. 461, is repealed.

Effective July 16, 1986.

CHAPTER 664

H.P. 1591 - L.D. 2244

**AN ACT to Establish the Cost of the 1986
Spruce Budworm Suppression Project and
to Provide Operating Funds for the
Spruce Budworm Management Program.**

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

Whereas, prompt determination of the cost of the spruce budworm spray project is necessary in order to establish preproject taxes to be assessed on landowners in the Spruce Fir Forest Protection District; and

Whereas, the uncertainty of the need for a spray project in 1987 necessitates modification in the Maine Spruce Budworm Management Act to allow the director to plan for that contingency; and

Whereas, the reduction in size of the Spruce Budworm Suppression Program necessitates a reorganization to reduce administrative overhead; 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. 12 MRSA §8426, sub-§§1 and 2, as amended by PL 1985, c. 58, §2, are further amended to read: