

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

Twin City Printery
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1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
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1987

Sec. 1. 10 MRSA §1703 is repealed.

Sec. 2. 36 MRSA §4693, as amended by PL 1985, c. 785, Pt. B, §173, is repealed and the following enacted in its place:

§4693. Sardine Council

1. Council established. The Maine Sardine Council, as established by Title 5, section 12004, subsection 9, shall consist of not more than 9 nor less than 5 members to be appointed by the Commissioner of Marine Resources. Fifty-one percent of the members of the council shall constitute a quorum and the affirmative vote of at least 51% of the members shall be necessary for the transaction of all business and the carrying out of the duties of the council. The members shall be sardine packers, operating within the State, who have been actively engaged in packing sardines for not less than 2 years and each shall be so actively engaged during his continuance in office. A person shall be considered actively engaged in packing sardines if he has derived, during the period, a substantial portion of his income from packing sardines, or has been the director or manager of an entity that derives a substantial portion of its income from packing sardines.

2. Alternates. Each council member may designate one alternate to represent him as a voting council member during any council meeting which that member can not attend. Each alternate council member shall be appointed by the Commissioner of Marine Resources. At no time may both a regular council member and that member's designated alternate vote on any matter which may be before the council during any meeting.

3. Appointments. Regular council member appointments and alternate council member appointments shall be for a term of 5 years and each member shall serve until his successor is duly appointed and qualified. In the case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled promptly by the Commissioner of Marine Resources for the unexpired period of the term.

4. Compensation. The members of the council shall be compensated according to the provisions of Title 5, chapter 379. Each council member's designated alternate shall also be reimbursed for expenses incurred in the performance of their duties, but at no time may a regular council member and that member's designated alternate be reimbursed for expenses incurred for attendance at the same meeting.

5. Executive director; staff. The council, in concurrence with the Commissioner of Marine Resources, may select and employ an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program and fix his salary. The council may consult with the Commissioner of Agriculture, Food and Rural Resources consistent with Title 32, chapter 61. The executive director,

with the consent of the council, may engage, subject to the Civil Service Law, sufficient clerical personnel and other employees for the efficient performance of his duties.

6. Proceedings. Administrative proceedings of the council shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. Meetings and records of the council are subject to Title 1, chapter 13, subchapter 1, except all council records containing tax records filed in accordance with section 4697, including individual plant pack data; quality control information and inspection records compiled pursuant to section 4699, subsection 2, paragraph C, and Title 32, sections 4155, 4156 and 4157-A; and any other proprietary information obtained from individual processing plants, including information concerning packing technology, shall be confidential.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 17, 1987.

CHAPTER 334

S.P. 492 — L.D. 1500

AN ACT to Amend the Law Concerning Activation of State Military Forces by the Governor in Human Health Emergencies.

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

37-B MRSA §183, sub-§1, as amended by PL 1983, c. 594, §8, is further amended to read:

1. Activation of state military forces. In the event of illness or, injury, missing persons or loss of life, creating an emergency which requires specialized personnel or equipment of the state military forces to prevent human suffering, increased health risk or loss of life, the Governor, or his designee, may order into active service of the State or in aid of any civil authority the necessary personnel and equipment of the state military forces. Human health emergencies may include medical evacuation and search and rescue under Title 6, section 303 and Title 12, section 7035. Any person ordered into active service of the State, for the purposes of this subsection, shall be considered a state employee for purposes of the Maine Tort Claims Act and his liability shall be limited by that Act.

Effective September 29, 1987.

CHAPTER 335

S.P. 515 — L.D. 1558

AN ACT to Clarify Capital Reimbursements.

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

Sec. 1. 34-A MRSA §1210, sub-§5, ¶¶C and D, as enacted by PL 1985, c. 821, §18, are amended to read:

C. Commodities:

- (1) Food;
- (2) Fuel; and
- (3) Supplies:
 - (a) Cleaning;
 - (b) Institutional; and
 - (c) Office; and

D. Capital expenditures to the extent that it reflects the actual increase in jail population resulting from net gain of prisoners under Title 17-A, section 1203, subsection 1 and section 1252, subsection 1, as amended:

- (1) Equipment:
 - (a) Furniture and fixtures; and
 - (b) ~~Vehicles; and~~
- (2) Buildings; and

Sec. 2. 34-A MRSA §1210, sub-§5, ¶E is enacted to read:

E. Capital expenditures, replacement:

- (1) Equipment:
 - (a) Furniture and fixtures; and
 - (b) Vehicles.

Effective September 29, 1987.

CHAPTER 336

H.P. 678 — L.D. 911

AN ACT to Encourage Investment in the Development of Potato Varieties.

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

7 MRSA §2103-A, as amended by PL 1983, c. 727, is repealed and the following enacted in its place:

§2103-A. Certification of seed potatoes

1. Certification required. Seed potatoes shall not be certified beyond 5 generations of the seed originally acquired from a nuclear seed generation source meeting criteria established by the department's rules. Seed potatoes imported into the State shall meet the State's certification standards and all import certificates shall designate the imported seed's generation, which shall equal and compare to a state certified seed designation. The imported seed shall "flush out" at the same rate as the equivalent state seed generation.

2. Winter tested. No seed potato may be certified which has not been winter tested. Seed shipped before winter test results are available shall be certified based on field certification.

3. Bacterial ring rot. The commissioner may withhold from certification for in-state sales for that year any seed potatoes grown on a farm on which bacterial ring rot has been detected.

4. Release to public. For the benefit of the Maine potato industry as a whole, only seed potatoes of a variety which has been released to the public, as provided in this subsection, may be certified, except that seed potatoes of a variety which are protected by patent or are otherwise not released to the public may be certified if the applicant for certification demonstrates that he has been authorized to propagate the variety by the patent holder or, if there is no patent, the registered breeder. Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the commissioner shall establish rules for the administration of this subsection, including, without limitation, procedures for demonstrating authorization from a patent holder or registered breeder and the establishment of a registry of bona fide breeders and patent holders of potato varieties. For purposes of this subsection, a potato variety shall be deemed to have been released to the public upon publication of a description of that variety for purposes of release in the North America Potato Variety Inventory, published by the Potato Association of America, or in the American Potato Journal or another equivalent scientific or technical journal.

5. Rules. The commissioner may adopt rules to provide for exemptions from any of the requirements of this section when the application of the requirements would work a hardship on the Maine potato industry, and seed potato quality would not thereby be jeopardized; provided that the commissioner may not waive the requirements of subsection 4 relating to the certification of seed potatoes of patented or nonreleased potato varieties.

6. Repeal. Subsection 4 is repealed January 1, 1994, subsection 7 is repealed July 1, 1988, and subsection 8 is repealed July 1, 1990.

7. Limitation. Notwithstanding any provision to the contrary, the commissioner may certify seed which would