

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
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TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
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1987

PUBLIC LAWS

OF THE

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1987

A. Charged with the commission of a juvenile offense;

B. Charged with the commission of a criminal offense found in Title 12 or 29;

C. Who is in a state correctional facility or county institution or facility in execution of a sentence for a crime or in execution of an order involving an institutional disposition for a juvenile crime; or

D. Who voluntarily submits to fingerprinting for any law enforcement purpose.

6. Palm prints, footprints and photographs. Whenever fingerprints are taken pursuant to subsection 5, paragraph A, B or C, palm prints, footprints and photographs may also be taken. In addition, palm prints, footprints or photographs may also be taken for any law enforcement purpose when a person voluntarily submits to them.

7. Upon whom the right to take fingerprints is given. Any law enforcement officer may take or cause to be taken the fingerprints of any person named in subsection 5. Any corrections officer or the person in charge of a state correctional facility or county institution or facility may take or cause to be taken the fingerprints of any person named in subsection 5, paragraph C or D.

8. Fingerprint record forms. Fingerprints taken pursuant to subsection 1, paragraphs A, B and D, and subsection 5, paragraphs B, C and D, shall be taken on a form furnished by the State Bureau of Identification, such form to be known as the Criminal Fingerprint Record. Fingerprints taken pursuant to subsection 1, paragraph E, shall be taken on a form furnished by the bureau, such form to be known as the Noncriminal Fingerprint Record. Fingerprints taken pursuant to subsection 5, paragraph A, shall be taken on a form furnished by the State Bureau of Identification, such form to be known as the Juvenile Crime Fingerprint Record. Fingerprints taken pursuant to subsection 1, paragraphs C or F, shall be taken upon the form appropriate for that purpose.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
<u>PUBLIC SAFETY, DEPARTMENT OF</u>		
State Police		
Personal Services	\$ 9,739	\$28,014
All Other	1,039	2,773
Capital Expenditures	1,192	1,192
Total	<u>\$11,970</u>	<u>\$31,979</u>

Provides remaining funds needed for one Fingerprint Classifier II position in fiscal year 1987-88; 2 Fingerprint Classifier II positions in fiscal year 1988-89; and general operating expenses.

Effective September 29, 1987.

CHAPTER 513

S.P. 624 — L.D. 1836

AN ACT to Clarify Certain Errors and Inconsistencies in Marine Resources Law.

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

Whereas, ambiguities exist in the marine resources laws; and

Whereas, these ambiguities create uncertainty and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that this uncertainty and confusion be resolved in order to prevent any injustice to the citizens of Maine; 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 §4602 is amended to read:

§4602. Entry into force -- article II

This agreement shall become operative immediately as to those states executing it whenever any 2 or more of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon coastal waters frequented by anadromous fish, flowing into coastal waters under the jurisdiction of any of the aforementioned states, may become a party hereto as provided.

Sec. 2. 12 MRSA §6131, sub-§2, ¶A, as enacted by PL 1977, c. 661, §5, is amended to read:

A. It shall be unlawful to take alewives from sunrise 6 a.m. each Saturday morning until sunrise 6 a.m. Sunday morning. Municipalities which make other provi-

sions for escape of spawning alewives, which are approved by the commissioner, shall be exempt from this limit.

Sec. 3. 12 MRSA §6208, sub-§2, ¶B, as enacted by PL 1985, c. 481, Pt. A, §37, is amended to read:

B. The commissioner may in his discretion provide books to other law enforcement agencies and officers listed in section ~~7055~~ 6025, subsection 5 for their use in the enforcement of chapters 601 to 627. The commissioner may not require other agencies to use this form.

Sec. 4. 12 MRSA §6431, sub-§6, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

6. Exception; wholesale dealer; regulations. This section shall not apply to lobsters imported intact in the original crates by a holder of a wholesale seafood license to another wholesale seafood license holder if the crates are sealed in accordance with regulations adopted by the commissioner; or to imported lobsters being shipped or transported out-of-state if they are in containers sealed in accordance with regulations adopted by the commissioner. The commissioner may adopt or amend regulations to prescribe the time, manner and method of sealing crates or containers for the effective operation of this subsection. The regulations may contain a requirement for a special permit and provisions for inspection of the crates, containers, contents and seals.

Sec. 5. 12 MRSA §6451, sub-§1, as repealed and replaced by PL 1985, c. 737, Pt. A, §27, is amended to read:

1. Allocation of license fees. Ten dollars of each ~~§33~~ ~~§53~~ fee and \$5 of each ~~§13~~ ~~§26~~ fee for each lobster and crab fishing license shall be allocated to the Lobster Fund, which shall be used for the purposes of lobster biology research, of propagation of lobsters by liberating seed and female lobsters in Maine coastal waters and of establishing and supporting lobster hatcheries.

Sec. 6. 12 MRSA §6555, last ¶, as amended by PL 1985, c. 596, §1, is further amended to read:

It is unlawful to take or possess striped bass which are less than 33 inches total length and it is unlawful to possess striped bass unless the fish is whole with head on and is 33 inches or more in total length.

Sec. 7. 12 MRSA §6555, last ¶, as repealed and replaced by PL 1985, c. 596, §§2 and 5, is amended to read:

It is unlawful to take or possess striped bass which are less than 24 inches fork length and it is unlawful to possess striped bass unless the fish is whole with head on and is 24 inches or more in fork length.

Sec. 8. 12 MRSA §6742-A, as enacted by PL 1985, c. 784, §2, is repealed.

Sec. 9. 12 MRSA §6861, sub-§14 is enacted to read:

14. Exception for bait purposes. A license shall not be required for crawfish kept or sold for bait purposes and marked or labeled "Not for Human Consumption."

Sec. 10. 36 MRSA c. 714 is enacted to read:

CHAPTER 714

MAHOGANY QUAHOG TAX

§4711. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings:

1. Bushel. "Bushel" means a unit of dry capacity equivalent to 2150.4 cubic inches. For the purposes of this chapter, the conversion figure for pounds of whole shell stock per bushel shall be 80.

2. Dealer. "Dealer" means a person who holds a wholesale seafood license, a shellfish transportation license or a shellfish certificate and who buys mahogany quahogs from a harvester and distributes that species in wholesale channels of trade.

3. Mahogany quahog. "Mahogany quahog" means a marine mollusk, also known as ocean quahog, *Artica islandica*, landed in this State and subject to the authority and provisions of this chapter.

§4712. Rate of tax

An excise tax of \$1.20 per bushel of mahogany quahogs is levied upon the dealer and imposed at the point of first sale of this species.

§4713. Dealer application for mahogany quahog certificate

Every dealer shall file an application with the State Tax Assessor on forms prescribed and furnished by the State Tax Assessor which shall contain the name under which such dealer is transacting business within the State, the place or places of business, the dealer's social security or tax identification number and names and addresses of the persons constituting a firm or partnership and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the State and the Federal Employer Identification Number. Upon receipt of this information, the State Tax Assessor shall issue a mahogany quahog certificate to the dealer. No dealer may conduct business until the certificate required by this section is furnished. The mahogany quahog certificate is not a license within the meaning of that term in the Maine Administrative Procedure Act, Title 5, chapter 375.

§4714. Certificate required for license

The Department of Marine Resources shall not issue or renew a wholesale seafood license as set forth in Title 12, section 6851; a shellfish transportation license as set forth in Title 12, section 6855; or a shellfish certificate as set forth in Title 12, section 6856, for the purpose of dealing in mahogany quahogs without proof of certification by the State Tax Assessor, as required by this chapter. The Department of Marine Resources shall make available to the State Tax Assessor any licensing information necessary to implement this section.

§4715. Dealer reports of purchases and payment of taxes

Every dealer shall keep, as a part of his permanent records, a record of all mahogany quahogs purchased at point of first sale. These records shall be open for inspection by the State Tax Assessor at all times. Every dealer shall, on or before the 10th day of each month, render a report to the State Tax Assessor, stating the number of bushels purchased by him during the preceding calendar month, on forms to be furnished by the State Tax Assessor, and, at the same time, shall pay to the State Tax Assessor the tax of \$1.20 per bushel on all mahogany quahogs reported as purchased. If it appears to the State Tax Assessor from inspection of records or otherwise that an additional tax is due or overpayment of tax has been made, additional assessments or refunds shall be made by the State Tax Assessor to the dealer.

§4716. Review

The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall review the program established in this chapter and shall make its report, including any necessary legislation, to the First Regular Session of the 114th Legislature.

Sec. 11. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act:

	<u>1987-88</u>	<u>1988-89</u>
<u>MARINE RESOURCES,</u>		
<u>DEPARTMENT OF</u>		
Bureau of Marine Sciences		
All Other	(\$3,000)	(\$3,000)
Deallocates funds needed to fund data processing of mahogany quahog tax reports by the Bureau of Taxation.		
<u>FINANCE, DEPARTMENT OF</u>		
Bureau of Taxation		
All Other	\$3,000	\$3,000
Provides funds for data processing of mahogany quahog tax reports.		

Emergency clause. In view of the emergency cited

in the preamble, this Act shall take effect when approved, except that section 7 of this Act shall take effect on December 31, 1987.

Effective June 29, 1987, unless otherwise indicated.

CHAPTER 514

S.P. 601 — L.D. 1764

AN ACT to Enhance Local Control of Community Growth and Strengthen Maine's Land Use Laws.

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

Whereas, providing for a strong partnership between State Government and local government to improve land use planning efforts is essential; and

Whereas, adequate technical and financial resources are not currently available to municipalities for comprehensive planning efforts, development of land use ordinances and enforcement of land use laws; and

Whereas, the conservation of diversity and abundance of Maine's outstanding scenic, wildlife, fisheries, recreational and other natural resources is essential to Maine's quality of life; and

Whereas, the vitality of Maine's natural resource-based industries through reservation of working harbors for marine-related industries, preservation of access to the coast, and prevention of prime agricultural and forest land loss is essential to the economic well-being of Maine citizens; and

Whereas, growth must be managed to accommodate needed residential, commercial and industrial development that provides long-term, high quality employment for Maine's citizens; and

Whereas, the cost of providing new infrastructure and public services, a community's ability to provide services to its residents and the availability of affordable housing in all Maine communities are issues of pressing concern to all Maine citizens; and

Whereas, certain gaps in Maine land use laws exist which require immediate remedy to avoid further development beyond the review of state and local agencies; and

Whereas, growth pressures throughout the State are creating a substantial burden on state, local and natural resources and threaten the quality of life of all Maine citizens; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Con-