

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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Any person aggrieved by any fine or suspension imposed by the commission may seek judicial review pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

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

Effective June 2, 1989.

## CHAPTER 204

H.P. 520 - L.D. 705

### An Act Concerning Special Marine Resources Permits

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

**Sec. 1. 12 MRSA §6074, first ¶,** as amended by PL 1981, c. 189, is further amended to read:

The commissioner may, with the advice and consent of the advisory council, issue a special license for research, aquaculture or education, which exempts the holder from one or more marine resources' laws as to the time, place, length, condition, amount and manner of taking or possessing any marine organism. Special licenses issued by the commissioner to employees of the department when they are acting in their capacity as employees under the direction of the commissioner or the commissioner's designated representative do not require the advice and consent of the advisory council.

**Sec. 2. 12 MRSA §6074, sub-§5,** as amended by PL 1983, c. 662, §4, is further amended to read:

**5. Fees.** The annual fee for a special license shall be \$25. An annual fee of \$10 shall be paid for each individual after the first individual. No license fee may be required for a special license for raising and selling Pacific salmon. No license fee may be required from a municipality for a special license for using a hydraulic dredge under section 6623. No license fee may be required for employees of the department when they are acting in their capacity as employees under the direction of the commissioner or the commissioner's designated representative.

See title page for effective date.

## CHAPTER 205

H.P. 604 - L.D. 828

### An Act Concerning the Regulatory Authority of the Department of Marine Resources

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

**Whereas,** contaminated marine products and contaminated or polluted water affect the health of people who consume edible marine products; and

**Whereas,** this legislation extends the authority of the Department of Marine Resources to monitor contamination to ensure the public's health; and

**Whereas,** the department should begin this extended monitoring program as soon as possible; 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 §6071, sub-§3** is enacted to read:

**3. Products embargoed and condemned.** The commissioner or the commissioner's agent may indefinitely embargo, condemn or order to be destroyed any marine species or marine species product imported and introduced to coastal waters in violation of this section whenever it is determined that the product is of unsound quality; contains any filthy, decomposed or putrid substance; may be poisonous or deleterious to health; or is otherwise unsafe. The commissioner shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

If any marine species or marine species product is embargoed, condemned or ordered destroyed, the commissioner or the commissioner's agent shall, as soon as practical, notify the owner in writing of the amount and kind of marine species or marine species product embargoed, condemned or destroyed.

**Sec. 2. 12 MRSA §6076,** as enacted by PL 1985, c. 784, §1, is amended to read:

#### §6076. Marine Shellfish Toxins Monitoring Program

**1. Purpose.** A comprehensive ~~Paralytic Shellfish Poison~~ Marine Shellfish Toxins Monitoring Program is established to protect the public health while providing for the harvest of susceptible species of marine mollusks in areas not shown to be affected by contamination.

**2. Responsibilities.** The department shall be the state agency responsible for implementing the program. The department may adopt rules under section 6172 as may be warranted to provide for adequate protection of the public health.

**Sec. 3. 12 MRSA §6172**, as amended by PL 1985, c. 268, §1, is further amended to read:

**§6172. Contaminated or polluted flats**

**1. Commissioner's powers.** The commissioner may examine the coastal waters and the intertidal zone and adopt ~~regulations~~ rules to close coastal waters or intertidal zone areas if ~~he~~ the commissioner determines that any marine ~~mollusks~~ species are or may become contaminated or polluted. The commissioner may adopt or amend ~~regulations~~ rules as ~~he deems~~ the commissioner determines necessary, setting forth standards for closure of contaminated or polluted areas, giving consideration to established state water quality standards, the most recently adopted federal sanitation standards, or other state or federal public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner ~~so as~~ to protect the public health and safety while allowing reasonable use of the ~~state's shellfish~~ State's marine species.

**2. Emergency rules.** The commissioner may adopt or amend ~~regulations~~ rules under the emergency procedures, if immediate action is necessary to prevent the taking of polluted or contaminated marine ~~mollusks~~ species.

**3. Repeal.** The commissioner shall repeal a ~~regulation~~ rule closing an area or waters when the marine ~~mollusks~~ species are no longer contaminated or polluted or when the waters meet the sanitary standards set forth in any department ~~regulations~~ rules. The commissioner may use emergency regulatory procedures to open areas or waters that have been closed under emergency procedures of this section.

**4. Procedure.** The procedures of subchapter II shall be used in adopting or amending ~~regulations~~ rules authorized by this section.

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

Effective June 2, 1989.

## CHAPTER 206

H.P. 601 - L.D. 825

### An Act Relating to the Sale of Fraternal Life Benefit Certificates and Life Insurance by Funeral Directors and Cemetery Corporations

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

**Sec. 1. 24-A MRSA §2175**, as enacted by PL 1969, c. 132, §1, is amended to read:

**§2175. Insurer's ownership of funeral establishment or cemetery prohibited**

No insurer ~~shall~~ may own or manage or supervise or operate or maintain a mortuary establishment ~~or, a funeral establishment, a cemetery, a cemetery corporation or association, a crematorium, a mausoleum or a columbarium.~~

**Sec. 2. 24-A MRSA §2176**, as enacted by PL 1969, c. 132, §1, is amended to read:

### §2176. Funeral and burial service contracts prohibited

No insurer ~~shall~~ may contract or agree with any funeral director, funeral establishment ~~or, mortuary establishment, cemetery, cemetery corporation or association, crematorium, mausoleum or columbarium or any representative of any of these directors or establishments~~ to the effect that ~~such~~ the director or establishment shall conduct the funeral, burial, or cremation or other disposal of the remains of any individual insured by the insurer. Nothing in this section ~~shall prevent~~ prevents compliance with Title 39, section 59, or the use of an insurance policy to provide security for the payment for a funeral, burial or cremation.

**Sec. 3. 24-A MRSA §4139-A** is enacted to read:

### §4139-A. Funeral service contracts

Every society is subject to the provisions of section 2176.

See title page for effective date.

## CHAPTER 207

S.P. 164 - L.D. 321

### An Act to Certify and Register Municipalities under the Site Location of Development Act

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

**Sec. 1. 38 MRSA §489**, as amended by PL 1987, c. 812, §§17 and 18, is repealed.

**Sec. 2. 38 MRSA §489-A** is enacted to read:

### §489-A. Municipal review of development

The Department of Environmental Protection may register municipalities to grant permits required by section 483 under the following conditions.

**1. Kinds of projects.** The following kinds of projects may be reviewed by registered municipalities pursuant to this section:

A. Residential and nonresidential subdivisions of 20 or more acres but less than 100 acres;

B. Structures as described in section 482, subsection 6, paragraph A, which occupy a ground area in excess