

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.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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1989

versy prior to the expiration of the 44-day period, in the case of compensation under subsection 3, constitutes acceptance by the employer of the compensability of the injury or death. Failure to file the required notice of controversy does not constitute such an acceptance by the employer when it is shown that the failure was due to employee fraud or excusable neglect by the employer, except when payment has been made and a notice of controversy is not filed within 44 days of that payment. Failure to file the required notice of controversy prior to the expiration of the 90-day period under subsection 4 constitutes acceptance by the employer of the extent of impairment claimed ~~or the reasonableness of the medical services claimed.~~ Failure to file the required notice of controversy prior to the expiration of the 75-day period under subsection 4 for compensation for medical expenses, aids or other services pursuant to section 52 constitutes acceptance by the employer of the reasonableness and propriety of the specific medical services for which compensation is claimed and requires payment for those services, but does not constitute acceptance of the compensability of the injury or death.

If, at the end of the 44-day period the employer has not filed a notice of controversy, or if, pursuant to a proceeding before the commission, the employer is required to make payments, the payments may not be decreased or suspended, except as provided in section 100.

Sec. 4. 39 MRSA §95, as amended by PL 1983, c. 587, §1, is further amended to read:

§95. Time for filing petitions

Any employee's claim for compensation under this Act shall be barred unless an agreement or a petition as provided in section 94 shall be filed within 2 years after the date of the injury, or, if the employee is paid by the employer or the insurer, without the filing of any petition or agreement, within 2 years of any payment by such employer or insurer for benefits otherwise required by this Act. The 2-year period in which an employee may file ~~his~~ a claim does not begin to run until ~~his~~ the employee's employer, if he the employer has actual knowledge of the injury, files a first report of injury as required by section 106 of the Act. Any time during which the employee is unable by reason of physical or mental incapacity to file the petition shall not be included in the period provided in this section. If the employee fails to file the petition within that period because of mistake of fact as to the cause and nature of the injury, ~~he~~ the employee may file the petition within a reasonable time. In case of the death of the employee, there shall be allowed for filing said petition one year after that death. No petition of any kind may be filed more than 10 years following the date of the latest payment made under this Act. For the purposes of this section, payments of benefits made by an employer or insurer pursuant to section 51-B or 52 shall be considered payments under a decision pursuant to a petition, unless a timely notice of controversy has been filed.

See title page for effective date.

CHAPTER 257

S.P. 354 - L.D. 955

An Act Concerning Municipal Regulation of Shellfish Resources

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

Whereas, compliance with the National Shellfish Sanitation Program will require that many of the classified shellfish growing areas in the State be temporarily closed to shellfish harvesting; and

Whereas, town meetings will soon be held in many municipalities that will be closed to shellfish harvesting; 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 §6621, sub-§3, ¶¶A and B, as amended by PL 1983, c. 301, §8, are further amended to read:

A. The taking of shellfish under the authority of section 6856; ~~or~~

B. Shellfish kept or washed in waters sterilized with a system that has been approved in writing by the commissioner, provided that the waters are also approved for that use; or

Sec. 2. 12 MRSA §6621, sub-§3, ¶C is enacted to read:

C. Municipal officials, with express written authorization from the commissioner, who are engaging in activities authorized under section 6671. Requests for exception shall be submitted to the commissioner in writing stating the activities proposed and the name of the person designated by the municipal officials to supervise those activities. In addition, the municipality shall, at least 24 hours prior to engaging in the activity, notify the department of the time or times the activity authorized under this paragraph will be conducted.

Sec. 3. 12 MRSA §6671, sub-§3, as amended by PL 1987, c. 867, is repealed and the following enacted in its place:

3. Shellfish conservation ordinance. Within any area of the municipality, a shellfish conservation ordinance may regulate or prohibit the possession of shellfish; may fix the amount of shellfish that may be taken; may provide for

enforcement, protection and evaluation of a green crab fencing program; and may authorize the municipal officers to open and close flats under specified conditions. An ordinance shall limit the size of soft-shell clams in accordance with article 5. Except as provided in section 6621, subsection 3, paragraph C, a program or ordinance may not allow surveying, sampling or harvesting of shellfish in areas closed by regulation of the commissioner.

Sec. 4. 12 MRSA §6671, sub-§3-A is enacted to read:

3-A. Shellfish conservation license; qualifications, fees, procedures. A shellfish conservation ordinance may fix the qualifications for a license, including municipal residency, subject to the following provisions.

A. No municipal commercial license may be issued unless the applicant has a current shellfish license, as provided in section 6601. A municipality may issue licenses under this section regardless of whether or not the area has been closed by the commissioner.

B. A shellfish conservation ordinance may fix license fees. The fee for a nonresident license shall be not more than 10 times the fee for a resident license, provided that in no case may the fee for a nonresident license exceed \$150.

C. Application methods and procedures for licenses may be determined by the shellfish conservation ordinance subject to the provisions of this section. Notice of the number and the procedure for application shall be published in a trade or industry publication or in a newspaper or combination of newspapers with general circulation which the municipal officers consider effective in reaching persons affected not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes. The period of issuance for resident and nonresident licenses shall be the same. Subsequent to that period, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents.

D. Except as otherwise provided in this section, a shellfish conservation ordinance shall not discriminate between resident license holders and nonresident license holders.

E. The municipality shall provide and reserve a minimum number of commercial licenses for nonresidents which shall be a number not less than 10% of the number of commercial licenses provided for residents. When the number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license shall be provided. When the number of resident commercial licenses is 5 or fewer, nonresident commercial licenses shall not be required.

F. When 2 or more municipalities have entered into an agreement with one another for joint or cooperative action under this subsection, the combined total number of commercial licenses for nonresidents provided by those municipalities shall be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license shall be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses shall not be required.

Sec. 5. Effective date. The Maine Revised Statutes, Title 12, section 6671, subsection 3-A, paragraphs E and F shall take effect January 1, 1990.

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

Effective June 9, 1989, unless otherwise indicated.

CHAPTER 258

H.P. 828 - L.D. 1160

An Act to Provide for Consent of Minors to Health Services

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

19 MRSA c. 18 is enacted to read:

CHAPTER 18

CONSENT OF MINORS FOR HEALTH SERVICES

§901. Definitions

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

1. Health care practitioner. "Health care practitioner" has the same meaning as set forth in Title 24, section 2502, subsection 1-A.

2. Health care provider. "Health care provider" has the same meaning as set forth in Title 24, section 2502, subsection 2.

3. Minor. "Minor" means any person under 18 years of age.

§902. Consent

In addition to the ability to consent to treatment for health services as provided in Title 22, sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004,