

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

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,

any minor may consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems.

§903. Authority

A minor may give consent to all medical, mental, dental and other health counseling and services if the minor:

1. Living separately; independent of parental support. Has been living separately from parents or legal guardians for at least 60 days and is independent of parental support;

2. Married. Is or was legally married;

3. Armed Forces. Is or was a member of the Armed Forces of the United States; or

4. Emancipated. Has been emancipated by the court pursuant to Title 15, section 3506-A.

§904. Good faith reliance on consent

Any health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health treatment as authorized in section 903 and who subsequently renders treatment in reliance on that consent shall not be liable for failing to have secured consent of the minor's parent or guardian prior to providing health care services to the minor.

§905. Confidentiality; notification

1. Confidentiality. Except as otherwise provided by law, any minor who may consent to health care services, as provided in this chapter or by other provision of law, shall be entitled to the same confidentiality afforded to adults.

2. Parental notification. A health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care under this chapter if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment.

§906. Financial responsibility

Unless the parent or guardian expressly agrees to assume full or partial responsibility, any minor who consents to health care services as provided in this chapter shall be responsible for the costs of those services. No minor may be denied benefits or services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in this chapter.

See title page for effective date.

CHAPTER 259

S.P. 435 - L.D. 1152

An Act to Amend the Adult Protective Services Act

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

Whereas, changes in the adult protective services law are necessary in order to permit the effective functioning of the State's adult protective services effort; and

Whereas, certified nursing assistants are currently not required to report suspected cases of abuse, neglect or exploitation of an incapacitated adult; and

Whereas, some cases of abuse, neglect or exploitation might go unreported if this Act does not become effective for 90 days; 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. 22 MRSA §3472, sub-§1, as amended by PL 1983, c. 313, §1, is further amended to read:

1. Abuse. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical harm or pain or mental anguish; sexual abuse or exploitation; or the willful deprivation of essential needs.

Sec. 2. 22 MRSA §3472, sub-§§2 and 12, as enacted by PL 1981, c. 527, §2, are amended to read:

2. Adult. "Adult" means any person who has attained the age of 18 years or who is a legally emancipated minor.

12. Protective services. "Protective services" means services which will separate incapacitated or dependent adults from danger. Protective services include, but are not limited to, social, medical and psychiatric services necessary to preserve the incapacitated or dependent adult's rights and resources and to maintain the incapacitated or dependent adult's physical and mental well-being.

Protective services may include seeking guardianship or a protective order under Title 18-A, Article 5 V. ~~The department shall classify as protective clients the incapacitated adults who receive protective services.~~

Sec. 3. 22 MRSA §3472, sub-§13, ¶¶A and B, as enacted by PL 1981, c. 527, §2, are amended to read: