

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

CHAPTER 781

H.P. 1662 - L.D. 2302

An Act Regarding Foreign Trade Zones

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

5 MRSA §13062, sub-§1, ¶D, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

D. Application for foreign trade zones shall be according to this paragraph.

(1) The director, with the approval of the commissioner, on behalf of the State, may make applications to the Foreign Trade Zone Board and establish foreign trade zones that are to be located on state-owned, leased or otherwise controlled property. A municipality or group of municipalities or a public or private corporation may, with the approval of the department, make applications to the Foreign Trade Zone Board and establish foreign trade zones at other locations. Foreign trade zones shall be established in or adjacent to any ports of entry in the State, where personal property in transit shall be exempt from the stock-in-trade tax and such other taxes and customs as are normally levied in a port of entry.

(2) Any development or activity with a foreign trade zone established in the State is subject to the laws which the Department of Environmental Protection, Department of Conservation, Department of Marine Resources and Department of Inland Fisheries and Wildlife are responsible for administering, as well as any other law which protects the environment.

(3) For the purpose of this subsection, "personal property in transit" through the areas established under this paragraph means goods, wares and merchandise either moving in interstate or international commerce through these zones or consigned to a warehouse, public or private, within these zones, whether specified when transportation begins or afterward. This property shall not be deprived of exemption because, while in the warehouse, the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purposes of this subsection. The warehouse in which these goods, wares or merchandise are stored shall not be owned, in whole or in part, by

either the consignee or consignor. This paragraph does not apply to agricultural products.

See title page for effective date.

CHAPTER 782

H.P. 1660 - L.D. 2300

An Act to Improve the Organizational Structure of the Inland Fisheries and Wildlife Advisory Council

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

Whereas, decisions affecting fish and wildlife resources are of vital importance to the citizens of this State; and

Whereas, changes in the organizational structure of the advisory council to the Department of Inland Fisheries and Wildlife are essential to provide Maine citizens with better and more equitable representation on issues related to fish and wildlife; and

Whereas, it is important that these changes be implemented prior to the adoption of regulations that significantly affect various resource user groups; 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. 5 MRSA §12004-G, sub-§20, as enacted by PL 1987, c. 786, §5, is amended to read:

20. Inland Fisheries and Wildlife	<u>Inland Fisheries and Wildlife Advisory Council</u> (to the Department of Inland Fisheries and Wildlife)	\$25/Day	12 MRSA §7033 <u>§7033-A</u>
-----------------------------------	---	----------	---

Sec. 2. 12 MRSA §7033, as amended by PL 1989, c. 493, §4 and c. 503, Pt. B, §64, is repealed.

Sec. 3. 12 MRSA §7033-A is enacted to read:

§7033-A. Inland Fisheries and Wildlife Advisory Council

1. Appointment. The Inland Fisheries and Wildlife Advisory Council, established by Title 5, section 12004-G, subsection 20, to be known as the advisory council, shall consist of 10 members representing the 16 counties of the State in the following manner: one member shall represent Androscoggin County, Kennebec County and Sagadahoc County; one member shall represent Aroostook County; one member shall represent Cumberland County; one member shall represent Franklin County and Oxford County; one member shall represent Hancock County; one member shall represent Knox County, Lincoln County and Waldo County; one member shall represent Penobscot County; one member shall represent Piscataquis County and Somerset County; one member shall represent Washington County; and one member shall represent York County. Members of the advisory council shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Legislature. The commissioner shall be a nonvoting ex officio member of the advisory council, but may vote to break a tie.

An employee of the department may not serve as a member of the advisory council prior to the expiration of one year from that employee's last day of employment with the department. A Legislator may not serve as a member of the advisory council. A former Legislator who was a member of the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters may not serve as a member of the advisory council prior to the expiration of one year from that former Legislator's last day of membership on that committee.

2. Length of terms. Appointments must be for a term of 3 years and until successors are appointed and qualified. A person may not serve more than 2 consecutive 3-year terms. On the death, resignation or removal from office of any person appointed to the advisory council, the Governor shall appoint a member to serve for the unexpired term.

3. Expenses. The members of the advisory council are entitled to compensation as provided in Title 5, chapter 379.

4. Duties. The advisory council shall perform the following duties.

A. The advisory council shall render to the commissioner information and advice concerning the administration of the department and carry out other duties specifically delegated by chapters 701 to 721.

B. The advisory council shall hold regular meetings with the commissioner or the commissioner's deputy in December and May of each year and may hold special meetings at such other times and places as are advisable.

C. All regular and special meetings of the advisory council must be public meetings and must be held in a public meeting place convenient for the public.

D. Public comment must be accepted at regular and special meetings of the advisory council. Comments may be restricted to subjects before the advisory council at the meeting and consistent with any applicable requirements and limitations of the Maine Administrative Procedure Act, Title 5, chapter 375.

E. Public notice of all regular and special advisory council meetings must be published in a daily newspaper of general circulation, in the geographic area where the meeting is scheduled, at least 7 days and not more than 21 days prior to the meeting. That notice must include an agenda or statement of purpose of the meeting. That notice may be combined with any other notice of the meeting required by law.

5. Officers. At the meeting held in May of each year, the advisory council may elect one member as chair and one member as vice-chair.

Sec. 4. Transition provision. Persons who are serving a term on the Inland Fisheries and Wildlife Advisory Council at the time this Act becomes effective shall continue to serve until the expiration of their terms. After the effective date of this Act, appointments may be made for any county not then represented on the advisory council, except that the total number of council members may not exceed 10.

Sec. 5. Allocation. The following funds are allocated from dedicated revenue of the Department of Inland Fisheries and Wildlife to carry out the purposes of this Act.

1989-90

**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF**

Office of the Commissioner

Personal Services \$200
All Other 200

Provides funds for anticipated per diem and related expenses for 2 additional advisory council members for fiscal year 1989-90.

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

\$400

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

Effective April 3, 1990.

CHAPTER 783

S.P. 923 - L.D. 2332

An Act to Amend the Minimum Standards for Planting Laws

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

Whereas, potatoes will be planted within 60 days of adjournment; and

Whereas, the benefits received by the State as a result of the certified seed potato program depend on the continued cooperation of farmers with the Department of Agriculture, Food and Rural Resources; and

Whereas, this cooperation is threatened under existing circumstances; 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:

7 MRSA §951-A, last ¶, as enacted by PL 1979, c. 532, §1, is amended to read:

Each grower shall keep records of seed planted by variety and by fields during the growing season and report planting records as may be requested by the commissioner. Notwithstanding Title 1, chapter 13, records pertaining to minimum standards for planting received or kept by the Department of Agriculture, Food and Rural Resources are confidential and not available for inspection. The confidential status terminates when the records are subpoenaed as evidence in any proceeding to enforce a provision of this section, or in any prosecution for a criminal violation. A grower may authorize in writing the disclosure of records pertaining to minimum standards for planting.

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

Effective April 3, 1990.

CHAPTER 784

H.P. 814 - L.D. 1126

An Act to Enhance Enforcement of the Driving Under the Influence of Alcohol and Drug Laws

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

Sec. 1. 29 MRSA §1310 is enacted to read:

§1310. Provisions of general applicability

1. Under the influence of intoxicating liquor or drugs. For purposes of this subchapter and chapter 17, "under the influence of intoxicating liquor or drugs" includes being under the influence of alcohol, a drug other than alcohol, any combination of drugs other than alcohol, or any combination of alcohol and one or more drugs other than alcohol.

2. Chemical test. For purposes of this subchapter and chapter 17, "chemical test" means any test used to determine blood-alcohol level or drug concentration by analysis of blood, breath or urine.

3. Drugs. For purposes of this subchapter and chapter 17, "drugs" means scheduled drugs as defined under Title 17-A, section 1101.

Sec. 2. 29 MRSA §1311-A, sub-§5-A, ¶A, as enacted by PL 1987, c. 791, §7, is amended to read:

A. For failing to comply with the duty to submit to and complete a chemical test ~~to determine blood-alcohol level;~~

Sec. 3. 29 MRSA §1312, as amended by PL 1989, c. 514, §§16 and 25, is further amended to read:

§1312. Implied consent to chemical tests; general provisions applicable to prosecution for operating under the influence of intoxicating liquor or drugs or with excessive blood-alcohol

Any person who operates or attempts to operate a motor vehicle within this State shall have the duty to submit to ~~a test~~ chemical testing to determine ~~his~~ the person's blood-alcohol level and drug concentration by analysis of ~~his~~ the person's blood or , breath or urine, if there is probable cause to believe ~~he~~ the person has operated or attempted to operate a motor vehicle while under the influence of intoxicating liquor or drugs. The duty to submit to a ~~blood-alcohol~~ chemical test includes the duty to complete ~~either~~ either a blood or , breath or urine test.

He The person shall be informed by a law enforcement officer that a breath test will be administered, unless, in the determination of the law enforcement officer, it is unreasonable for a breath test to be admin-