

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

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  
1991

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

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

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**Whereas**, limiting the flotation device requirement to the section below the Hiram Dam will allow enforcement to be more effective and therefore may save lives; 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:**

**12 MRSA §7801, sub-§16, 1C**, as enacted by PL 1989, c. 469, §3, is amended to read:

C. Fails to wear a ~~Coast Guard~~ Coast Guard approved Type I, Type II, or Type III personal flotation device while canoeing or kayaking on the Saco River between Hiram Dam and the Atlantic Ocean between January 1st and June 1st.

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

Effective April 9, 1991.

## CHAPTER 29

H.P. 118 - L.D. 163

### An Act to Amend the Shellfish Licensing Laws

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

**Whereas**, without emergency enactment, this legislation will not take effect before the next shellfish fishing season; 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:**

**12 MRSA §6671, sub-§9**, as amended by PL 1985, c. 737, Pt. A, §29, is repealed and the following enacted in its place:

**9. Penalty.** Notwithstanding Title 17-A, section 4-B, a person who takes or possesses shellfish in violation of a municipal ordinance adopted under this section

commits a crime punishable by a fine of not less than \$100 and not more than \$1,000, except that:

A. For taking shellfish from a closed area or for digging shellfish without a license, the fine may not be less than \$500 and not more \$1,500; and

B. A fine for a violation of article 5 must be as provided by section 6681.

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

Effective April 9, 1991.

## CHAPTER 30

H.P. 151 - L.D. 236

### An Act to Amend the Definition of a Street Rod

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

**29 MRSA §1, sub-§15-C-1**, as enacted by PL 1979, c. 607, §1, is amended to read:

**15-C-1. Street rod.** "Street rod" means a replica of or a modified antique auto manufactured prior to 1949 and which that complies with the standards promulgated by the Chief of the State Police.

See title page for effective date.

## CHAPTER 31

S.P. 132 - L.D. 234

### An Act to Delay the Minimum Lobster Gauge Increases

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

**Whereas**, the state minimum lobster size was increased as of January 1, 1991; and

**Whereas**, the viability of the Maine lobster industry is dependent upon the biological health and economic sustainability of the American lobster fisheries management area; and

**Whereas**, the American lobster fisheries management area extends along the eastern seaboard of the United States and includes territorial waters of this State and 8 other states and waters within the exclusive economic zone of the United States; and

**Whereas**, the biological health and economic sustainability of the American lobster fishery require a uniform minimum lobster size throughout the fishery; and

**Whereas**, the biological health and economic sustainability of the American lobster fishery require that increases in the minimum lobster size be implemented uniformly throughout the fishery and only when such increases are necessary to sustain the biological health of the lobster fishery and the productivity of the lobster industry; and

**Whereas**, that uniformity and coordination does not now exist; and

**Whereas**, Maine lobster landings account for more than 40% of the total annual United States lobster landings; 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 §6431, sub-§1**, as repealed and replaced by PL 1985, c. 677, §§2, 6 and 7, is repealed and the following enacted in its place:

**1. Minimum and maximum length.** A person may not buy, sell, give away, transport, ship or possess any lobster that is less than the minimum size established in this subsection or more than 5 inches in length, as determined by the state double gauge lobster measure. Except as provided in this subsection, the minimum lobster size is 3 8/32 inches.

A. Upon written certification by the Attorney General under paragraph B, the minimum lobster size increases as follows:

(1) On March 1st of the year after the year in which the Attorney General issues the certification, the minimum size is 3 9/32 inches; and

(2) On March 1st of the following year, the minimum size is 3 10/32 inches.

B. The Attorney General shall notify the Governor and the Legislature in writing immediately upon certifying that the following conditions have been met:

(1) The United States Secretary of Commerce has amended the Lobster Fisheries Management Measures, as set forth in 50 Code of Federal Regulations, Part 649, Subpart B, so that the minimum federal legal lobster size and sched-

ule of increases in the federal minimum lobster size conform to those established in this subsection; and

(2) The minimum lobster size and schedule of increases in the minimum lobster size in Connecticut, Massachusetts, New Hampshire and Rhode Island conform to those established in this subsection.

A schedule of increases adopted by the Secretary of Commerce or a state conforms to this subsection if the increases are scheduled to occur within 90 days of the increases implemented under paragraph A.

After the Attorney General certifies that the conditions of this paragraph have been met, but prior to the effective date of any increase in the minimum size under this subsection, the Commissioner of Marine Resources shall report to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the biological and economic effects of the scheduled increase in the minimum lobster size on the lobster fishery and the Maine lobster industry. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall hold a public hearing on the commissioner's report during the legislative session and prior to the effective date of any increase in the minimum lobster size.

**Sec. 2. Retroactivity.** This Act applies retroactively to January 1, 1991.

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

Effective April 9, 1991.

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## CHAPTER 32

H.P. 186 - L.D. 279

### An Act to Allow Minors to Make Anatomical Gifts

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

**Sec. 1. 22 MRSA §2902, sub-§1**, as enacted by PL 1969, c. 193, is amended to read:

**1. Individuals.** Any individual of sound mind and at least 16 years of legal age may give all or any part of his that individual's body for any purposes specified in section 2903, the gift to take effect upon death.

**Sec. 2. 29 MRSA §540, 4th ¶**, as repealed and replaced by PL 1981, c. 639, §2, is amended to read: