

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.

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS
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5. Carry-forward and carry-back. If the sum of the amount of the credit allowed for any taxable year under subsection 2, plus the amount of any credit carry-forwards to the taxable year, exceeds the amount of the limitation imposed by subsection 3 for that taxable year, in this section referred to as the "unused credit year," that excess attributable to the credit allowed for the taxable year under subsection 2 may be carried back for no more than 3 taxable years and may be carried forward for no more than 5 taxable years and, subject to the provisions of subsection 3, may be applied as a credit against the tax imposed by this Part for the taxable year or years to which carried. The entire amount of the unused credit must be carried to the earliest of the taxable years to which, by reason of this subsection, the credit may be carried and then to each of the other taxable years to the extent the unused credit may not be used for a prior taxable year due to the provisions of subsection 3.

Sec. 22. 38 MRSA §2310, sub-§2, as enacted by PL 1989, c. 929, §7, is amended to read:

2. Terms. All appointed members are appointed for staggered terms of 3 years. The President of the Senate and the Speaker of the House of Representatives shall appoint each one member for a one-year initial term, one member for a 2-year initial term and one member for a 3-year initial term. The Governor shall appoint 2 members for one-year initial terms, 2 members for 2-year initial terms and 2 members for 3-year initial terms. A vacancy must be filled by the same appointing authority ~~which that~~ made the original appointment. No appointed member may serve more than 2 ~~4-year~~ 3-year terms.

Sec. 23. PL 1989, c. 700, Pt. A, §A-41 is repealed.

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

Effective June 20, 1991.

CHAPTER 378

S.P. 583 - L.D. 1536

An Act to Amend the Laws Regarding the Labeling of Seafood

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

12 MRSA §6112, as repealed and replaced by PL 1985, c. 622, §3, is amended to read:

§6112. Labeling of food products containing surimi

~~No~~ A food product may not be sold in this State consisting of or containing surimi unless the packaging containing the food product is clearly and conspicuously labeled ~~as~~ or, if there is no packaging, unless a sign is conspicuously displayed, indicating that the product is "imitation lobster," "imitation crab," "imitation" followed by the name of the seafood imitated, "processed seafood," "surimi," "lobster-processed seafood salad," "crab-processed seafood salad" or other terms as approved by the Department of Marine Resources through rules adopted in accordance with Title 5, chapter 375, subchapter II. Any term approved by that department ~~shall be~~ is sufficient to notify the public that the product contains surimi.

See title page for effective date.

CHAPTER 379

H.P. 1203 - L.D. 1759

An Act to Amend the Law Concerning the Cost-sharing Formula for School Administrative Districts

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

20-A MRSA §1301, sub-§3, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. If requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election ~~in the municipalities~~ within the district, or if approved by a majority of the full board of directors, the board of directors shall hold a meeting of municipal representatives to ~~determine the necessity of reconsidering~~ reconsider the method of sharing costs. The district shall give at least 15 days' notice to each municipality comprising the district of that meeting.

See title page for effective date.

CHAPTER 380

H.P. 53 - L.D. 74

An Act Regarding Liability for Persons Responding to Oil Spills

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

Sec. 1. 38 MRSA §542, sub-§§4-A, 5-A, 9-A and 9-B are enacted to read:

4-A. Federal contingency plan. "Federal contingency plan" means an area, regional or local contingency

plan for oil spill response, prepared and published by the President of the United States under the Federal Water Pollution Control Act, 33 United States Code, Section 1321, as amended.

5-A. National contingency plan. “National contingency plan” means the national contingency plan for oil spill response prepared and published by the President of the United States under the Federal Water Pollution Control Act, 33 United States Code, Section 1321, as amended.

9-A. Responder. “Responder” means any person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of oil prohibited by section 543, or in preventing, containing, cleaning up, removing or disposing of, or in attempting to prevent, contain, clean up, remove or dispose of, any discharge of oil prohibited by section 543, except for any person who caused or is otherwise responsible for the actual or threatened discharge in the first instance.

9-B. State Marine Oil Spill Contingency Plan. “State Marine Oil Spill Contingency Plan” means a contingency plan for oil spill response prepared by the commissioner in accordance with this subchapter.

Sec. 2. 38 MRSA §552, sub-§§3 and 4 are enacted to read:

3. Right of recovery by licensee. Any licensee that is held liable for the acts or omissions of any carrier destined for the licensee’s facilities pursuant to subsection 1 may recover in a civil action from the carrier, or any person responsible for the acts or omissions of the carrier, all loss, expense, damage or other liability incurred by the licensee for the acts and omissions of the carrier.

4. Limited liability for responders. Notwithstanding any other provision of law, the liability of a responder to a discharge or a substantial threat of a discharge of oil into or upon any coastal waters, estuaries, tidal flats, tidal waters, beaches and lands adjoining the seacoast of the State is governed by this section.

A. A responder is not liable for removal costs, damages, civil liabilities or penalties that result from actions taken or omitted in the course of rendering care, assistance or advice consistent with the National Contingency Plan, a federal contingency plan, the State Marine Oil Spill Contingency Plan or as otherwise directed by the federal on-scene coordinator or the commissioner.

B. Paragraph A does not apply:

(1) To personal injury or wrongful death;

(2) If the responder is grossly negligent or engages in willful misconduct; or

(3) To a responsible party. For the purposes of this subsection, “responsible party” means any person who caused or is otherwise responsible for the discharge or threatened discharge with respect to which the responder’s actions are taken or omissions occur.

C. A responsible party is liable for any removal costs, damages, civil liabilities and penalties that a responder is relieved of under paragraph A.

See title page for effective date.

CHAPTER 381

H.P. 55 - L.D. 76

An Act Regarding Aquaculture

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

Whereas, key research is required to allow efficient environmental monitoring; and

Whereas, current staffing levels limit the ability of the State to process aquaculture lease applications; and

Whereas, the primary aquaculture field season will end prior to the regular effective date; 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 §558-A, sub-§10 is enacted to read:

10. Aquaculture exemption. A lease for the use of submerged lands under this section is not required for the development and operation of any aquaculture facility if the owner or operator of the facility has obtained a lease from the Commissioner of Marine Resources under section 6072. Ancillary equipment and facilities permanently occupying submerged lands on the lease site and not explicitly included in the lease granted by the Commissioner of Marine Resources are not exempt from the requirements of this section.