

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
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PUBLISHED BY THE REVISOR OF STATUTES
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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
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PUBLIC LAWS
OF THE
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1991

Sec. 6. 29 MRSA §2502, sub-§4-A, as enacted by PL 1989, c. 754, Pt. D, §2 and affected by §4, is repealed.

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

Effective June 20, 1991.

CHAPTER 390

S.P. 510 - L.D. 1359

An Act to Make Revisions in the Marine Resource Laws

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

Sec. 1. 12 MRSA §6071, sub-§3, as enacted by PL 1989, c. 205, §1, is amended to read:

3. Products embargoed and condemned. The commissioner or the commissioner's agent may indefinitely embargo, condemn or order to be destroyed any marine species organisms or marine species organism product either indigenous or imported and introduced to coastal waters in violation of this section whenever it is determined that the product is of unsound quality; contains any filthy, decomposed or putrid substance; may be poisonous or deleterious to health; or is otherwise unsafe. The commissioner shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

If any marine species organisms or marine species organism product is embargoed, condemned or ordered destroyed, the commissioner or the commissioner's agent shall, as soon as practical, notify the owner in writing of the amount and kind of marine species organisms or marine species organism product embargoed, condemned or destroyed.

Sec. 2. 12 MRSA §6172, as amended by PL 1989, c. 205, §3, is further amended to read:

§6172. Contaminated or polluted flats

1. Commissioner's powers. The commissioner may examine the coastal waters and the intertidal zone and adopt rules to close coastal waters or intertidal zone areas if the commissioner determines that any marine species organisms are or may become contaminated or polluted. The commissioner may adopt or amend rules as the commissioner determines necessary, setting forth standards for closure of contaminated or polluted areas, giving consideration to established state water quality standards, the most recently adopted federal sanitation

standards, or other state or federal public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner to protect the public health and safety while allowing reasonable use of the State's marine species organisms.

2. Emergency rules. The commissioner may adopt or amend rules under the emergency procedures, if immediate action is necessary to prevent the taking of polluted or contaminated marine species organisms.

3. Repeal. The commissioner shall repeal a rule closing an area or waters when the marine species organisms are no longer contaminated or polluted or when the waters meet the sanitary standards set forth in any department rules. The commissioner may use emergency regulatory procedures to open areas or waters that have been closed under emergency procedures of this section.

4. Procedure. The procedures of subchapter II shall be used in adopting or amending rules authorized by this section.

Sec. 3. 12 MRSA §6352, sub-§2, as enacted by PL 1977, c. 661, §5, is amended to read:

2. Nature of notice. The notice ~~shall~~ must contain a statement of the conviction, the suspension and any opportunity for a hearing, and ~~shall~~ must be personally served or mailed to the holder at the address provided in ~~his~~ the application for the license or certificate. The notice of suspension must be sent by certified mail to the person at the last known address on record at the department. Any suspension imposed is effective on a specified date not less than 10 days after the mailing of the notification of suspension by the department.

Sec. 4. 12 MRSA §6353, sub-§3, as enacted by PL 1977, c. 661, §5, is amended to read:

3. Decisions. Decisions of the commissioner ~~shall~~ must be in writing. The commissioner may reinstate the license or certificate or reduce the suspension period if ~~he~~ the commissioner is satisfied that to do so would be in the best interests of justice, except that the commissioner may not reduce suspensions set by statute.

Sec. 5. 12 MRSA §6671, sub-§4, as amended by PL 1979, c. 608, §2, is repealed and the following enacted in its place:

4. Adoption requirements. Shellfish conservation ordinances may be adopted under this section by municipalities or unorganized townships.

A. Prior to adopting an ordinance, a municipality or unorganized township shall raise or appropriate money for a shellfish conservation program within the 2 previous years.

B. Any ordinance proposed by a municipality or unorganized territory under this section must be approved in writing by the commissioner prior to its adoption.

C. Unorganized townships may adopt ordinances only if at least 10 inhabitants have petitioned the county commissioners to adopt the ordinances, the county commissioners of the townships have held a public hearing with at least 7 days' prior notice in one of the affected townships and a majority of the inhabitants eligible to vote have approved the ordinances at referendum. The county commissioners shall act as the municipal legislative body within unorganized townships that have elected to adopt ordinances under this section.

Sec. 6. 12 MRSA §6671, sub-§6, ¶¶A and B, as enacted by PL 1983, c. 283, are amended to read:

A. Village corporations; and

B. The combined towns of Yarmouth and North Yarmouth; ~~and.~~

Sec. 7. 12 MRSA §6671, sub-§6, ¶C, as repealed and replaced by PL 1983, c. 689, is repealed.

Sec. 8. 12 MRSA §6731, sub-§2, as repealed and replaced by PL 1989, c. 828, §2, is amended to read:

2. Licensed activities. The holder of a mahogany quahog license may:

A. Fish for or take mahogany quahogs in any harvesting area indicated on the license;

B. Possess, ship or transport mahogany quahogs within the State; or

C. Sell mahogany quahogs that the holder has taken.

The license authorizes crew members aboard the licensee's boat to undertake these activities when engaged in dragging for mahogany quahogs if the licensee is present.

Sec. 9. 12 MRSA §6858, sub-§1, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Size of lobster meat. ~~It shall be is unlawful to possess any tail section of lobster meat removed from the shell which is less than 4 1/4 inches or more than 6 1/2 inches in length when laid out straight and measured from end to end, not including the small part that is on the body end of the tail section except in accordance with rules adopted by the commissioner.~~

See title page for effective date.

CHAPTER 391

H.P. 1048 - L.D. 1521

An Act to Promote Efficient Enforcement and to Correct Inconsistencies in the Manufactured Housing Laws

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

Whereas, it is vital that the funds provided for in this legislation be available for the beginning of fiscal year 1991-92; and

Whereas, that fiscal year will begin before the expiration of the 90-day period; 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. 10 MRSA §9003, sub-§7, as enacted by PL 1977, c. 550, §1, is amended to read:

7. Meetings. ~~Three~~ Five members of the board shall constitute a quorum. The board shall meet at the written request of the director or of a majority of the members of the board. ~~Meetings of the~~ The board shall ~~be held at such~~ determine the time and place ~~as shall be determined by the board of meetings.~~ At least 6 meetings per calendar year shall must be held.

Sec. 2. 10 MRSA §9021, sub-§2, ¶¶A to C, as amended by PL 1983, c. 553, §15, are further amended to read:

A. The license fee for manufacturers of manufactured housing who deliver or sell manufactured housing may not exceed \$200 annually. Each manufacturing plant that delivers or sells manufactured housing in the State must obtain a separate license.

B. The license fee for dealers who are engaged in the retail selling, offering for sale, brokering, or distribution of any manufactured homes may not exceed \$200 annually.

C. The license fee for mechanics who service or install manufactured housing, as defined in section 9002, subsection 7, paragraphs A and C, may not exceed \$200 annually.

Sec. 3. 10 MRSA §9021, sub-§2, ¶D, as enacted by PL 1981, c. 152, §13, is amended to read: