

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

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  
1992

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**1991**

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**3. Rejection of application; selection of alternate licensee.** If the commission denies an application for renewal of an agency liquor store license, the commission may select an alternate licensee in accordance with the criteria set forth in sections 453, 453-A and 453-B. If the alternate licensee held an agency liquor store license in the past, the commission may consider any of the applicable criteria set forth in subsection 2 in considering whether to license the alternate agency liquor store.

**4. Purchase of store merchandise by State.** If the commission does not renew the agency liquor store license, the commission shall purchase from the agency liquor store all resalable spirits held in inventory by the agency liquor store. The purchase price is the cost at which that agency liquor store purchased the spirits from the commission, minus 10% of that cost.

**5. Aggrieved applicant.** Any agency liquor store licensee aggrieved by a decision of the commission not to renew an agency liquor store license may appeal the decision by filing a complaint with the Administrative Court and serving a copy of that complaint on the commission. The complaint must be filed and served within 15 days of notification of the agency liquor store licensee by the commission that the license will not be renewed.

See title page for effective date.

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## CHAPTER 783

H.P. 1451 - L.D. 2063

### An Act to Make Electronic Monitoring and Substance Testing Programs Economically Feasible

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

Whereas, the State is experiencing severe economic troubles; and

Whereas, it is vital to increase revenue whenever feasible; 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.** 17-A MRSA §1204, sub-§1-B is enacted to read:

**1-B.** Upon the request of the Department of Corrections, the court shall attach as a condition of probation or intensive supervision that the convicted person pay an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation or intensive supervision unless the court determines that the convicted person does not have the financial resources to pay these fees. Funds received from probationers or those sentenced to intensive supervision must be deposited into the department's Correctional Program Improvement Fund. These funds must be used to defray costs associated with the purchase and operation of electronic monitoring and substance testing programs, including costs associated with those programs for people who do not have the financial resources to pay the fees.

**Sec. 2.** 30-A MRSA §1659, sub-§3, ¶I, as enacted by PL 1991, c. 224, is repealed and the following enacted in its place:

I. As a condition of participation of an inmate in a home-release program, the court shall require the inmate to pay a fee, as determined by the court, including an electronic monitoring fee, a substance testing fee or both, unless the court determines that the inmate does not have the financial resources to pay these fees. The fee charged may include the costs associated with a home-release program for people who do not have the financial resources to pay the fees.

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

Effective April 3, 1992.

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## CHAPTER 784

H.P. 1464 - L.D. 2076

### An Act to Make Revisions in Marine Resource Laws

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

**Sec. 1.** 12 MRSA c. 420, first 2 lines are repealed and the following enacted in their place:

#### CHAPTER 420

#### SEAFOOD PRODUCTS INSPECTION PROGRAM

**Sec. 2.** 12 MRSA §§4681 to 4683, as enacted by PL 1977, c. 249, are amended to read:

**§4681. Purpose**

Fish Seafood and fish seafood products are an important part of the nation's food supply. Increased fishing, processing and the sale of fish seafood products; can produce an important share of the food supply as well as provide greater economic benefits for Maine citizens. The marketing and sale of fish seafood products is facilitated when they are labeled to indicate the quality and purity of the package contents. The public health and welfare is are protected by the assurance that fish seafood products distributed to them are wholesome and not adulterated. The purpose of this Act is to increase the availability of fish seafood product inspection services to Maine processors and packers, who want them in order to bring about the aforementioned results.

**§4682. Department of Marine Resources; powers and duties**

The Department of Marine Resources is designated as the state agency which shall be that is responsible for cooperating with the Secretary of Commerce of the United States, under the Agriculture Marketing Act of 1946, as amended, and the Fish and Wildlife Act of 1956, as amended, in developing the development and administering a voluntary fish administration of a seafood product inspection program. The voluntary fish Maine seafood product inspection program shall must be designed to implement an agreement between the State and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, Department of Commerce and any other federal agency designated to implement a national seafood inspection program.

**§4683. Commissioner; powers and duties**

The Commissioner of Marine Resources is authorized to enter into a cooperative agreement with the National Marine Fisheries Service or other agencies as appropriate to inspect, standardize and assure the quality of fish seafood products. He may promulgate regulations. The commissioner may adopt rules and requirements not inconsistent with National Marine Fisheries Service regulations for the voluntary inspection of fishery products under the to implement the terms of any agreement adopted under this chapter.

**Sec. 3. 12 MRSA §4684**, as enacted by PL 1977, c. 249, is repealed.

**Sec. 4. 12 MRSA §6103**, as amended by PL 1989, c. 57, §3, is further amended to read:

**§6103. Implementation of fishery product or shellfish inspection programs**

The Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Marine Resources shall cooperate in developing and implementing any fishery product or shellfish inspection programs, including

any national seafood inspection program developed and administered under chapter 420. Those programs must meet the standards established by the Commissioner of Agriculture, Food and Rural Resources under the Maine Food Law.

**Sec. 5. 12 MRSA §6526** is enacted to read:

**§6526. Rules; bait dealers license**

The commissioner may adopt rules requiring that a person selling bait be licensed.

**Sec. 6. 12 MRSA §6671, sub-§3-A, ¶B**, as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

B. A shellfish conservation ordinance may fix license fees. The fee for a resident license may not exceed \$200 and the fee for a nonresident license shall may be not more than ~~10 times~~ twice the resident fee for a resident license, provided that in no case may the fee for a nonresident license exceed \$150.

**Sec. 7. 12 MRSA §6741**, as amended by PL 1987, c. 694, §3, is repealed.

**Sec. 8. 12 MRSA §6851, sub-§6**, as amended by PL 1991, c. 523, §3 and c. 591, Pt. T, §14, is repealed and the following enacted in its place:

**6. Fees.** The fees are as follows:

A. Two hundred seventeen dollars for a wholesale seafood license or a wholesale seafood license with a lobster permit; and

B. Forty-three dollars for each supplemental license.

**Sec. 9. 12 MRSA §6954-A, sub-§1**, as amended by PL 1991, c. 301, §1, is further amended to read:

**1. Violation.** Unless permitted by rules adopted under ~~section 7792, subsection 6, subsection 1-A~~, it is unlawful to take scallops by any means or to operate any watercraft when towing a drag or trawl within the following area: starting at the easternmost point on Red Point, Swan's Island; thence in an easterly direction to the southernmost point of the western Sister's Island; thence in a southeasterly direction to the southernmost point of Crow Island; thence in a southerly direction to the northernmost point of Harbor Island, Frenchboro, Long Island; thence southerly to the state ferry terminal located on the eastern side of Lunt's Harbor, Frenchboro, Long Island, and then starting at the westernmost point of Gooseberry Point on Frenchboro, Long Island; westerly to the northeast point of John's Island; thence northwest to the easternmost point of the largest of the Baker Islands; thence northwesterly to the northeastern point

of Harbor Island, Swan's Island; thence northerly to Quarry Wharf, Minturn, Swan's Island.

**Sec. 10. 12 MRSA §6954-A, sub-§1-A** is enacted to read:

**1-A. Scalloping permitted by rule.** The commissioner may adopt and amend rules permitting the taking of scallops in the Frenchboro area, as defined in subsection 1, except that the rules may not permit the use of drags more than 30 inches wide and may not permit the use of drag ropes more than 3/8 inch in diameter.

**Sec. 11. 12 MRSA §7606, sub-§3**, as enacted by PL 1991, c. 591, Pt. T, §20, is repealed.

**Sec. 12. 12 MRSA §7792, sub-§6**, as enacted by PL 1991, c. 301, §3, is repealed.

**Sec. 13. 22 MRSA §2154, sub-§4-A**, as amended by PL 1981, c. 705, Pt. C, §3, is further amended to read:

**4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. Eating establishments, as defined in section 2491, subsection 7, fish and shellfish processing establishments inspected under Title 12, section 4682, 6101, 6102 or 6856, storage facilities for one kind of native produce, such as apple warehouses, potato warehouses or carrot warehouses, and establishments, such as farm stands primarily selling fresh produce, not including dairy and meat products, are not considered food establishments required to be licensed under section 2167.

**Sec. 14. 32 MRSA §4168, sub-§§4 and 5**, as enacted by PL 1991, c. 446, Pt. C, §3, are amended to read:

**4. Labeling.** Sardines packed in accordance with rules adopted under this section may be plainly and conspicuously marked "Maine Sardines." Except as provided in section 4619 4169, sardines packed in a manner inconsistent with rules adopted under this section may not be sold for consumption in the United States unless each can and case is plainly and conspicuously marked with the word "herring" and the word "sardine" does not appear.

**5. Substandard grade.** Except as provided in section 4619 4169, sardines, kippers and steaks that are officially designated as substandard grade, for which a certificate is issued, may not be sold for consumption in the United States unless each can in the lot has the words "Substandard Grade, Good Food - Not High Quality" so placed as to be easily seen when the name of the product or pictorial representation thereof is viewed and appear conspicuously enough to be seen under ordinary condi-

tions of purchase. The words "Substandard Grade, Good Food - Not High Quality" must be printed in 2 lines across the cover of all cans in letters not less than 1/8 inch in height and be enclosed in lines that are not less than 1/32 inch in width. This wording must be printed on all wrappers, labels, cartons or other outer coverings of the cans with a permanent type of indelible ink or by means of other approved procedure. The words "Substandard Grade" must appear in letters not less than one inch high on both ends of the shipping container.

**Sec. 15. Resolve 1991, c. 39, §1, first 2 sentences** are amended to read:

That, on or before May 15, 1994, the Department of Marine Resources on behalf of the State, may convey to the Bigelow Laboratory for Ocean Sciences a reasonable subdivision of land and buildings, including the main research building and associated maintenance building with no more than 2 acres of land. The transfer must be completed on or before May 15, 1994 and must be on equitable terms to benefit the people of the State as provided in section 2.

**Sec. 16. Application.** A municipal shellfish conservation ordinance adopted prior to the effective date of this Act that is not consistent with the Maine Revised Statutes, Title 12, section 6671, subsection 3-A, paragraph B, as amended in this Act, may remain in effect until July 1, 1993 but is void after that date unless modified or amended to be consistent with Title 12, section 6671, subsection 3-A, paragraph B.

See title page for effective date.

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## CHAPTER 785

H.P. 1498 - L.D. 2110

### An Act to Revise the Maine Horticultural Laws

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

**Sec. 1. 7 MRSA §12-A** is enacted to read:

**§12-A. Emergency rules**

Notwithstanding Title 5, section 8054, subsection 3, an emergency rule adopted under any of the provisions of chapter 201, 301, 303, 305, 401, 403, 405-A, 409, 411 or 525 may be renewed when the commissioner determines that the circumstances creating the emergency continue to exist. Emergency rules may be renewed for successive 90-day periods under this section until the department has a reasonable opportunity to conduct rulemaking pursuant to Title 5, chapter 375.

**Sec. 2. 7 MRSA c. 405**, as amended, is repealed.