

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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  
1993

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

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

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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D. To any criminal justice agency if necessary to carry out the administration of criminal justice, the administration of juvenile criminal justice or for criminal justice agency employment.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of juveniles receiving services from the department and, if applicable, the Medicaid eligibility numbers and the dates on which those juveniles received Medicaid services to the Bureau of Medical Services and the Bureau of Income Maintenance within the Department of Human Services for the sole purpose of determining eligibility and billing for Medicaid services provided by or through the department. Department of Human Services personnel must treat this information as confidential in accordance with federal and state law. This paragraph does not authorize the department to release client treatment plans, psychological profiles or criminal records to the Department of Human Services.

**Sec. 2. 34-A MRSA §3003, sub-§1-A** is enacted to read:

**1-A. Expenditure of funds for Maine Youth Center.** General Fund revenues equivalent to funds generated from billing for Medicaid services provided by or through the department must be expended for Maine Youth Center activities and in support of those activities. All funds received from reimbursement for Medicaid services provided by or through the department must be credited to General Fund undedicated revenue in fiscal year 1992-93.

**Sec. 3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1992-93

**CORRECTIONS, DEPARTMENT OF**

**Maine Youth Center**

Personal Services	\$750,000
Provides for the appropriation of funds to meet payroll obligations for the remainder of fiscal year 1992-93.	
Undedicated revenue to the General Fund will be increased by \$750,000 for Medicaid reimbursement.	

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

Effective March 23, 1993.

**CHAPTER 14**

**S.P. 20 - L.D. 10**

**An Act to Clarify the Enforcement Authority of the Maine Sardine Council**

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

**Whereas,** exports of sardines, kippers and steaks are increasing; and

**Whereas,** effective quality control is essential to ensure the integrity of the grading program for sardines, kippers and steaks; 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. 32 MRSA §4153,** as amended by PL 1977, c. 694, §626, is further amended to read:

**§4153. License required**

No person, firm, corporation, association or society shall pack sardines, kippers or steaks within the State for sale without having first filed with the Commissioner of Agriculture, Food and Rural Resources an application for license, accompanied with a fee of \$50, upon receipt of which application the commissioner shall issue to the person, firm, corporation, association or society making such application a license to pack sardines. Each such license ~~shall cover~~ covers one group of buildings constituting a packing plant in one location. ~~Said~~ The license ~~shall run~~ runs from January 1st and ~~expire~~ expires in a manner consistent with the provisions of the Maine Administrative Procedure Act as to license expiration or on December 31st of each year, whichever is later, unless sooner revoked and ~~shall~~ must be renewed annually thereafter. Before issuing such license or renewing it, the commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines, kippers or steaks and the operation of sardine packing plants for sardines, kippers or steaks are being observed.

**Sec. 2. 32 MRSA §4166, sub-§§2-A and 4-A** are enacted to read:

**2-A. Council.** “Council” means the Maine Sardine Council, as established by Title 5, section 12004-H, subsection 8, or any person authorized by the Maine Sardine Council to act on its behalf.

**4-A. Lot.** "Lot" means not more than the entire output of one packing plant for one day or for one personnel shift, whichever is the shorter period.

**Sec. 3. 32 MRSA §4166, sub-§5,** as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

**5. Packer.** "Packer" means any person, partnership, association, firm, corporation or entity engaged in packing sardines for sale society licensed under section 4153 to pack sardines, kippers or steaks.

**Sec. 4. 32 MRSA §4167-A** is enacted to read:

**§4167-A. Council authority; code plans, embargo and petitions**

The council shall certify the quality and grade of sardines, kippers and steaks packed in this State. The quality or grade certified by the council is prima facie evidence of the quality or grade of the lot.

**1. Code plan required.** Prior to packing sardines, kippers or steaks in any container for which the council has established grades, a packer must have a code plan on file with the council. A code plan filed with the council must indicate the location of the plant, the lot number, and the calendar year of packing and may include other information provided by the packer.

A code plan filed with the council remains in effect until amendments to that code plan are submitted to the council by the packer. A packer may not pack, process, manufacture, sell, ship, deliver, consign or possess sardines, kippers or steaks for which a code plan is required unless that packer's code appears legibly and permanently upon the container and the shipping case containing the sardines, kippers or steaks.

**2. Embargo authority.** The council shall embargo any lot of sardines, kippers or steaks that is not labeled in conformance with section 4168, subsection 5 or section 4169, subsection 1. The council shall immediately notify a packer of an embargo action and shall place a tag on each lot subject to embargo. Except as permitted by the council or as ordered by the court under subsection 3, a packer may not destroy, move, sell, or offer to sell any product under embargo by the council. An embargo by the council constitutes a final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter VII.

A. The council shall lift an embargo imposed on substandard grade products that do not conform to the labeling provisions of section 4168, subsection 5 only if the council determines that the embargoed products:

(1) Will be destroyed by the packer. Prior to destroying any lot, the packer must notify

the council in writing of the packer's intent to destroy the lot;

(2) Will be offered for sale in the domestic market as substandard grade products and are labeled in conformance with section 4168, subsection 5; or

(3) Will be offered for sale in the export market and are in compliance with all provisions of paragraph B.

B. The council shall lift an embargo imposed on export products that do not conform to the export provisions of section 4169 only if the embargoed products will be destroyed by the packer with the knowledge of the council or the council determines that:

(1) The embargoed products will be exported, will not be reimported into the domestic market and are in compliance with the requirements of section 4169;

(2) The packer is bonded in compliance with section 4169, subsection 4; and

(3) The packer has, in writing, notified the council of the value of the embargoed products and the export destination.

Not later than 45 days after the export of any products embargoed under this subsection, the packer shall provide the council with a copy of the shipping manifest bearing the name of the export destination.

**3. Petition to courts; retrieval or condemnation.**

The council may petition the District Court for an order to retrieve or condemn any lot of sardines, kippers or steaks embargoed by the council. If the court determines a lot of sardines, kippers or steaks to be in violation of section 4168, subsection 5 or section 4169, the court may, at the packer's expense:

A. Order the packer to destroy the embargoed sardines, kippers or steaks;

B. Order the packer to retrieve and properly label the embargoed sardines, kippers or steaks as substandard grade products for sale in the domestic market if:

(1) The packer is able to retrieve and properly label the embargoed sardines, kippers or steaks as substandard grade products for sale in the domestic market; and

(2) The packer has posted a bond payable to the council in the event of noncompliance

with an order of the court issued under this paragraph. The bond amount may not be less than twice the value of the sardines, kippers or steaks to be retrieved and properly labeled; or

C. Permit the packer to export the sardines, kippers or steaks if:

(1) The packer certifies that the sardines, kippers or steaks do not violate laws of the foreign country to which they will be exported;

(2) The council determines that the packer has properly labeled the sardines, kippers or steaks for export; and

(3) The packer is bonded in compliance with section 4169, subsection 4.

Any action taken by a packer to comply with an order of the court issued under this subsection must be taken under the supervision of the council. If the court determines a packer to be in violation of section 4168, subsection 5 or section 4169, the court shall order the packer to pay all court costs, fees and expenses associated with the petition filed by the council.

**Sec. 5. 32 MRSA §4168, sub-§6**, as enacted by PL 1991, c. 446, Pt. C, §3, is repealed.

**Sec. 6. 32 MRSA §4169, first ¶**, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

Sardines, kippers or steaks that satisfy the requirements of the Maine Food Law, but not the requirements of the Maine Sardine Law, may be exported by complying with the shipping carton marking and bonding provisions of this section. For the purposes of this section, the term "exported" includes shipments of sardines, kippers or steaks to the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the trust territory of Palau. A packer may not import into the United States any sardines, kippers or steaks exported under this subchapter.

**Sec. 7. 32 MRSA §4169, sub-§2**, as enacted by PL 1991, c. 446, Pt. C, §3, is repealed.

**Sec. 8. 32 MRSA §4169, sub-§4** is enacted to read:

**4. Bonding requirements prior to engaging in export trade.** A packer must be bonded prior to engaging in the export of sardines, kippers or steaks. Such bond or bonds must be payable to the council upon the court finding the packer in violation of the export provisions of this subchapter. Prior to exporting any sardines, kip-

pers or steaks, a packer must submit a copy of the bond to the council. The bond amount may not be less than twice the value of the sardines, kippers or steaks to be exported, except that a packer regularly engaged in export activities may post a bond for \$10,000 to cover all exports in one calendar year. For the purposes of this subsection, the term "a packer regularly engaged in export activities" means a packer who exports 2 or more shipments of sardines, kippers or steaks in a calendar year.

**Sec. 9. 32 MRSA §4170**, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

#### **§4170. Cans to be sealed; lined**

On all cans used for packing sardines, kippers or steaks there must be a ~~compound-lined~~ compound-lined gasket or other adequate gasket that will hermetically seal the container. All cans used for packing sardines, kippers or steaks must be ~~enamel-lined~~ enamel-lined.

**Sec. 10. 32 MRSA §4170-A** is enacted to read:

#### **§4170-A. Penalties**

A packer who violates any provision of this subchapter commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. In addition to any forfeiture imposed under this section, the court may order a packer to forfeit to the council all or any portion of any bond required by this subchapter.

**Sec. 11. 36 MRSA §4692-A, sub-§4**, as enacted by PL 1991, c. 446, Pt. B, §3, is amended to read:

**4. Packer.** "Packer" means any person, partnership, association, firm, corporation or ~~entity engaged in packing sardines for sale~~ society licensed under Title 32, section 4153 to pack sardines, kippers or steaks.

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

Effective March 29, 1993.

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## CHAPTER 15

### H.P. 7 - L.D. 14

#### An Act to Retain the Current Standard for the Release of Tributyltin in Marine Antifouling Paints

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