

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.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

(2) "Eligible veteran" means any person who:

(a) Served on active duty in the United States Armed Forces during any federally recognized period of conflict, served on active duty in the United States Armed Forces at any time during the period December 22, 1961 to August 5, 1964 or was eligible for an Armed Forces Expeditionary Medal or campaign medal, and who:

(i) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty; and

(ii) Was a resident of the State at the time of entering military service, death or the death of an eligible dependent;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on state active duty as provided in chapter 3, subchapter III; or

(c) Served in the Armed Forces in the United States at any time and was killed or died as a result of hostile action and was a resident of the State at the time of entering military service, at the time of death or at the time of the death of an eligible dependent.

(3) "Federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918, March 31, 1920, if service was in Russia; World War II, December 7, 1941 to December 31, 1946; Korean Conflict, June 27, 1950 to January 31, 1955; and the Vietnam War, August 5, 1964 to May 7, 1975.

See title page for effective date.

CHAPTER 151

H.P. 518 - L.D. 702

An Act to Clarify the Existing Sales Tax Exemption for Aquacultural Production

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

Whereas, certain new businesses are attempting to start operations in the State but are hampered by confusion and misunderstanding of the law and rules regarding aquacultural production; and

Whereas, state policy is to encourage and assist new businesses whenever possible; and

Whereas, clarifying the sales tax laws would provide immediate assistance to these new companies; 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. 36 MRSA §2013, as amended by PL 1989, c. 847, §3, is further amended to read:

§2013. Refund of sales tax on depreciable machinery and equipment purchases

1. Definitions. As used in this section, unless the context otherwise indicates, the following words ~~shall~~ have the following meanings.

A. "~~Agricultural~~ Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and production of livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

(1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and

(2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.

B. "Commercial fishing" means attempting to catch ~~or cultivate~~ fish or any other marine animals or

organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport fishermen anglers to available fishing grounds.

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the United States Internal Revenue Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7, attachments and equipment for the production of field and orchard crops; and new or used machinery and equipment used in production of milk and in animal husbandry and production of livestock, including poultry; or

(2) New or used watercraft used directly and primarily for commercial fishing; and nets, traps, cables, tackle and related equipment necessary to the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7; or

(3) New or used watercraft, machinery or equipment used directly and primarily for aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor vehicles as defined in section 1752, subsection 7.

2. **Credit authorized.** Any person, association of persons, firm or corporation who purchases or leases depreciable machinery or equipment for use in commercial agricultural production or, commercial fishing shall or commercial aquacultural production must be refunded the amount of sales tax paid by him by presenting to the State Tax Assessor evidence that the machinery or equipment complies with the definitions of subsection 1.

Evidence required by the State Tax Assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code which that indicates that the purchaser or lessee is engaged in commercial agricultural production or, commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment shall be is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax shall must be prorated accordingly.

Application for refunds shall must be filed with the State Tax Assessor within 36 months of the date of purchase or execution of the lease.

3. **Exemption for large purchase after certification.** Sales tax is not paid on the purchase of a single item of machinery or equipment if the purchaser has the certification of the State Tax Assessor that the purchaser is engaged in commercial agricultural production or, commercial fishing; or commercial aquacultural production and that the purchaser may purchase depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the State Tax Assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the depreciable machinery or equipment must be used directly in commercial agricultural production or, commercial fishing or commercial aquacultural production.

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

Effective May 25, 1993.

CHAPTER 152

H.P. 674 - L.D. 912

An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982

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

Sec. 1. 32 MRSA §85, sub-§3, as amended by PL 1991, c. 742, §2, is further amended to read:

3. **Minimum requirements for initial licensing.** In setting rules for the initial licensure of emergency medical services persons, the board shall ensure that a person is not licensed to care for patients unless that person's