

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

CHAPTER 193**H.P. 357 - L.D. 460****An Act to Amend the Sex Offender
Registration Act****Be it enacted by the People of the State of Maine
as follows:****Sec. 1. 34-A MRSA §11002, sub-§1**, as enacted by PL 1991, c. 809, §1, is amended to read:

1. Agency. "Agency" means ~~an institution or department that has custody or jurisdiction over a sex offender. Agency includes a county jails, state prisons, jail or the Department of Corrections, the Maine Youth Center and detention facilities.~~

Sec. 2. 34-A MRSA §11003, sub-§§1 and 2, as enacted by PL 1991, c. 809, §1, are amended to read:

1. Duty to register. A sex offender ~~who is sentenced to probation, discharged or discharged under supervision from a state or county correctional facility shall, within 15 calendar days after being sentenced to probation, discharge or discharge under supervision, register that person's current address with the Department of Public Safety, State Bureau of Identification within 15 calendar days after discharge or discharge under supervision from a state correctional facility or county jail or, if no period of institutional confinement is to be served, within 15 calendar days of sentencing.~~

This registration requirement remains in effect for 15 years from the date of:

A. Sentencing if no period of ~~incarceration institutional confinement~~ is to be served; or

B. Discharge or discharge under supervision from any state ~~or county~~ correctional facility or county jail.

2. Notice of duty to register. The agency that has jurisdiction over a sex offender required to register under this chapter ~~or the court shall inform the sex offender, prior to discharge or at the time of sentencing discharge under supervision, inform the sex offender of the duty to register under subsection 1. If no period of institutional confinement is to be served, the court shall inform the sex offender at the time of sentencing of the duty to register under subsection 1.~~

Sec. 3. 34-A MRSA §11003, sub-§4, ¶C, as enacted by PL 1991, c. 809, §1, is repealed.**Sec. 4. 34-A MRSA §11003, sub-§4, ¶C-1** is enacted to read:

C-1. The Superior Court, upon the petition of the sex offender, waives the registration requirement.

A sex offender may not petition for waiver of the registration requirement until at least 5 years after the sex offender is first required to register.

A sex offender may petition once a year for waiver of the registration requirement.

Before waiving the registration requirement, the court must determine that the sex offender has shown a reasonable likelihood that registration is no longer necessary and waiver of the registration requirement is appropriate. The court shall consider the sex offender's progress in treatment and may request an independent forensic evaluation provided through the State Forensic Service. If the court orders an independent forensic evaluation, the court shall reimburse the State Forensic Service for the cost of the evaluation and order the sex offender to reimburse the court for the cost of the evaluation; or

See title page for effective date.

CHAPTER 194**H.P. 211 - L.D. 273****An Act Creating the Groundfish Hatchery
Study Commission**

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

Whereas, the health and sustainability of the groundfish fishery is essential for the continued economic viability of the fishing industry in Maine; 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 c. 621, sub-c. IV** is enacted to read:**SUBCHAPTER IV****GROUNDFISH HATCHERY FUND****§6591. Groundfish Hatchery Fund**

The Groundfish Hatchery Fund, referred to in this subchapter as the "fund," is established to carry out the purposes of this subchapter.

1. License surcharge. A surcharge of \$10 is assessed on each commercial fishing license issued under section 6501 for calendar year 1994. The commissioner shall deposit the surcharge collected from each license holder into the fund. The commissioner shall authorize the expenditure of money in the fund only for expenses approved by the Groundfish Hatchery Study Commission and only for the purposes set forth in section 6592. The commissioner may deposit money received from any other source into the fund.

2. Lapsing fund. The fund may lapse once.

§6592. Groundfish Hatchery Study Commission

The Groundfish Hatchery Study Commission, referred to in this section as the "commission," is established to study the groundfish fishery in the State. The commission shall conduct the study in 2 phases. Phase I must be completed by January 1, 1994. Phase II must be completed by January 1, 1995.

1. Phase I. During Phase I of the study, the commission shall determine the economic feasibility of producing hatchery-raised groundfish in the State. The determination must be based on the hatchery production level required to affect the fishery and the cost of attaining and sustaining that production level. The commission shall report its findings on Phase I of this study to the joint standing committee of the Legislature having jurisdiction over marine resource matters no later than January 1, 1994.

2. Phase II. The commission shall undertake Phase II of the study only if the production of hatchery-raised groundfish is determined economically feasible. In Phase II of the study, the commission shall determine the need for one or more groundfish hatcheries, the appropriate methods for revitalizing localized schools of groundfish and the tendency of groundfish to return to their breeding area. In addition, the commission shall study the relationship between hatchery-raised groundfish and wild groundfish populations to determine the impact of introducing hatchery-raised groundfish into the groundfish fishery. The commission shall report its findings on Phase II of this study to the joint standing committee of the Legislature having jurisdiction over marine resource matters no later than January 1, 1995.

3. Funds. In examining the issues under subsections 1 and 2, the commission may use the fund established in section 6591 for staffing assistance, consulting expertise or other expenses directly related to the purposes of the commission.

§6593. Membership

The Groundfish Hatchery Study Commission consists of the commissioner or the commissioner's designee and 12 members appointed by the commissioner. Five members must be scientists with expertise in issues pertinent to the duties of the commission, 5 members must be groundfish anglers, one member must be a representative of the business community and one member must be a representative of the environmental community.

1. Appointments. The commissioner shall make all appointments no later than 30 days following the effective date of this section. When the appointment of all members is complete, the commissioner shall call and convene the first meeting of the Groundfish Hatchery Study Commission no later than August 15, 1993. The commissioner shall chair the commission.

2. Reimbursement. All appointed members of the Groundfish Hatchery Study Commission are entitled to receive reimbursement for travel and other necessary expenses directly related to meetings of the commission.

§6594. Repeal

This subchapter is repealed July 30, 1995. All unencumbered money in the fund on July 30, 1995 must be deposited into the General Fund.

Sec. 2. Working capital advance. The State Controller is authorized to advance \$10,000 from General Fund unappropriated surplus to the Groundfish Hatchery Fund established in the Maine Revised Statutes, Title 12, section 6591. These funds must be used to provide the working capital advance necessary for the Groundfish Hatchery Study Commission to undertake its statutory duties under the Maine Revised Statutes, Title 12, chapter 621, subchapter IV. The Commissioner of Marine Resources shall return all funds advanced for this purpose to the General Fund no later than June 30, 1994. The commissioner shall use the \$10 surcharge assessed on commercial fishing licenses issued for calendar year 1994 under Title 12, section 6591 as the revenue source for refunding the working capital advance authorized under this section.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
MARINE RESOURCES, DEPARTMENT OF		
Groundfish Hatchery Study Commission		
All Other	\$20,000	\$20,000
Provides allocations to fund the activities of the		

Groundfish Hatchery Study
Commission.

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

Effective June 2, 1993.

CHAPTER 195

S.P. 127 - L.D. 364

An Act to Create a Franchise Law for Power Equipment, Machinery and Appliances

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

Sec. 1. 10 MRSA c. 211-A is enacted to read:

CHAPTER 211-A

FRANCHISE LAWS FOR POWER EQUIPMENT, MACHINERY AND APPLIANCES

§1361. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Dealer. "Dealer" means a person who sells goods or solicits or advertises the sale of goods to the public. "Dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court nor does it include public officers performing their duties as officers.

2. Distributor. "Distributor" means a person who sells or distributes goods to dealers of those goods.

3. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period pursuant to which a manufacturer grants to a dealer or distributor of goods a license to use a trade name, trademark, service mark or related characteristic and in which there is a community of interest in the marketing of goods and related services at wholesale, retail, by leasing or otherwise.

4. Franchisee. "Franchisee" means a person, dealer or distributor of goods to whom a franchise is offered or granted.

5. Franchisor. "Franchisor" means a manufacturer who grants a franchise to a distributor or dealer of goods.

6. Fraud. "Fraud" includes, in addition to its normal legal connotation, a misrepresentation, whether intentionally false or due to gross negligence, of a material fact, a promise or a representation not made honestly and in good faith and an intentional failure to disclose a material fact.

7. Good faith. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade as defined and interpreted in the Uniform Commercial Code, Title 11, section 2-103, subsection (1), paragraph (b).

8. Goods. "Goods" means residential, recreational, agricultural, farm, commercial or business equipment, machinery or appliances that use electricity, gas, wood, a petroleum product or a derivative of a petroleum product, for operation. "Goods" does not include motor vehicles as defined in section 1171, subsection 11.

9. Manufacturer. "Manufacturer" means a person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures, assembles or imports goods for distribution through distributors or a partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by such an entity.

10. Person. "Person" means a natural person, corporation, partnership, trust or other entity and, in the case of an entity, includes any other entity in which it has a majority interest or effective control as well as the individual officers, directors and other persons in active control of the activities of each entity.

11. Sale. "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any form, whether by transfer in trust or otherwise, of goods or interest in goods or of any franchise related to those goods and any option, subscription or other contract, solicitation looking to a sale or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of goods or equipment or a franchise with respect to those goods or equipment, with or as a bonus on account of a sale, is deemed a sale of the goods, equipment or franchise.

§1362. Civil remedies

A dealer, distributor or franchisee who has been damaged by violation of this chapter may bring an action to enjoin the violation and to recover damages arising from the violation. A final judgment, order or decree rendered against a person in a civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act, this chapter or any other state law is regarded as prima facie evidence against that person, subject to the conditions under the federal antitrust laws, 15 United States Code, Section 16.