

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

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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

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

Sec. 1. 22 MRSA §1696-I is enacted to read:

§1696-I. Noncommercial fishing and public health

The Director of the Bureau of Health shall assess regularly whether any health threats exist for persons consuming freshwater and anadromous fish caught in state waters by noncommercial anglers. The assessment must be based on appropriate technical and scientific data and public health analyses and must include, but is not limited to, the risk of carcinogenic, mutagenic, teratogenic and reproductive effects and infectious disease. In preparing the assessment, the director shall consult with the Commissioner of Marine Resources, the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife.

If, in the professional judgment of the Director of the Bureau of Health, conditions exist in which consumption of fish caught in state waters poses a threat to public health, the director shall prepare an advisory of the public health threat. The advisory must be in a form suitable for posting in places frequented by noncommercial anglers, included in the abstract of fish and wildlife laws prepared under Title 12, section 7034, subsection 5 and distributed to all holders of sport fishing licenses. The director has final authority regarding the content of the advisory, including the exact language used in the advisory. The Commissioner of Inland Fisheries and Wildlife is responsible for printing and posting verbatim copies of the advisory and for incorporating the verbatim health advisory in the abstract of fish and wildlife laws.

See title page for effective date.

CHAPTER 281

H.P. 773 - L.D. 1046

An Act Revising the Shellfish-harvesting Laws

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

Sec. 1. 12 MRSA §6601, sub-§7 is enacted to read:

7. Penalty. Notwithstanding the provisions of Title 17-A, section 4-B, a person who violates this section commits a crime punishable by:

A. For the first offense, a fine of not less than \$300 and not more than \$1,500; and

B. For subsequent offenses, a fine of not less than \$500 and not more than \$1,500.

The court may not suspend a fine imposed under this subsection.

Sec. 2. 12 MRSA §6621, sub-§4 is enacted to read:

4. Penalty. Notwithstanding the provisions of Title 17-A, section 4-B, a person who violates this section commits a crime punishable by:

A. For the first offense, a fine of not less than \$300 and not more than \$1,500; and

B. For subsequent offenses, a fine of not less than \$500 and not more than \$1,500.

The court may not suspend a fine imposed under this subsection.

Sec. 3. 12 MRSA §6671, sub-§9, as repealed and replaced by PL 1991, c. 29, is repealed.

Sec. 4. 12 MRSA §6671, sub-§10 is enacted to read:

10. Penalty. Notwithstanding Title 17-A, section 4-B, a person who violates a provision of a municipal ordinance adopted under this section commits a crime punishable by the following fines:

A. For harvesting shellfish from a closed area or digging shellfish without a license:

(1) For the first offense, a fine of not less than \$300 and not more than \$1,500; and

(2) For subsequent offenses, a fine of not less than \$500 and not more than \$1,500.

The court may not suspend a fine imposed under this paragraph; or

B. For violating any other provision of a municipal ordinance adopted under this section, a fine of not less than \$100 and not more than \$1,000.

A fine for a violation of article 5 must be as provided by section 6681.

Sec. 5. 12 MRSA §6681, sub-§6, as amended by PL 1985, c. 737, Pt. A, §30, is repealed.

Sec. 6. 12 MRSA §6681, sub-§6-A is enacted to read:

6-A. Penalty. Notwithstanding the provisions of Title 17-A, section 4-B, a person who violates this article commits a crime punishable by the following fines:

A. For possession of a bulk pile of shellfish of which 20% or more of the shellfish are smaller than the minimum size established in subsection 3:

(1) For the first offense, a fine of not less than \$300 and not more than \$1,000; and

(2) For subsequent offenses, a fine of not less than \$500 and not more than \$1,000.

The court may not suspend a fine imposed under this paragraph; or

B. For possession of a bulk pile of shellfish of which more than 10% but less than 20% of the shellfish are smaller than the minimum size established in subsection 3, a fine not less than \$100 and not more than \$1,000.

See title page for effective date.

CHAPTER 282

H.P. 842 - L.D. 1147

An Act to Amend the Laws Relating to the Lobster Promotion Council

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

Whereas, the Lobster Promotion Council serves an important role in promoting Maine Lobster; and

Whereas, this Act must take effect on July 1, 1993; 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 §6455, sub-§3-A is enacted to read:

3-A. Employees. The council shall hire a full-time executive director and may hire clerical staff as needed to perform its duties. Employees of the Lobster Promotion Council serve at the pleasure of the council. Except as provided in this subsection, employees of the council are not state employees and are not subject to the provisions of Title 5, chapters 71 and 372 or Title 5, Part 20. The salary and benefits for employees of the

council are determined by the council. For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102.

Sec. 2. 12 MRSA §6455, sub-§4, ¶D-1 is enacted to read:

D-1. Market and sell goods directly related to the functions of the council and deposit all proceeds in the Lobster Promotion Fund;

Sec. 3. 12 MRSA §6455, sub-§4, ¶E, as enacted by PL 1991, c. 523, §2, is amended to read:

E. Make expenditures from the Lobster Marketing Fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

(1) Promotion, advertising and marketing development. The council may implement programs and activities to promote, advertise and develop markets for lobster and make or enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes. At least 50% of the money expended from the fund annually must be expended for the purposes set forth in this subparagraph; and

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H and payment of administrative and overhead costs associated with the business of the council. ~~Any person hired by the council is a state employee, subject to the personnel laws of the State; and~~

Sec. 4. 12 MRSA §6455, sub-§5, as enacted by PL 1991, c. 523, §2, is amended to read:

5. Fund established; license surcharge assessed. The Lobster Promotion Fund, referred to in this subchapter as the "fund," is established in the department to carry out the purposes of this subchapter. The council shall administer the fund and the department shall transfer to the fund all money appropriated or received by the department for the purposes of this subchapter. The fund is capitalized from the following annual surcharges assessed on the following licenses issued by the department for ~~calendar~~ calendar years 1992 ~~and~~, 1993, 1994, 1995, 1996 and 1997:

A. Class I crab and lobster licenses for persons 18 to 69 years of age, \$25;