

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

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;

- B. Class II crab and lobster licenses, \$50;
- C. Class III crab and lobster licenses, \$75;
- D. Wholesale seafood licenses with lobster permits, \$200; and
- E. Lobster transportation licenses, \$200.

1993-94

1994-95

LOBSTER PROMOTION COUNCIL

Lobster Promotion Fund

Positions - Other Count	(-1.5)	(-1.5)
Personal Services	(\$55,922)	(\$57,204)
All Other	106,326	103,379
TOTAL	\$50,404	\$46,175

Provides for the elimination of a part-time Executive Director position and a full-time Clerk Typist II position by the removal of those positions from the State Civil Service System. Provides for the transfer of funds from Personal Services to All Other to pay for employees and authorized expenses of the council.

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

Effective June 7, 1993.

A person holding more than one of the licenses listed in this subsection is assessed a surcharge only on the highest surchargeable license held.

The Treasurer of State shall hold all surcharges assessed by this subsection in the fund and invest all money in the fund until disbursement is authorized by the council. Interest from investments accrues to the fund.

All money in the fund is subject to allocation by the Legislature. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to be used for the same purposes.

In addition to payment of the regular license fee and the surcharge, a person purchasing a license subject to the surcharges established in this subsection may make voluntary contributions to the fund at the time the license is purchased. Voluntary contributions received by the department from a licensee pursuant to this subsection must be deposited in the fund by the department and must be used by the council for the purposes of this subchapter.

Sec. 5. PL 1991, c. 523, §8 is repealed.

Sec. 6. Transition. The Lobster Promotion Council shall act expeditiously to set the compensation level and hire a full-time executive director as required by the Maine Revised Statutes, Title 12, section 6455, subsection 3-A.

Sec. 7. Current allocations adjusted. The following funds are allocated from the Lobster Promotion Fund to carry out the purposes of this Act.

1992-93

LOBSTER PROMOTION COUNCIL

Lobster Promotion Fund

Positions - Other Count (-1.5)

Provides for the elimination of a part-time Executive Director position and a full-time Clerk Typist II position by the removal of those positions from the State Civil Service System.

Sec. 8. Allocation. The following funds are allocated from the Lobster Promotion Fund to carry out the purposes of this Act.

CHAPTER 283

S.P. 226 - L.D. 697

An Act to Amend Certificate of Need Provisions Regarding Home Health Care Services

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

Sec. 1. 22 MRSA §304-A, sub-§8, as enacted by PL 1981, c. 705, Pt. V, §16, is amended to read:

8. New health care facilities. The construction, development or other establishment of a new health care facility; and, subject to the following limitations.

A. Except as provided in paragraph B, the department shall review certificate of need applications, including business plans, for home health care providers only to determine whether the provider is fit, willing and able to provide the proposed services at the proper standard of care as provided in section 309, subsection 1, paragraph A. The department shall establish a reduced filing fee for home health care providers whose applications are reviewed under this paragraph.

B. The department shall review an application for a home health care provider to determine its compliance with all the requirements of section 309, subsection 1 if the application involves: