

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

- 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:

(1) A business plan that forecasts 3rd-year operating costs exceeding \$500,000; or

(2) A transfer of ownership of an existing home health care provider; and

See title page for effective date.

CHAPTER 284

S.P. 190 - L.D. 626

An Act to Amend the Long-term Care Ombudsman Program

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

Sec. 1. 22 MRSA §5107-A, first and 2nd ¶¶, as enacted by PL 1991, c. 622, Pt. QQ, §2, are amended to read:

In accordance with the program established pursuant to section 5106, subsection 11-C, the ombudsman may enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 to investigate complaints concerning those facilities or to perform any other functions authorized by this section or other applicable law or rules. The ombudsman shall investigate complaints received on behalf of individuals receiving long-term care services provided by home-based care programs, the Medicaid waiver program, licensed home health agencies, certified homemaker agencies and licensed adult day care agencies. To carry out this function, any staff member or volunteer authorized by the ombudsman may enter onto the premises of any adult foster care facility, boarding care facility or nursing home during the course of an investigation, speak privately with any individual in the facility or home who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. When a resident is not competent to grant consent and has no legal representative, the ombudsman may inspect the resident's records and may make copies ~~that do not contain personally identifiable material~~ without the written consent of a duly appointed legal representative. The ombudsman may authorize up to 25 persons as many individuals as necessary, in addition to staff, to carry out this function except that these individuals may not make copies of confidential client information. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, a person may not serve as an om-

budsman without training as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of the ombudsman. The ombudsman shall renew the authorization and issue identification annually. The findings of the ombudsman must be available to the public upon request.

The ombudsman and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by distributing education materials and meeting with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits or in actions against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved, including, but not limited to, advising residents to litigate; ~~and~~ investigate complaints received from residents or concerned parties regarding care or other matters concerning residents; and participate as observer and resource in any on-site survey or other regulatory review performed by state agencies pursuant to state or federal law.

See title page for effective date.

CHAPTER 285

S.P. 374 - L.D. 1130

An Act to Amend the Minimum Safety Standards for Firefighters

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

Whereas, firefighters need to implement changes in protective clothing requirements prior to the heat associated with summer; 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. 26 MRSA §2107, as amended by PL 1993, c. 50, §1, is further amended by adding at the end a new paragraph to read:

The Board of Occupational Safety and Health may issue advisory rulings in accordance with Title 5, section 9001 with respect to the applicability of this chapter.