

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

(4) All records of the brewery licensee shall ~~must~~ be kept separate from the records of the retail licensee.

See title page for effective date.

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## CHAPTER 543

H.P. 1180 - L.D. 1578

### An Act to Strengthen Penalties for the Unlawful Cutting of Lobster Traps

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

**Whereas,** lobster traps represent a significant capital investment for individuals who trap lobster; 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 §6402,** as enacted by PL 1977, c. 661, §5, is amended to read:

**§6402. Suspension based on conviction of molesting**

The commissioner shall suspend the lobster and crab fishing license of ~~any~~ a license holder convicted in court of violating section 6434. This suspension shall be ~~is~~ for 3 years from the date of conviction.

**1. Convictions for cutting lobster trap lines.** A person convicted under section 6434 of molesting lobster gear by cutting a lobster trap line shall, upon making full payment as ordered by the court under section 6434, subsection 4, paragraph A, provide the commissioner with proof of that payment. If the commissioner does not receive that proof within 3 years after the date of conviction, the commissioner shall continue that license suspension until such time as that proof is received.

**Sec. 2. 12 MRSA §6434, sub-§4** is enacted to read:

**4. Additional penalty.** If the holder of a lobster and crab fishing license violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the Commissioner of Marine Resources as required by section 6402, subsection 1.

A penalty imposed under this subsection is in addition to any penalty imposed under section 6204.

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

Effective March 30, 1994.

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## CHAPTER 544

H.P. 1187 - L.D. 1584

### An Act to Amend the Laws Governing Foreclosure of Mortgages

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

**Sec. 1. 14 MRSA §6323,** as amended by PL 1993, c. 373, §2, is repealed and the following enacted in its place:

**§6323. Sale following expiration of period of redemption**

**1. Procedures for all civil actions.** Upon expiration of the period of redemption, if the mortgagor, or the mortgagor's successors, heirs or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession terminate, and the mortgagee shall cause notice of a public sale of the premises stating the time, place and terms of the sale to be published once in each of 3 successive weeks in a newspaper of general circulation in the county in which the premises are located; the first publication to be made not more than 90 days after the expiration of the period of redemption. The public sale must be held not less than 30 days nor more than 45 days after the first date of that publication and may be adjourned, for any time not exceeding 7 days and from time to time until a sale is made, by announcement to those present at each adjournment. The mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the period of redemption but before the public sale. The mortgagee may convey the property to the mortgagor or execute a waiver of foreclosure and all other rights of all other parties remain as if no foreclosure had been commenced. The mortgagee shall

sell the premises to the highest bidder at the public sale and deliver a deed of that sale to the purchaser. The deed conveys the premises free and clear of all interests of the parties in interest joined in the action. The mortgagee or any other party in interest may bid at the public sale. If the mortgagee is the highest bidder at the public sale, there is no obligation to account for any surplus upon a subsequent sale by the mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors are limited to the amount established as of the date of the public sale. The date of the public sale is the date on which bids are received to establish the sales price, no matter when the sale is completed by the delivery of the deed to the highest bidder.

**2. Additional notice requirements for civil actions commenced on or after January 1, 1995.** In foreclosures by civil action commenced on or after January 1, 1995, the mortgagee shall cause notice of the public sale to be mailed by ordinary mail to all parties who appeared in the foreclosure action or to their attorneys of record. The notice must be mailed no less than 30 calendar days before the date of sale. Failure to provide notice of the public sale to any party who appeared does not affect the validity of the sale.

See title page for effective date.

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## CHAPTER 545

H.P. 1199 - L.D. 1607

### An Act to Establish the Lobster Promotion Council as a Public Instrumentality

**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 can more efficiently and effectively perform its duties as a public instrumentality than as a state agency; 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-§1-A** is enacted to read:

**1-A. Council is a public instrumentality.** The council is established as a public instrumentality serving a public purpose. As a public instrumentality:

**A. Employees of the council may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372 and the state retirement system provisions of Title 5, Part 20;**

**B. The council may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4; and**

**C. Notwithstanding any provisions of paragraphs A and B:**

**(1) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter I, except that, by majority vote of the members, the council may designate market studies or promotional plans developed or funded by the council as confidential. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resource matters have access to all material designated confidential by the council;**

**(2) Except as required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18; and**

**(3) 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-§§2 and 3,** as enacted by PL 1991, c. 523, §2, are amended to read:

**2. Qualifications of members.** From each district, 3 members must be appointed who meet the following criteria:

**A. One person who is a full-time harvester and who has held a valid lobster and crab fishing license for at least 5 consecutive years;**

**B. One person who is a dealer or pound operator and who:**

**(1) Has held a valid wholesale shellfish license or lobster transport license for a period of at least 5 consecutive years; or**