

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.

J.S. McCarthy Company
Augusta, Maine
1993

Sec. 2. 21-A MRSA §759, sub-§8, as enacted by PL 1991, c. 466, §32, is amended to read:

8. Inspection after polls close. If a candidate or that candidate's representative notifies the warden before 8:00 p.m. that the candidate wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and envelopes of ballots that have not yet been deposited into the ballot box for 30 minutes after the polls close.

Sec. 3. Study by the Commission on Governmental Ethics and Election Practices; jurisdiction. The Commission on Governmental Ethics and Election Practices shall review its current duties prescribed by law and shall identify issues that the commission has been asked to investigate and has not clearly had the authority to investigate. The commission shall make recommendations, along with any proposed legislation, to clarify and, if necessary, to expand the commission's jurisdiction and duties to the joint standing committee of the Legislature having jurisdiction over legal affairs no later than January 30, 1995.

See title page for effective date.

CHAPTER 584

H.P. 1106 - L.D. 1493

An Act to Enable the Creation of the Volunteer Social Workers Project

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

Sec. 1. 32 MRSA §7031 is enacted to read:

§7031. Volunteer Social Workers Project

The board shall contract with a statewide agency or entity that represents social workers to establish and administer the Volunteer Social Workers Project. The project, pursuant to the contract and in accordance with procedures and protocols developed by the project and approved by the board, shall match persons referred by social service agencies and providers with social workers who have agreed to provide their services on a pro bono basis. In addition, the project shall develop opportunities for social workers to participate on a pro bono basis in community organization activities. The funding of the project is the responsibility of the board and must be derived from the board's revenues. The project may also accept gifts, grants or other income from outside sources to supplement this funding.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

State Board of Social Worker Licensure

All Other \$57,000

Provides for an allocation of funds to enable the State Board of Social Worker Licensure to contract with a private entity to establish the Volunteer Social Workers Project.

See title page for effective date.

CHAPTER 585

H.P. 1386 - L.D. 1885

An Act to Implement the Recommendations of the Maine Sardine Council

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

Whereas, the packing of sardines is one of the most important industries of the State; and

Whereas, the Maine Sardine Council can more efficiently and effectively perform its duties as a public instrumentality of the State 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. 3 MRSA §927, sub-§7, ¶B, as amended by PL 1991, c. 376, §10, is further amended to read:

B. Independent agencies:

- (1) ~~Maine Sardine Council;~~
- (2) Atlantic Sea Run Salmon Commission;
- (3) Public Utilities Commission;
- (4) Atlantic States Marine Fisheries Commission;
- (5) Maine Development Foundation;
- (6) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;
- (7) Lobster Advisory Council;
- (8) Board of Environmental Protection;
- (9) Board of Underground Oil Storage Tank Installers;
- (10) Telecommunications Relay Services Advisory Council; and
- (11) Public Advocate.

Sec. 2. 5 MRSA §12004-H, sub-§8, as amended by PL 1991, c. 446, Pt. C, §1, is repealed.

Sec. 3. 10 MRSA §1701, as amended by PL 1977, c. 694, §167, is further amended to read:

§1701. Trademarks

~~In order to carry out better the objectives of the Maine Sardine Tax Law, the~~ The Maine Sardine Council may, by regulation rule adopted in a manner consistent with the Maine Administrative Procedure Act, may develop and register trademarks. ~~The Commissioner of Agriculture may delegate to the Maine Sardine Council the authority to and regulate the use of the State of Maine trademark when used in the processing and sale of Maine sardines.~~

Sec. 4. 32 MRSA §4166, sub-§2-A, as enacted by PL 1993, c. 14, §2, is amended to read:

2-A. Council. "Council" means the Maine Sardine Council, as established by Title 5 32, section ~~12004 H, subsection 8~~ 4167, or any person authorized by the Maine Sardine Council to act on its behalf.

Sec. 5. 32 MRSA §4167, sub-§1, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

1. Council established as an incorporated public instrumentality of the State. ~~The Effective July 1, 1994, the Maine Sardine Council, as established by Title 5, section 12004 H, subsection 8,~~ referred to in this subchapter as the "council," is a

body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part is held to be the performance of essential government functions. For the purposes of the budget, accounts and control, purchasing or other provisions of Title 5, Part 4 the council may not be construed to be a state agency. The council consists of not more than 9 nor fewer than 3 members to be appointed by the Commissioner of Marine Resources. Fifty-one percent of the members of the council constitutes a quorum and the affirmative vote of at least 51% of the members is necessary for the transaction of all business and the carrying out of the duties of the council. A quorum of council members may be determined through the use of proxy voting and telephone polls. The members must be sardine packers operating within the State who have been actively engaged in packing sardines, kippers or steaks for not less than 2 years and must remain so while in office. A person is considered to be actively engaged in packing sardines, kippers or steaks if that person has derived, during the period, a substantial portion of income from packing sardines, kippers or steaks or has been the director or manager of an entity that derives a substantial portion of its income from packing sardines, kippers or steaks.

Sec. 6. 32 MRSA §4167, sub-§§4 and 5, as enacted by PL 1991, c. 446, Pt. C, §3, are amended to read:

4. Compensation. The members of the council are entitled to compensation according to ~~the provisions of Title 5, chapter 379~~ such guidelines as the council may establish. Each council member's designated alternate is entitled to reimbursement for expenses incurred in the performance of that alternate's duties, but at no time may a regular council member and that member's designated alternate be reimbursed for expenses incurred for attendance at the same meeting.

5. Executive director; staff. The council, ~~in concurrence with the Commissioner of Marine Resources,~~ may select and employ and fix the salary of an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program. The executive director, with the consent of the council, may engage, ~~subject to the Civil Service Law,~~ sufficient clerical personnel and other employees for the efficient performance of the executive director's duties. After July 1, 1994, employees of the council may not be considered state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372. 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. 7. 32 MRSA §4168, sub-§3, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

3. Grades. The council may adopt rules establishing official grades for sardines, kippers and steaks packed ~~within~~ in the State, and for the marking, branding or labeling of sardines, kippers and steaks and the use of the grades. Prior to adopting rules under this section, the council shall hold public hearings in places reasonably convenient for the packers. Notice of the hearings and of the final action must be sent, by certified mail, to all license holders under section 4153. The council may use the seal of the State of Maine in support of all quality control and promotion activities.

A. The grades may specify the number of fish per container; the amount, quality and nature of the packing medium or fill; the quality, appearance, odor, character, taste and texture of the fish packed; the style of pack, the quality of the packing and arrangement in the container; the quality of the substances contained in the container; the size and type of the container; and tolerances allowing for reasonable variation from grades.

B. When adopting rules under this section, the council may consider packing practices in the State and in other jurisdictions, consumer expectancy, habits and desires, the types of fish available, conditions of sanitation, tastes and preferences of varying parts of the consumer public, marketing practices and market experience.

Sec. 8. 36 MRSA §4692-A, sub-§2, as enacted by PL 1991, c. 446, Pt. B, §3, is amended to read:

2. Council. "Council" means the Maine Sardine Council established by Title 5 32, section ~~42004-H 4167~~, ~~subsection 8~~.

Sec. 9. 36 MRSA §4699, first ¶, as amended by PL 1991, c. 446, Pt. B, §8, is further amended to read:

Money received under this chapter by the Treasurer of State must be ~~appropriated~~ transferred to the Maine Sardine Council in its capacity as an independent agency on a monthly basis and used for the following purposes:

Sec. 10. 36 MRSA §4699, as amended by PL 1991, c. 446, Pt. B, §8, is further amended by adding at the end a new paragraph to read:

The Maine Sardine Council may accept grants or contributions of money or other things of value from any source, public or private. Those grants or other contributions must be held by the council and used to carry out the purposes of this chapter, subject to any condition under which the grant or contribution was accepted by the council.

Sec. 11. Transition provisions. The following provisions apply to the Maine Sardine Council on July 1, 1994.

1. Funds transferred. All funds held by the Treasurer of State pursuant to the Maine Revised Statutes, Title 36, section 4699 must be transferred to the Maine Sardine Council in its capacity as an independent agency.

2. Debt or obligation. A debt or obligation incurred by the council on or after the effective date of this Act is not a debt or obligation of the State. A debt or obligation incurred by the council prior to the effective date of this Act that remains, in whole or in part, payable to any person becomes a debt or obligation of the council, not the State.

3. Personnel transferred. The Maine Sardine Council employees must be transferred from state employment to the Maine Sardine Council in its capacity as an independent agency. Fringe benefits from state employment of the transferred personnel, including vacation and sick leave, health and life insurance and retirement, remain with the transferred personnel. Upon the effective date of this Act, the employees of the council are exempted from all furlough and shutdown days and 39-hour workweek restrictions imposed by earlier budget acts of the Legislature. After the transition on July 1, 1994, the council may elect to become a participating local district for purposes of the Maine State Retirement System and all employee benefit elections, including the option of retaining state employee health insurance program benefits for transferred employees may be made by the council. All employee benefit elections, including the retention of state employee health insurance program benefits for transferred employees, may be made by the council. The Department of Administrative and Financial Services shall assist the council and the executive director with the orderly implementation of these provisions to be completed by July 1, 1994.

Sec. 12. Transfer of property. All equipment and vehicles owned by the Maine Sardine Council on the effective date of this Act remain equipment and vehicles owned by the council as an instrumentality. The State must transfer title from the State to the Maine Sardine Council for the land and buildings that were transferred pursuant to Resolve 1963, chapter 125, from James E. Flanagan to the

State and recorded in the Penobscot County Registry of Deeds, Book 1944, page 271. Transfer of title under this section must be executed for consideration of one dollar and must take place within 180 days after the passage of this Act. The Maine Sardine Council must pay all consideration and administrative costs associated with the title transfer.

Sec. 13. Allocation. The following funds are allocated from the Maine Sardine Fund to carry out the purposes of this Act.

1994-95

MAINE SARDINE COUNCIL

Sardine Council

Positions	(-7.5)
Personal Services	(\$302,355)
All Other	(210,653)
Capital Expenditures	(13,000)
TOTAL	(526,008)

Provides for the deallocation of funds to reflect the Maine Sardine Council's status as an instrumentality of the State.

Sardine Council

All Other	526,008
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Provides for the allocation of funds to allow the payment of funds from the Maine Sardine Fund to the independent Maine Sardine Council.

MAINE SARDINE COUNCIL	
TOTAL	\$-0-

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

Effective April 1, 1994.

CHAPTER 586
H.P. 1218 - L.D. 1637
An Act Regarding Insurance
Coverage for Mental Illness

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

Sec. 1. 24 MRSA §2325-A, sub-§5-C, as enacted by PL 1993, c. 441, §1, is amended to read:

5-C. Coverage for certain mental illness treatment. Coverage for medical treatment for mental illnesses listed in paragraph A is subject to this subsection. Nothing in this subsection requires benefit levels or maximum lifetime or annual benefits for medical treatment for mental illness that exceed the benefit levels or maximum lifetime or annual benefits for other illnesses and diseases.

A. All group contracts must provide at a minimum benefits according to paragraph B, subparagraphs (1) to (3) for the usual, customary and reasonable charges for a person receiving medical treatment for:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Childhood schizophrenia;
- (5) Psychotic depression, or involuntional melancholia;
- (6) Paranoia;
- (7) Panic disorder;
- (8) Obsessive-compulsive disorder; or
- (9) Major depressive disorder.

B. All policies and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1994 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

- (1) The contracts must provide inpatient care benefits of at least 60 days per calendar year.
- (2) The contracts must provide outpatient care benefits of at least \$2,000 for any combination of outpatient and day treatment care. The minimum level of benefits provided must be at least 50% of the usual, customary and reasonable charge.