

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

(3) The plans or proposals the assuming party has with respect to the administration of the policies subject to the proposed transfer;

(4) Whether the transfer is fair and reasonable to the policyholders of both companies; and

(5) Whether the notice of transfer to be provided by the insurer is fair, adequate and not misleading.

§764. Rights of policyholder

1. Right to reject. Every policyholder has the right to reject the transfer and novation of the contracts of insurance. A policyholder electing to reject the assumption transaction shall return to the transferring insurer the preaddressed, postage-paid response card or other written notice and indicate on the response card that the assumption is rejected.

2. Payment of premium. Payment of the next premium to the assuming company after notice is received is determined to indicate the policyholder's acceptance of the transfer to the assuming insurer and a novation is determined to have been effected if the premium notice clearly states that payment of the premium to the assuming insurer constitutes acceptance of the transfer. The premium notice must also provide a method for the policyholder to pay the premium while reserving the right to reject the transfer. With respect to a home service business not using premium notices, the disclosures and procedural requirements of this subsection are to be set forth in the notice of transfer required by section 763, subsection 1, paragraph A and in the assumption certificate.

3. Additional notice. No fewer than 24 months after the mailing of the initial notice of transfer required under section 763, if positive consent to the transfer and assumption has not been received or consent has not been determined to have occurred under subsection 1, the transferring company shall send to the policyholder a 2nd and final notice of transfer as specified in section 763, subsection 1. If the policyholder does not reject the transfer during the one-month period immediately following the date on which the transferring insurer mailed the 2nd and final notice of transfer, the policyholder's consent is determined to have occurred and novation of the contract is effected. With respect to the home service business, the 24 and one-month periods must be measured from the date of delivery of the notice of transfer pursuant to section 763, subsection 1, paragraph A.

4. Response cards. The transferring insurer is deemed to have received the response card on the date

it is postmarked. A policyholder may also send a response card by facsimile or other electronic transmission or by registered mail, express delivery or courier service, in which case the response card is determined to have been received by the assuming insurer on the date of actual receipt by the transferring insurer.

§765. Effect of consent by the policyholder

If a policyholder consents to the transfer pursuant to section 764 or if the transfer is effected under section 766, there is a novation of the contract of insurance subject to the assumption reinsurance agreement with the result that the transferring insurer is relieved of all insurance obligations or risks transferred under the assumption reinsurance agreement and the assuming insurer is directly and solely liable to the policyholder for those insurance obligations or risks.

§766. Authority of the insurance regulatory official

1. Transfer in the best interest of the policyholders. If an insurer domiciled in this State or in a jurisdiction having a substantially similar law is determined by the domiciliary insurance regulatory official to be in hazardous financial condition or an administrative proceeding has been instituted against it for the purpose of reorganizing or conserving the insurer, and the transfer of the contracts of insurance is in the best interest of the policyholders, as determined by the domiciliary insurance regulatory official, a transfer and novation may be effected notwithstanding the provisions of this subchapter. This may include a form of implied consent and adequate notification to the policyholder of the circumstances requiring the transfer as approved by the insurance regulatory official.

2. Protection. Notwithstanding any other provision of law, in the event that a transfer and novation is effected by a decision of a domiciliary insurance regulatory official under this section, the residents of this State whose policies are transferred to an unlicensed insurer are entitled to full protection under chapter 57, subchapter III and chapter 62.

See title page for effective date.

CHAPTER 604

H.P. 973 - L.D. 1304

**An Act Concerning
Commercial Divers**

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

Whereas, commercial diving is an inherently dangerous activity; and

Whereas, 4 fatalities occurred in the State in 1993 directly related to the commercial harvesting of marine organisms; and

Whereas, existing marine resource laws do not require that divers engaged in the commercial harvesting of marine organisms obtain any underwater safety training prior to obtaining a license for commercial handharvesting of marine organisms; 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 c. 621, sub-c. II, art. 1-A is enacted to read:

Article 1-A

Commercial Underwater Handharvesting Safety

§6531. Licenses

The commissioner may not issue a handfishing scallop license under section 6701 or a handfishing sea urchin license under section 6748 to any person for calendar year 1995 or later unless:

1. Completion of competency course. That person successfully completes a commercial underwater handharvesting competency course offered under section 6532; or

2. Grandfathered. The commissioner determines that that person meets the grandfather provisions of section 6534.

§6532. Commercial underwater handharvesting competency

By August 15, 1994, the commissioner shall establish a competency training course for individuals engaged in commercial underwater handharvesting activities. The course may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the course.

1. Enrollment prerequisite. A person is not eligible for enrollment in a course offered under this section unless that person possesses a valid open water diving certification. For the purposes of this article, the term "open water diving certification" means a diving certificate issued by a SCUBA training course meeting or exceeding the basic SCUBA training standards established by the American National Standards Institute.

2. Equipment requirements. Each person in the course must have a mask, a snorkel, fins, a buoyancy compensator jacket with low pressure inflator, an air tank and regulator, a pressure gauge, a weight belt and sufficient weights and a properly fitting wet or dry suit. The student provides that equipment if the equipment is not provided by the instructor.

3. Recovery of costs; department. For any course taught by the department, the commissioner shall set an enrollment fee sufficient to recover all costs incurred by the department in teaching the course.

4. Prescribing the course. In establishing the course, the commissioner may:

A. Prescribe the qualifications of instructors and impose on instructors any minimum insurance liability requirements considered necessary by the commissioner;

B. Prescribe the course content and the method of instruction, including the time and place of examinations; and

C. Establish standards for certifying the commercial underwater handharvesting competency of individuals who successfully complete the course.

5. Allowance for waivers. The commissioner may waive any component of a course offered under this section for a person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of competency for that component that is at least equal to the level of competency necessary to successfully complete the course. It is the responsibility of the person seeking a waiver under this subsection to make that request in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.

§6533. Training required for tender's license

The commissioner may not issue a sea urchin boat tender license under section 6748-B to any person for calendar year 1995 or later unless that person

has attended a safety training session offered under this section.

1. Tender safety training session. By August 15, 1994, the commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin boat tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins. For any training session taught by the department, the commissioner shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.

2. Allowance for waivers. The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the session. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.

§6534. Grandfathered harvesters

A person is grandfathered for the purposes of section 6531, subsection 2 if the commissioner determines that that person:

1. Prior license holder. Possessed a scallop or urchin handharvesting license in 1992, 1993 and 1994; and

2. Seminar. Attends a classroom seminar on safe sea urchin handharvesting practices conducted or approved by the department.

Sec. 2. Task force; public meeting. The Commissioner of Marine Resources shall hold at least one public meeting for the purpose of receiving comments from the public on the content of a commercial underwater handharvesting competency course required under the Maine Revised Statutes, Title 12, section 6532. To assist and advise the commissioner in the development of that course, the commissioner may select and convene a panel of experts, who shall advise the commissioner on the content of the curriculum.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Patrol

All Other	\$5,000
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Provides for the allocation of funds to cover the costs of offering certain educational programs pertaining to commercial divers.

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

Effective April, 7, 1994.

CHAPTER 605

S.P. 482 - L.D. 1480

An Act to Reduce Energy Costs and Improve the State's Indoor Air Quality

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

Sec. 1. 30-A MRSA §5953-C is enacted to read:

§5953-C. Loans for energy efficiency improvements in municipal and school buildings

This section establishes a program to promote energy efficiency and indoor air quality in municipal and school buildings.

1. Efficiency Partners Program. The bank shall establish the Efficiency Partners Program designed to reduce energy costs in municipal and school buildings and to create jobs by financing cost-effective improvements that accomplish energy efficiency while maintaining healthful indoor air quality. The bank shall issue a request for proposals for energy savings that could be achieved through cost-effective improvements to heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-