

# MAINE STATE LEGISLATURE

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

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

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**  
**1995**

C. Enters any place from which that person may lawfully be excluded and that is posted in a ~~manner prescribed by law~~ accordance with subsection 4 or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders;

**Sec. 2. 17-A MRSA §402, sub-§4** is enacted to read:

**4.** For the purposes of subsection 1, paragraph C, property is posted if it is marked with signs or paint in compliance with this subsection. Any posted sign or paint marking actually seen by an intruder is presumed to be posted in a manner reasonably likely to come to the attention of intruders.

A. Signs must indicate that access is prohibited, that access is prohibited without permission of the landowner or the landowner's agent, or that access for a particular purpose is prohibited.

B. Paint markings mean that access is prohibited without permission of the landowner or the landowner's agent. Paint markings must consist of 2 painted horizontal lines per tree, post or other object.

(1) Each line must be a minimum of 2 inches high and at least as long as the width of the object, but need not be more than 8 inches long.

(2) Lines must be painted on the side of the tree, post or other object that is visible to a person approaching the restricted property and must be painted within an area 3 feet to 6 feet above ground level.

(3) The paint must be silver or aluminum colored.

C. Signs or paint must mark the property at intervals no greater than 100 feet and at all vehicular access entries from a public road.

D. Signs or paint markings are required only on the portion of the property where access is prohibited or limited. Signs or paint posted in accordance with this section have no effect on boundaries of property and do not constitute claims of possession or adverse use in accordance with state law.

E. A person commits criminal mischief and is subject to prosecution under section 806 if that person, without permission of the owner or owner's agent:

(1) Knowingly posts the property of another with a sign or paint mark indicating

that access is prohibited, that access is prohibited without permission or that access for a particular purpose is prohibited; or

(2) Removes, mutilates, defaces or destroys a sign or paint mark placed for purposes of this section.

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders.

**Sec. 3. 17-A MRSA §404, sub-§1**, as enacted by PL 1975, c. 499, §1, is amended to read:

1. A person is guilty of trespass by motor vehicle if, knowing that ~~he~~ that person has no right to do so, ~~he~~ that person intentionally or knowingly permits a motor vehicle belonging to ~~him~~ that person or subject to ~~his~~ that person's control to enter or remain in or on:

- A. The residential property of another; ~~or~~
- B. The nonresidential property of another for a continuous period in excess of 24 hours; ~~or~~
- C. The nonresidential property of another that is:

(1) Posted in accordance with section 402, subsection 4;

(2) Posted to prohibit access by motor vehicles; or

(3) Posted in a manner reasonably likely to come to the attention of intruders.

For purposes of this paragraph, property is posted to prohibit access by motor vehicles if the property owner or the owner's agent has posted the property boundaries at points where they are crossed by roads or trails with signs indicating that motor vehicle access is prohibited or with paint markings that comply with section 402, subsection 4, paragraph B.

See title page for effective date.

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**CHAPTER 530**

**S.P. 655 - L.D. 1715**

**An Act to Create a Scallop Diving Tender License**

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

**Sec. 1. 12 MRSA §6535, sub-§§1 and 2**, as enacted by PL 1995, c. 392, §2, are amended to read:

**1. License required.** It is unlawful for a person to operate a boat as a platform for the harvesting of sea urchins and scallops by hand, to act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand or to possess, strip, transport or sell scallops or sea urchins unless that person is licensed under this section, section 6701 or section 6748.

**2. Licensed activity.** A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops.

**Sec. 2. 12 MRSA §6536** is enacted to read:

**§6536. Scallop diving tender license**

**1. License required.** It is unlawful for a person to operate a boat as a platform for the harvesting of scallops by hand, to act as a diving tender on a boat engaged as a platform for the harvesting of scallops by hand or to possess, ship, transport or sell scallops unless that person is licensed under this section, section 6535, section 6701 or section 6748.

**2. Licensed activity.** A person licensed under this section may tend divers who harvest scallops by hand and operate a boat as a platform for the harvesting of scallops by hand and may possess, ship, transport and sell scallops. A scallop diving tender license does not authorize the holder to harvest scallops.

**3. Eligibility.** A scallop diving tender license may be issued only to an individual and is a resident license.

**4. Fee.** The fee for a scallop diving tender license is \$89.

**5. Prima facie evidence.** The failure of at least one person on board the boat operated as a platform during periods of diving to harvest scallops to have a license issued under section 6701 is prima facie evidence of a violation of this section.

See title page for effective date.

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**CHAPTER 531**

**S.P. 657 - L.D. 1717**

**An Act Allowing Towns to Form  
Regional Shellfish Management  
Committees**

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

**Whereas,** Maine's shellfish resource provides important economic and recreational benefits to the citizens of the State; and

**Whereas,** management of Maine's shellfish resource benefits from municipalities joining together to undertake programs over a wide area; and

**Whereas,** several Maine municipalities are in the process of joining in regional shellfish management efforts; 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 §6671, sub-§2,** as amended by PL 1983, c. 838, §2, is further amended to read:

**2. Municipal program and ordinance.** Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance regulating the possession of shellfish in any area of the municipality as provided by this section. A municipal shellfish management committee comprised of residents of that municipality may be established to administer a municipal program.

**Sec. 2. 12 MRSA §6671, sub-§3-A, ¶F,** as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

F. When 2 or more municipalities have entered into ~~an agreement with one another for joint or cooperative action under this subsection~~ a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities ~~shall~~ must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license ~~shall~~ must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses ~~shall~~ are not be required.