

# MAINE STATE LEGISLATURE

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

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

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**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**  
**1997**

**CHAPTER 88****H.P. 31 - L.D. 56****An Act to Increase the Fee That May Be Assessed against a Prisoner to Help Defray the Costs of Incarceration**

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

**Sec. 1.** 17-A MRSA §1341, sub-§1, as amended by PL 1989, c. 375, is further amended to read:

**1. Assessment.** When a person is sentenced to incarceration in a county jail, the sentencing court shall consider and may assess as part of the sentence a reimbursement fee to help defray the expenses of the offender's room and board. The fee may not exceed the cost of incarcerating the offender or \$20 \$80 per day, whichever is less. Any reimbursement fee assessed ~~shall~~ must be collected by the county treasurer of the county in which the offender is incarcerated, paid into the treasury of that county and credited to the county responsible for paying for the incarceration of the offender.

See title page for effective date.

**CHAPTER 89****H.P. 63 - L.D. 88****An Act to Clarify That a Town's Mooring Ordinance May Grandfather Existing Commercial or Noncommercial Moorings**

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

**Sec. 1.** 38 MRSA §7, as repealed and replaced by PL 1987, c. 655, §5, is amended to read:

**§7. Relation to other laws**

Nothing in this subchapter may be construed to be a limitation on the authority of municipalities to enact ordinances to regulate the assignment or placement of moorings and other activities in their harbors. These ordinances may include, but ~~need~~ are not ~~be~~ limited to: A process for assigning mooring privileges and determining the location of moorings; a waiting list for the assignment of mooring privileges; a fee schedule; construction standards for moorings; time limits on the mooring of vessels; a process for appeals from decisions of the harbor master; provisions that recognize that mooring privileges in lawful

existence on the effective date of an ordinance may be preserved or continued after adoption of that ordinance, the location and use to be determined by the harbor master or other appropriate local authority; and provisions which that establish a harbor commission or committee to administer the ordinance or ordinances and oversee the duties of the harbor master. Regulations adopted by the municipal officers under section 2 shall remain in effect unless the municipality's legislative body enacts an ordinance pertaining to the same matter pursuant to the Constitution of Maine, Article VIII, Part 2, and Title 30 30-A, section 4917 3001.

See title page for effective date.

**CHAPTER 90****H.P. 96 - L.D. 120****An Act to Transfer the Authority for Fixed Assets Inventory**

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

**Sec. 1.** 5 MRSA §1541, sub-§14 is enacted to read:

**14. Fixed assets.** To maintain an official state-wide system for fixed assets for all state agencies to update and reconcile annually.

**Sec. 2.** 5 MRSA §1742, sub-§10 is repealed.

See title page for effective date.

**CHAPTER 91****H.P. 289 - L.D. 353****An Act to Improve Management in the Elver Fishery**

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

**Sec. 1.** 12 MRSA §6001, sub-§13-G, as enacted by PL 1995, c. 536, Pt. A, §1, is amended to read:

**13-G. Elver fyke net.** "Elver fyke net" means a fyke net that is 30 feet or less in length from cod end to ~~shore side either wing tip and that~~, is fitted with netting that measures 1/8 inch ~~bar~~ square measure or less and that contains a 1/2-inch bar mesh excluder panel that covers the entrance of the net.

**Sec. 2. 12 MRSA §6001, sub-§13-H** is enacted to read:

**13-H. Elver dip net.** "Elver dip net" means a dip net fitted with netting that measures 1/8 inch bar mesh or less.

**Sec. 3. 12 MRSA §6001, sub-§40-A**, as enacted by PL 1995, c. 536, Pt. A, §4, is amended to read:

**40-A. Sheldon eel trap.** "Sheldon eel trap" means a box trap with a netted wing 10 feet or less in length used to intercept and direct elvers into the trap.

**Sec. 4. 12 MRSA §6575, sub-§4** is enacted to read:

**4. Nets of certain sizes.** It is unlawful for a person to immerse or leave immersed in the coastal waters of the State a fyke net, Sheldon eel trap or dip net fitted with netting that measures 1/8 inch bar mesh or less from midnight of June 15th to noon of March 15th of the following year.

**Sec. 5. 12 MRSA §6575-B, sub-§3**, as enacted by PL 1995, c. 536, Pt. A, §9, is amended to read:

**3. Rebuttable presumption.** It is a rebuttable presumption that an elver fyke net ~~or a~~ Sheldon eel trap ~~or elver dip net~~ immersed in any ~~river, stream or brook of the~~ coastal waters of the State from noon of March 15th to midnight of June 15th is immersed for the purpose of fishing for or taking elvers.

**Sec. 6. 12 MRSA §6575-C, sub-§3**, as enacted by PL 1995, c. 536, Pt. A, §9, is amended to read:

**3. Portion of rivers, streams and brooks.** It is unlawful for a person to fish for or take elvers at any time within the middle 1/3 of a river, stream ~~or brook~~ or other watercourse, as measured at mean ~~high~~ low tide, within the coastal waters of the State.

See title page for effective date.

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**CHAPTER 92**

**S.P. 171 - L.D. 500**

**An Act to Protect Near-shore  
Groundfish Spawning Areas**

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

**Sec. 1. 12 MRSA §6572** is enacted to read:

**§6572. Identification of groundfish spawning areas**

**1. Spawning areas for certain species.** By January 1, 1998, the commissioner shall by rule identify the location of all coastal waters that serve as spawning areas for cod, haddock or yellowtail flounder and the dates during which those spawning activities occur in each area. In determining the coastal spawning areas for cod, haddock and yellowtail flounder, the commissioner shall solicit information on the State's historic coastal groundfish spawning areas from persons who participate in, or are otherwise knowledgeable about, commercial and recreational coastal marine fisheries. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**2. Report.** The commissioner shall by March 15, 2003 report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on areas identified as spawning areas for cod, haddock or yellowtail flounder and any actions taken by the commissioner regarding those spawning areas.

**3. Repeal of authority.** After June 30, 2003, the commissioner may not designate spawning areas for cod, haddock or yellowtail flounder.

See title page for effective date.

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**CHAPTER 93**

**H.P. 361 - L.D. 506**

**An Act to Provide Authority to Close  
Marine Waters to Fishing in the  
Event of Contamination**

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

**Sec. 1. 12 MRSA §6172, sub-§1-A** is enacted to read:

**1-A. Federal waters.** The commissioner may adopt rules establishing standards for closing waters under the jurisdiction of the Federal Government to the harvesting of a marine organism that the commissioner determines is or may become contaminated or polluted. The commissioner may, in accordance with standards adopted under this subsection, by rule close waters under the jurisdiction of the Federal Government to the harvesting of a marine organism when the commissioner determines the organism is or may become contaminated or polluted. Rules adopted pursuant to this subsection must be in conformance with applicable federal law and regulations. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.