

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**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**

A. An eligible supplemental environmental project is limited to the following categories:

- (1) Pollution prevention projects that eliminate all or a significant portion of pollutants at the point of generation;
- (2) Pollution reduction projects that significantly decrease the release of pollutants into a waste stream at the point of discharge to a point significantly beyond levels required for compliance;
- (3) Environmental enhancement projects in the same ecosystem or geographic area of the violation that significantly improve an area beyond what is required to remediate any damage caused by the violation that is the subject of the enforcement action;
- (4) Environmental awareness projects substantially related to the violation that provide training, publications or technical support to members of the public regulated by the department;
- (5) Scientific research and data collection projects that advance the scientific basis on which regulatory decisions are made;
- (6) Emergency planning and preparedness projects that assist state or local emergency response and planning entities in preparing or responding to emergencies; and
- (7) Public health projects that provide a direct and measurable benefit to public health.

B. Supplemental environmental projects may not be used for the following situations:

- (1) Repeat violations of the same or a substantially similar law administered by the department by the same person;
- (2) When a project is required by law;
- (3) If the violator had previously planned and budgeted for the project;
- (4) To offset any calculable economic benefit of noncompliance;
- (5) If the violation is the result of reckless or intentional conduct; or
- (6) If the project primarily benefits the violator.

Any settlement that includes a supplemental environmental project must provide that expendi-

tures are not tax deductible and are ineligible for certification as tax exempt pollution control facilities pursuant to Title 36, chapters 105 and 211.

See title page for effective date.

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## CHAPTER 571

S.P. 750 - L.D. 2028

### **An Act to Clarify the Authority of the Chief of the Bureau of Liquor Enforcement to Conduct Appeal Hearings**

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

**Sec. 1. 28-A MRSA §82, sub-§5**, as enacted by PL 1997, c. 373, §28, is amended to read:

**5. Appeals.** Review all appeals from the decisions of municipal officers. ~~The bureau shall~~ chief may conduct appeal hearings or appoint a hearings officer to conduct appeal hearings. Except as provided in section 805, the decision of the chief is final. ~~The hearings officer for the bureau is the Director of the Liquor Licensing and Tax Division.~~

The ~~chief or the~~ hearings officer may conduct hearings in any licensing matter pending before the bureau. ~~The~~ If a hearings officer conducts the hearing, the ~~hearings officer~~ hearings officer, after holding the hearing, shall file with the bureau all papers connected with the case and report the findings to the chief. The chief shall render a final decision based upon the record of the hearing.

The ~~chief or the~~ hearings officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

See title page for effective date.

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## CHAPTER 572

S.P. 733 - L.D. 2011

### **An Act to Correct Certain Inconsistencies in the Marine Resources Laws**

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

**Sec. 1. 12 MRSA §6462-A, sub-§2**, as enacted by PL 1997, c. 208, §3, is amended to read:

**2. Term.** ~~Members~~ The term for a member who represents a lobster management policy council is coterminous with that person's term on that policy council. All other members serve for terms of 3 years, except that a vacancy must be filled by the commissioner for the unexpired portion of the term. A vacancy for a member representing a lobster management policy council must be appointed by that policy council using procedures defined in subsection 1. Members continue to serve until their successors are appointed.

**Sec. 2. 12 MRSA §6702, sub-§2**, as enacted by PL 1983, c. 663, §2, is amended to read:

**2. Licensed activity.** A boat licensed under this section may be used for dragging for scallops and to possess, ship, sell or transport scallops taken under the license. The license ~~shall also authorize~~ authorizes the captain and crew members aboard the licensed boat when engaged in dragging for scallops to undertake these activities.

See title page for effective date.

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**CHAPTER 573**

**H.P. 1458 - L.D. 2049**

**An Act to Restore the Managing General Agents Act**

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

**Whereas**, the Managing General Agents Act was erroneously repealed from Maine law during the last legislative session; and

**Whereas**, the enactment of substantively similar law is required in order for the Bureau of Insurance to maintain accreditation with the National Association of Insurance Commissioners (NAIC); and

**Whereas**, in order for the Bureau of Insurance to maintain that accreditation it is necessary to enact this law on a retroactive basis; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. 24-A MRSA c. 16, sub-c. VIII** is enacted to read:

**SUBCHAPTER VIII**

**MANAGING GENERAL AGENTS**

**§1491. Short title**

This subchapter may be known and cited as the "Managing General Agents Act."

**§1492. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Actuary.** "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

**2. Insurer.** "Insurer" means a person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance who holds an existing certificate of authority to transact insurance in this State pursuant to section 404.

**3. Managing general agent or MGA.** "Managing general agent" or "MGA" means a person who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department or underwriting office, and acts as a producer for the insurer, whether known as a managing general agent, manager or other similar term; and who, with or without the authority, either separately or together with affiliates, directly or indirectly, produces and underwrites an amount of gross direct written premium equal to or more than 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter of the year following the last annual statement and adjusts or pays claims in excess of an amount determined by the superintendent or negotiates reinsurance on behalf of the insurer, or both. The term does not include:

A. An employee of the insurer;

B. A manager of a branch of an alien insurer that is located in the United States;

C. An underwriting manager who, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control