

# 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**

Provides funds for one Detective position, one Clerk Typist III position and 2 Public Safety Inspector I positions to provide additional assistance in the enforcement and administration of beano and games of chance activities.

**DEPARTMENT OF PUBLIC SAFETY**  
**TOTAL**

\$265,559

See title page for effective date.

**CHAPTER 685**

**H.P. 1547 - L.D. 2176**

**An Act Concerning Sea Urchin Management**

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

**Sec. 1. 12 MRSA §6749-N, first ¶**, as enacted by PL 1993, c. 740, §3, is amended to read:

Notwithstanding section 6749, ~~in calendar years 1995, 1996, 1997 and 1998~~, it is unlawful for a person to fish for or take sea urchins from:

**Sec. 2. 12 MRSA §6749-O, sub-§§1 and 2**, as amended by PL 1995, c. 595, §3, are further amended to read:

**1. Handfishing and dragging licenses.** Except as provided in subsections 3 and 4, the commissioner may not issue a handfishing sea urchin license or a sea urchin dragging license for calendar year 1994, 1995, 1996, 1997 or 1998 to any person unless that person possessed that license in the previous calendar year. This subsection is repealed December 31, 1998.

**2. Hand-raking and trapping license.** Except as provided in subsections 3 and 4, the commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1996 to any person unless that person possessed either a handfishing sea urchin license or a sea urchin dragging license in calendar year 1995. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1997 or 1998 to any person unless that person possessed a sea urchin hand-raking and trapping license in the previous calendar year. A person who is issued a sea urchin hand-raking and trapping license may not be issued a handfishing sea urchin license or a sea urchin dragging license in the same calendar year. This subsection is repealed December 31, 1998.

**Sec. 3. 12 MRSA §6749-O, sub-§§2-A and 2-B** are enacted to read:

**2-A. License eligibility.** The commissioner may not issue a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license to any person for calendar year 1999, 2000 or 2001 unless that person possessed that license in the previous calendar year or becomes eligible to obtain that license pursuant to a lottery under subsection 2-B.

**2-B. Sea urchin license lottery.** The commissioner shall establish by rule a lottery system under which a person who did not hold a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license in the previous calendar year may become eligible to obtain that license in calendar year 1999, 2000 or 2001 for use in a zone established pursuant to section 6749-N. The rules for a lottery system must include provisions for the method and administration of a lottery. The rules may include provisions for a method under which a person may submit more than one entry in a lottery based on the prior calendar years a person held a license that qualify that person for a lottery. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

A. Pursuant to section 6749-P, all licenses issued to a person in a calendar year must be for use in the same zone.

B. A person may not enter more than one license lottery during a calendar year.

C. A person is eligible to enter a lottery for a handfishing sea urchin license and a sea urchin hand-raking and trapping license if that person held in the previous calendar year a sea urchin and scallop diving tender license issued under section 6535 that was valid for more than 30 days or if that person held in the previous calendar year a handfishing scallop license issued under section 6701.

D. A person is eligible to enter a lottery for a sea urchin dragging license if that person held in the previous calendar year a commercial fishing license issued under section 6501, a scallop boat license issued under section 6702, a mahogany quahog license issued under section 6731 or a mussel boat license issued under section 6746.

E. Except as provided in paragraph F, the number of persons awarded eligibility in a lottery for a handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license in a zone must be in accordance with the exit ratio for that license in that zone.

For the purposes of this paragraph, "exit ratio" means that one person may be awarded eligibility in a license lottery for every 5 persons who held that license in the year prior to the previous calendar year but who did not renew that license in the previous calendar year.

F. The commissioner may hold a combined lottery for sea urchin handfishing licenses and sea urchin hand-raking and trapping licenses in a zone if the exit ratio for those licenses in that zone is reached. For the purposes of this paragraph, "exit ratio" means that one person may be awarded eligibility in a lottery to obtain either a sea urchin handfishing license or a sea urchin hand-raking and trapping license for every 5 persons who held a sea urchin handfishing license or a sea urchin hand-raking and trapping license in the year prior to the previous calendar year but who did not renew the license in the previous calendar year.

**Sec. 4. 12 MRSA §6749-P**, as amended by PL 1995, c. 595, §4, is further amended to read:

**§6749-P. Licenses by zone**

For calendar years 1995, 1996, 1997 and 1998, a A person eligible to purchase a license under section 6749-O may purchase those licenses only for Zone 1 or Zone 2. All of those licenses issued to any one person in any one year must be for the same zone. In calendar years 1997 and 1998, a A person may not change from the zone in which the person harvested sea urchins in the previous calendar year unless the change is authorized in accordance with section 6749-Z. A handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license authorizes the licensed activity only in the zone for which it is issued. A sea urchin dragging license must list the documentation or registration number of the vessel to be used by that licensee when dragging. A vessel documentation number or registration number may not be listed on more than one sea urchin boat license.

**Sec. 5. 12 MRSA §6749-Q, first ¶**, as amended by PL 1997, c. 177, §1, is further amended to read:

The following surcharges are assessed on licenses sold for calendar years ~~1995, 1996, 1997 and 1998, 1999, 2000 and 2001~~:

**Sec. 6. 12 MRSA §6749-R, sub-§1**, as amended by PL 1997, c. 177, §2, is further amended to read:

**1. Uses of the fund.** The commissioner shall use the fund for research directly related to sea urchin fishery management information needs and for

reporting to licensed sea urchin harvesters, boat tenders, processors and buyers on the results of research and the use of fund revenues. The purpose of that research must be to determine, with the highest reliability possible given available resources, the greatest level of effort that may be applied to the sea urchin fishery without harming the long-term economic and biological sustainability of the sea urchin fishery. The commissioner shall consult with the Sea Urchin Zone Council under section 6749-X before deciding upon research projects and awarding grants from the fund. The fund may also be used for personnel services for enforcement. Up to 30% of allotted revenues may be used for personnel services for enforcement purposes.

**Sec. 7. 12 MRSA §6749-T**, as enacted by PL 1993, c. 740, §3, is amended to read:

**§6749-T. Repeal**

This article is repealed on January 1, ~~1999~~ 2002.

**Sec. 8. 12 MRSA §6749-W, sub-§3**, as amended by PL 1997, c. 177, §5, is repealed.

**Sec. 9. 12 MRSA §6749-W, sub-§§3-A and 3-B** are enacted to read:

**3-A. Designation of handfishing, raking, trapping open days; Zone 2.** The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish the following 2 seasons within that area designated Zone 2 under section 6749-N, subsection 2 for the harvesting of sea urchins by hand, trap or rake:

A. Up to 170 days between August 1st and March 30th of the following calendar year; and

B. Up to 170 days between November 1st and April 30th of the following calendar year.

The commissioner is not required to designate days under paragraphs A and B in consecutive order. A person who holds a handfishing sea urchin license or a sea urchin hand-raking and trapping license for Zone 2 may not harvest sea urchins in Zone 2 unless that person certifies on forms provided by the commissioner that one of the 2 time periods established under this subsection is the time period in which that person will fish for or take sea urchins. A person who has certified a time period under this section may, between May 1st and July 30th, certify the other time period as the time period in which that person will fish for or take sea urchins.

**3-B. Designation of dragging open days; Zone 2.** The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish the following 2 seasons within that area

designated Zone 2 under section 6749-N, subsection 2 for the harvesting of sea urchins by drag or any combination of drags:

A. Up to 170 days between October 1st and March 30th of the following calendar year; and

B. Up to 170 days between November 1st and April 30th of the following calendar year.

The commissioner is not required to designate days under paragraphs A and B in consecutive order. A person who holds a sea urchin dragging license for Zone 2 may not harvest sea urchins in Zone 2 unless that person certifies on forms provided by the commissioner that one of the 2 time periods designated under this subsection is the time period in which that person will fish for or take sea urchins. A person who has certified a time period under this section may, between May 1st and September 30th, certify the other time period as the time period in which that person will fish for or take sea urchins.

**Sec. 10. 12 MRSA §6749-X, sub-§1,** as enacted by PL 1995, c. 595, §5, is amended to read:

**1. Appointment; composition.** The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of ~~48~~ 19 members. The commissioner shall appoint the members as follows:

A. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 1;

B. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 2;

C. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 1;

D. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 2;

E. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 1;

F. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 2;

G. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 1;

H. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin

buyer's permit and whose base of operation is located in Zone 2; ~~and~~

I. Two scientists who have expertise in marine resources management; ~~and~~

J. One sea urchin harvester who holds a current boat tender's license.

In making appointments under paragraphs A, B, C and D, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

**Sec. 11. 12 MRSA §6749-X, sub-§3, ¶¶B and C,** as enacted by PL 1997, c. 177, §7, are amended to read:

B. Research projects and grants funded by the Sea Urchin Research Fund under section 6749-R; ~~and~~

C. Other matters of interest to the sea urchin fishery; ~~and~~

**Sec. 12. 12 MRSA §6749-X, sub-§3, ¶D** is enacted to read:

D. The ratio of the number of new licenses issued to the number of the licenses not renewed.

**Sec. 13. 12 MRSA §6749-Z,** as enacted by PL 1995, c. 595, §5, is amended by repealing and replacing the headnote to read:

**§6749-Z. Changing zones**

**Sec. 14. Report; 1999.** The Commissioner of Marine Resources, in consultation with the Sea Urchin Zone Council, shall by January 15, 1999 report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the designation of zones to manage the sea urchin resource, the feasibility, practicability and methods of electing members to the Sea Urchin Zone Council, the establishment of separate councils for each sea urchin zone and any other matter of interest regarding the management and conservation of sea urchins. The joint standing committee of the Legislature having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 119th Legislature regarding the licensing of sea urchin harvesters or the State's regulation of the sea urchin resource.

**Sec. 15. Report; 2001.** The Commissioner of Marine Resources, in consultation with the Sea Urchin Zone Council, shall by January 15, 2001 report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the operations of the sea urchin license lottery system. The joint standing committee of the Legislature

having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 120th Legislature regarding the sea urchin license lottery system, the licensing of sea urchin harvesters or the State's regulation of the sea urchin resource.

**Sec. 16. Allocation.** The following funds are allocated from the Sea Urchin Research Fund to carry out the purposes of this Act.

1998-99

**MARINE RESOURCES,  
DEPARTMENT OF**

**Bureau of Marine Patrol**

Personal Services \$30,000

Allocates funds needed for the costs of an increased number of enforcement overtime hours.

See title page for effective date.

**CHAPTER 686**

**S.P. 714 - L.D. 1960**

**An Act to Amend and Clarify Laws  
Concerning Nuclear Safety**

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

**Whereas,** there is an immediate need for adequate funding for state activities related to the decommissioning of the Maine Yankee Nuclear Power Plant; 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. 22 MRSA §565-A,** as enacted by PL 1993, c. 664, §5, is amended to read:

**§565-A. Coordination with State Radiation Control Agency**

The Health and Environmental Testing Laboratory shall provide laboratory services for environ-

mental testing and analysis as necessary to implement the radiation protection services of the department conducted pursuant to section 680, subsection 2, paragraph D. Each ~~nuclear power plant facility~~, as defined in section 662, shall pay a fee to the Health and Environmental Testing Laboratory to the special revenue account established in section 568 to carry out the purposes of this section. The fee is \$90,000 annually except that for fiscal year 1997-98 the fee is \$122,000.

**Sec. 2. 22 MRSA §661,** as amended by PL 1991, c. 824, Pt. A, §40, is further amended to read:

**§661. Public policy**

In the interests of the public health and welfare of the people of this State, it is the declared public policy of this State that ~~the operation of nuclear power facilities~~ a facility licensed to operate by the United States Nuclear Regulatory Commission and situated in the State must be accomplished in a manner consistent with protection of the public health and safety and in compliance with the environmental protection policies of this State. It is the purpose of this chapter, in conjunction with sections 671 to 690; Title 25, sections 51 and 52; ~~Title 37-B, chapter 17;~~ and Title 35-A, sections 4331 to 4393; and Title 37-B, chapter 17, to exercise the jurisdiction of the State to the maximum extent permitted by the United States Constitution and federal law and to establish in cooperation with the Federal Government a State Nuclear Safety Inspector Program for the on-site monitoring, regulatory review and oversight of ~~the operations of commercial nuclear power facilities~~ a facility within the State that ~~hold an operating~~ holds a license issued by the United States Nuclear Regulatory Commission. Nothing in this chapter may be construed as an attempt by the State to regulate radiological health and safety reserved to the Federal Government by reason of the United States Atomic Energy Act of 1954, as amended.

**Sec. 3. 22 MRSA §662, sub-§1,** as enacted by PL 1987, c. 519, §1, is amended to read:

**1. Facility.** A "~~commercial nuclear power facility~~" or "facility" means a production or utilization facility situated in this State ~~which that~~ holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

**Sec. 4. 22 MRSA §663, sub-§2,** as enacted by PL 1987, c. 519, §1, is amended to read: