

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

Fund are scheduled to be repealed on July 1, 1999; and

Whereas, this legislation repeals those repeal dates; 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 §6073-A, as enacted by PL 1991, c. 381, §5, is amended to read:

§6073-A. Minimum size exemption; aquaculture

The holder of a lease issued under section 6072, 6072-A or 6072-B is exempt from any requirement regarding the minimum or maximum length or other minimum or maximum size requirement for ~~fish~~ any marine organism cultivated on the leased area. The exemption applies only to those organisms actually cultivated on the leased area. The commissioner shall require a system of identification of organisms exempted under this section.

Sec. 2. 12 MRSA §6074, sub-§1, ¶A, as repealed and replaced by PL 1983, c. 662, §2, is repealed.

Sec. 3. 12 MRSA §6074, sub-§1, ¶B is enacted to read:

B. Any species grown in a hatchery for stock enhancement or resale for purposes of cultivation or stock enhancement.

Sec. 4. 12 MRSA §6078, sub-§9, as amended by PL 1997, c. 189, §1, is repealed.

Sec. 5. 12 MRSA §6080, sub-§6, as amended by PL 1997, c. 189, §2, is repealed.

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

Effective May 12, 1999.

CHAPTER 157

S.P. 383 - L.D. 1162

An Act to Require Legislative Review of Rules Regarding Campaign Report Filing Forms

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

Sec. 1. 21-A MRSA §1017, sub-§6, as amended by PL 1991, c. 839, §19 and affected by §34, is further amended to read:

6. Forms. Reports required by this section must be on forms prescribed, prepared and sent by the commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms.

Rules of the commission establishing campaign report filing forms for candidates are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 158

S.P. 439 - L.D. 1276

An Act Relating to Utilities and Affiliated Interests

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

Sec. 1. 35-A MRSA §713, as enacted by PL 1997, c. 237, §2, is amended to read:

§713. Unregulated business ventures of utilities

A utility may not charge its ratepayers for costs attributable to unregulated business ventures undertaken by the utility or an affiliated interest. The commission shall allocate, between a utility's shareholders and ratepayers, costs for facilities, services or intangibles, including good will or use of a brand name, that are shared between regulated and unregulated business activities. The commission shall also attempt to ensure that the utility or the affiliated interest does not have an ~~undue~~ unfair advantage in any competitive market as a result of its regulated status or its affiliation with a regulated utility.

Complaints by entities competing with a utility or an affiliated interest in an unregulated market, alleging that the utility or affiliated interest has an ~~undue competitive advantage as a result of any relationship with the parent or affiliated regulated utility~~ must be adjudicated by the commission. The commission shall render a decision on any complaint

filed under this section within 9 months of the date of the filing. The commission may dismiss without hearing any complaint that it concludes is clearly intended to harass or delay, is frivolous or is clearly without merit.

A complaint filed under this section must specify, to the extent possible, the nature and extent of the alleged undue competitive advantage and the basis for the belief that a an undue competitive advantage exists. The utility shall respond to the complaint within 10 days of receiving notice from the commission of the complaint. Within 10 days of receiving the utility's response, the commission shall determine whether the complaint is clearly intended to harass or delay, is frivolous or is clearly without merit.

For the purposes of this section, the term "affiliated interest" has the same meaning as in section 707, subsection 1, paragraph A. For the purposes of this section, "undue competitive advantage" means an advantage gained by a violation of the requirements established by the commission by rule pursuant to section 715.

Sec. 2. 35-A MRSA §715, as enacted by PL 1997, c. 237, §2, is amended to read:

§715. Rulemaking

The commission shall adopt rules that prescribe the allocation of costs for facilities, services or intangibles that are shared between regulated and unregulated activities of a utility or an affiliated interest as defined in section 707, subsection 1, paragraph A. Rules adopted by the commission may not establish a presumption with regard to the value of good will used by an affiliated interest in those cases where the business venture of the affiliated interest is regulated by the commission. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 3. Major substantive rule revision. The Public Utilities Commission shall amend its major substantive rule, Chapter 820: Requirements for Non-core Utility Activities and Transactions Between Affiliates, to conform to that section of this Act that amends the Maine Revised Statutes, Title 35-A, section 715. The Public Utilities Commission is not required to hold hearings or conduct other formal proceedings prior to amending its rule to conform to that section of this Act that amends Title 35-A, section 715. Notwithstanding Title 5, chapter 375, subchapter II-A, amending the rule to conform to that section of this Act that amends Title 35-A, section 715 does not require further legislative approval.

See title page for effective date.

CHAPTER 159

S.P. 127 - L.D. 324

An Act to Allow Assistants to Physicians to Perform Certain Tasks outside the Direct Supervision of the Physicians

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

Sec. 1. 32 MRSA §3270-A, first ¶, as amended by PL 1993, c. 600, Pt. A, §205, is further amended to read:

~~Nothing contained in this~~ This chapter may not be construed to prohibit an individual from rendering medical services; if these services are rendered under the supervision and control of a physician or surgeon; and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician. ~~Nothing in this~~ This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the ~~direct~~ control of ~~and in the personal presence of~~ the physician or surgeon who must be present on the premises at the time the activities are performed. The physician delegating these activities to employees, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. ~~Nothing contained in this~~ This section may not be construed to apply to registered nurses acting pursuant to chapter 31.

See title page for effective date.

CHAPTER 160

H.P. 258 - L.D. 362

An Act to Require Written Explanation from the Department of Transportation When a Municipal Request to Change a Speed Limit is Denied

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