

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

adopted pursuant to Title 20-A, section 7727, subsection 4-A.

A parent whose child is receiving services when a pilot project is approved under this section may request that service providers continue to serve the child. The unit shall respond to the request within 14 days; the decision of the unit is final. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over educational matters on the implementation of the pilot projects not later than December 1st in any year in which a pilot project is in operation.

Sec. 12. Adoption of funding formula.

The major substantive rule adopting the funding formula, pursuant to the Maine Revised Statutes, Title 20-A, section 7727, subsection 4-A must be presented by the Department of Education for legislative review in the First Regular Session of the 120th Legislature, except that the Commissioner of Education may adopt by rule a funding formula for each of the state fiscal years 1999-00 and 2000-01 as an emergency rule pursuant to Title 5, section 8073. The commissioner shall report to the Joint Standing Committee on Education and Cultural Affairs by February 15, 2000 on the funding formula for fiscal year 1999-00.

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

Effective May 24, 1999.

CHAPTER 297

S.P. 378 - L.D. 1079

An Act to Establish a Framework for Management of Emerging Fisheries

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

Sec. 1. 12 MRSA §6171-B is enacted to read:

§6171-B. Sustainable development of emerging fisheries

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Emerging fishery" means the commercial fishing for any marine organism, except shrimp, herring and groundfish species, that requires a commercial fishing license issued under section 6501.

B. "Endorsement" means an authorization, identified on a commercial fishing license issued under section 6501, to harvest, possess, transport and sell a specific marine organism for which there is an emerging fishery.

2. Determination of sustainability. The commissioner may investigate conditions affecting marine resources and, with the advice and consent of the Marine Resources Advisory Council, may require a person to hold an endorsement to participate in an emerging fishery if the commissioner determines that a marine organism or its habitat is under increasing pressure that could impact its sustainability. The commissioner shall ensure that emerging fisheries do not develop at a rate that is not sustainable on a long-term basis.

Harvesters involved in an emerging fishery may petition the commissioner to investigate the sustainability of that emerging fishery.

3. Eligibility for endorsements. The commissioner may limit the number of endorsements issued to control the number of individuals engaged in commercial harvesting in an emerging fishery, based on criteria established by rule. The commissioner may require the collection and timely reporting of any biological or environmental data as a condition of the endorsement. The commissioner's authority to limit the number of endorsements issued for a specific marine organism is limited to a period of 3 years from the date of the issue of the first endorsement, renewable for one 3-year extension.

4. Endorsement required. Notwithstanding section 6501, a person may not fish for, take, possess, ship, transport or sell a marine organism for which an endorsement is required pursuant to subsection 2 unless that person holds a current commercial fishing license with an endorsement for that organism, except that a license with an endorsement is not required for that person to fish for, take, possess or transport the organism only for personal use.

A fee may not be charged for an endorsement required pursuant to this section.

5. Incidental harvest. Notwithstanding subsection 4, the taking or possession at sea of a marine organism for which an endorsement is required is not prohibited if the taking is incidental to the harvesting of another organism.

6. Rule-making authority. The commissioner may adopt rules to establish eligibility for endorsements, the number of endorsements issued and reporting requirements. Rules authorized by this section must be adopted and amended in accordance with the procedures outlined in subchapter II and are

routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

7. Report. The commissioner, within 24 months of the issuance of the first endorsement for a marine organism, shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters regarding the status of the emerging fishery, management goals and objectives and control of access to the emerging fishery. In the report, the commissioner shall consider:

A. The long-term sustainability of the resource;

B. The impact of harvesting on other fisheries; and

C. The department's ability to enforce and administer the management program.

See title page for effective date.

CHAPTER 298

H.P. 1442 - L.D. 2063

An Act to Maintain Protection of Sand Dunes Under Existing Law

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

Sec. 1. 38 MRSA §480-E, sub-§9 is enacted to read:

9. Permit; reconstruction in V-Zone. The department may not deny a permit for reconstruction of a structure under this article solely because the structure is located in a V-Zone designated after January 1, 1999 by the Federal Emergency Management Agency for the National Flood Insurance Program. "Reconstruction" includes reconstruction due to an ocean storm.

See title page for effective date.

CHAPTER 299

S.P. 187 - L.D. 580

An Act to Clarify the Voting Rights of Persons Residing in Certain Sanitary Districts

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

Whereas, it is immediately important to secure the voting rights of persons residing in certain sanitary districts; 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. 38 MRSA §1104, sub-§1, as enacted by PL 1981, c. 466, §3, is amended to read:

1. Authorization. All the affairs of a sanitary district ~~shall be~~ are managed by an elected board of trustees which ~~shall consist~~ consists of not less than 3 trustees, or not less than 5 trustees in sanitary districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. The exact number of trustees ~~shall be~~ is determined in accordance with section 1101. A sanitary district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 1101, subsection 7. No municipality ~~nor~~ or unorganized territory within any sanitary district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, all trustees must be residents of the municipality and a majority of the trustees must be residents within the district. A trustee who ceases to qualify for the office of trustee as a result of the application of this subsection shall vacate the office of trustee and the vacancy must be filled as provided in section 1105.

Sec. 2. 38 MRSA §1105, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §214, is further amended by adding after the first paragraph a new paragraph to read:

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, when the term of office of a trustee expires, the trustee's successor must be elected at large by a plurality vote of the voters within the territory of the district.