

# 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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

## CHAPTER 330

H.P. 1387 - L.D. 1993

**An Act to Establish an Appeals Process for Lobster Fishing License Denial**

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

**Whereas,** currently there is a moratorium on the issuance of new lobster and crab fishing licenses; and

**Whereas,** this moratorium may have the effect of depriving experienced persons who were previously licensed to fish for lobster and crabs, but who did not hold a lobster and crab fishing license in the prior year, of the opportunity to obtain a lobster and crab fishing license; and

**Whereas,** it is necessary that any inequities be corrected as soon as possible so that these persons may resume their trade; 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 §6421, sub-§5, ¶C,** as amended by PL 1997, c. 574, §1, is further amended to read:

C. Meets the requirements of the apprentice program under section 6422 or section 6475; or

**Sec. 2. 12 MRSA §6421, sub-§5, ¶D,** as repealed and replaced by PL 1997, c. 250, §3 and affected by §10, is repealed.

**Sec. 3. 12 MRSA §6421-A, sub-§1, ¶¶A and B,** as enacted by PL 1997, c. 747, §1, are amended to read:

A. Possessed a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year; or

B. Possessed an apprentice lobster and crab fishing license issued prior to February 13, 1998 and meets the requirements of the apprentice program under section 6422; ~~or.~~

**Sec. 4. 12 MRSA §6421-A, sub-§1, ¶C,** as enacted by PL 1997, c. 747, §1, is repealed.

**Sec. 5. 12 MRSA §6421-B** is enacted to read:

**§6421-B. Lobster license appeals process**

**1. Appeal of license denial.** A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A or section 6421-A may appeal to the commissioner under this section for a review of that license denial.

**2. Criteria for license issuance on appeal.** The commissioner may issue a license on appeal only if the following criteria are met:

A. The person held a lobster and crab fishing license for at least 5 consecutive years within the last 15 years; and

B. The person documents that:

(1) A substantial illness or other medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a Class I, Class II or Class III lobster and crab fishing license. The person must provide the commissioner with documentation from a physician describing the illness or other medical condition. For the purposes of this subparagraph, "family member" means a spouse, brother, sister, son-in-law, daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent;

(2) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the lobster fishery and meeting the requirements for a Class I, Class II or Class III lobster and crab fishing license; or

(3) That person did not possess a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year because the commissioner had suspended the person's license privileges for a period of time that included the previous calendar year.

**3. Appeals process.** A person appealing a license denial under this section must request the review in writing. The commissioner shall hold a hearing on the appeal if it is requested in writing within 10 days of the initial request. If a hearing is requested, it must

be held within 10 days of the request unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.

A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in subsection 2 that might justify issuing a license to the person and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record for the purposes of Title 1, section 402, subsection 3, paragraph A.

Issuance of a license on appeal is at the discretion of the commissioner, except that a license may not be issued unless the criteria in subsection 2 are met. Decisions of the commissioner must be in writing.

### **Sec. 6. Report; general appeals process.**

The Department of Marine Resources shall develop a proposed appeals process to be used when a license is denied under any limited-entry fishery, including the lobster, sea urchin and elver fisheries. The department shall submit a report with its recommendation and any draft legislation necessary to implement the proposed appeals process to the Joint Standing Committee on Marine Resources by January 15, 2000. The Joint Standing Committee on Marine Resources may report out legislation to the Second Regular Session of the 119th Legislature regarding a license appeals process.

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

Effective May 25, 1999.

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## **CHAPTER 331**

**H.P. 1096 - L.D. 1543**

### **An Act to Create a Bicycle Safety Education Act**

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

**Sec. 1. 29-A MRSA c. 20** is enacted to read:

#### **CHAPTER 20**

#### **BICYCLE SAFETY ACT**

##### **§2321. Short title**

This chapter may be known and cited as the "Bicycle Safety Education Act."

##### **§2322. Definitions**

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

**1. Bicycle.** "Bicycle" means a vehicle primarily propelled by human power, operated by a person usually seated on a seat and driven on the ground on wheels by the operator.

**2. Bicycle helmet.** "Bicycle helmet" means a piece of protective headgear intended for bicyclists that meets or exceeds the Consumer Products Safety Commission's standards.

**3. Bicycle passenger.** "Bicycle passenger" means any person who is traveling on a bicycle, a bicycle trailer or a similar product but is not an operator.

**4. Bicycle passenger seat.** "Bicycle passenger seat" means a seat separate from the saddle or seat for the operator of the bicycle or bicycle trailer or similar product that is securely fastened to the frame of the bicycle and is specifically designed for bicycle passenger use.

**5. Bicycle taxi.** "Bicycle taxi" means a bicycle designed to carry passengers.

**6. Bicycle taxi passenger.** "Bicycle taxi passenger" means a person who is traveling on a bicycle taxi but is not the operator of the bicycle taxi.

**7. Bikeway.** "Bikeway" means a vehicle way, paved or unpaved, upon which bicycles, unicycles or other vehicles propelled by human power may be pedaled. The bikeway may be part of a road or highway or it may be adjacent to a road or highway. A bikeway is a right-of-way under the jurisdiction and control of the State or a local subdivision of the State for use primarily by bicyclists and pedestrians.

**8. Operator.** "Operator" means a person who travels on and controls a bicycle.

**9. Public roadway.** "Public roadway" means a right-of-way under the jurisdiction and control of the State or a local political subdivision of the State for the use primarily by motor vehicular traffic.

##### **§2323. Bicycle helmet use; passenger seat use**

**1. Use of helmet.** A person under 16 years of age who is an operator or a passenger on a bicycle on a public roadway or a public bikeway shall wear a helmet of good fit, positioned properly and fastened securely upon the head by helmet straps.

**2. Passenger seat.** A bicycle passenger must be seated properly in a bicycle passenger seat.

##### **§2324. Obligation of businesses renting bicycles**