

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
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**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**  
**2000**

## CHAPTER 566

S.P. 179 - L.D. 533

**An Act Concerning State  
Government Competition with  
Private Enterprise**

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

**Sec. 1. 5 MRSA §55** is enacted to read:

**§55. Advisory Committee on Fair Competition  
with Private Enterprise**

In recognition that the provision of goods or services by state governmental agencies or institutions to the public may result in unfair competition practices with private enterprise in Maine, the Advisory Committee on Fair Competition with Private Enterprise, as established in section 12004-I, subsection 2-E and referred to in this section as the "committee," is created to assist State Government in responding to concerns raised by the public regarding government competition with private enterprise.

**1. Membership.** The committee consists of 9 members as follows:

**A.** Three members representing State Government, including:

(1) The Commissioner of Administrative and Financial Services, or the commissioner's designee, who shall serve as the chair of the committee;

(2) The Commissioner of Economic and Community Development or the commissioner's designee; and

(3) One of the following 3 officials appointed by the Governor on a rotating basis in the following order:

(a) The Commissioner of Education or a designee;

(b) The President of the Maine Technical College System or a designee; or

(c) The Chancellor of the University of Maine System or a designee;

**B.** A member representing employees of State Government, appointed by the Governor;

**C.** Three members representing private enterprise, including at least 2 members who represent businesses with fewer than 100 employees, appointed by the Governor; and

D. Two members representing the public, appointed by the Governor.

**2. Terms of appointment.** Terms of appointment are as follows:

A. The terms of appointment for the Commissioner of Administrative and Financial Services and the Commissioner of Economic and Community Development coincide with their terms of office;

B. The term of appointment for the Commissioner of Education, the President of the Maine Technical College System or the Chancellor of the University of Maine System is one year;

C. Of the members initially appointed pursuant to subsection 1, paragraphs B, C and D, the 2 members representing the public must be appointed for terms of 3 years, the 2 members representing businesses with fewer than 100 employees must be appointed for terms of 2 years, the remaining member representing private enterprise and the member representing employees of State Government must be appointed for terms of one year; and

D. After initial appointments, members appointed pursuant to subsection 1, paragraphs B, C and D serve 3-year terms.

**3. Duties of committee.** The committee shall meet at least once annually to review complaints from private enterprise of potentially unfair competition practices by State Government and to make recommendations regarding the disposition of these complaints to the Governor and, when appropriate, to the Legislature.

**4. Staffing of committee.** The Department of Administrative and Financial Services shall provide administrative and staff support to the committee.

**5. Report of committee.** The committee shall report by January 15th of each year to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government matters on its activities and shall recommend changes in policies or practices that assist in achieving the purposes of this section.

**Sec. 2. 5 MRSA §12004-I, sub-§2-E** is enacted to read:

<u>2-E.</u> <u>Business</u>	<u>Advisory</u> <u>Committee on</u> <u>Fair Competi-</u> <u>tion with</u> <u>Private</u> <u>Enterprise</u>	<u>Not</u> <u>Authorized</u>	<u>5 MRSA</u> <u>§55</u>
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See title page for effective date.

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## CHAPTER 567

S.P. 567 - L.D. 1634

### An Act to License Certain Aquaculture Activities

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

**Sec. 1. 12 MRSA §6072, sub-§1-A,** as amended by PL 1997, c. 231, §2, is further amended to read:

**1-A. Lease requirement; finfish and suspension culture.** Except as provided in paragraphs B and B-1 and sections 6072-A and 6072-B and 6072-C, it is unlawful for a person who does not have a lease issued by the commissioner under this section to construct or operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or other enclosures or for the suspended culture of any other marine organism.

B. A person operating a facility in the coastal waters of the State, on or before the effective date of this subsection, for the culture of finfish in nets, pens or other enclosures or for the suspended culture of shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1992 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1992. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

B-1. A person operating a facility in the coastal waters of the State for the suspended culture of a marine organism other than shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1994 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1994. A registrant whose application

under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

C. The commissioner may not consider an application for a lease under this section on an area registered under paragraph B or B-1 from a person other than the registrant prior to rendering a final decision on any application submitted by a registrant under paragraph B or B-1.

A person who violates this subsection is subject to a civil penalty, payable to the State, of no more than \$1,000 for each day of the violation.

**Sec. 2. 12 MRSA §6072-C** is enacted to read:

#### **§6072-C. Limited-purpose aquaculture license**

**1. License required.** It is unlawful for a person to engage in the activities authorized under this section without a current limited-purpose aquaculture license or a lease issued under this Part authorizing the activities.

**2. Licensed activities; criteria.** The holder of a limited-purpose aquaculture license may utilize approved aquaculture gear in a site in the coastal waters of the State below the mean low-water mark to engage in certain aquaculture activities that meet the criteria established in this subsection and in rules adopted by the commissioner. The license also authorizes unlicensed individuals to assist the license holder in the licensed activities with the written permission of the license holder. The commissioner may issue a limited-purpose aquaculture license for certain aquaculture activities if the following criteria are met:

A. The proposed activity generates no discharge into coastal waters;

B. The applicant proposes to utilize aquaculture gear and markings approved by the commissioner in rules adopted pursuant to subsection 8;

C. The gear, excluding mooring equipment, does not cover more than 400 square feet of area and the gear does not present an unreasonable impediment to safe navigation;

D. The proposed activity does not unreasonably interfere with the ingress and egress of riparian owners;

E. The proposed activity does not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases and licensed aquaculture activities in that area; and