

# 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**  
**AUGUST 11, 2000**

**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**

|                                |   |                                 |                             |
|--------------------------------|---|---------------------------------|-----------------------------|
| <u>2-E.</u><br><u>Business</u> | <u>Advisory</u><br><u>Committee on</u><br><u>Fair Competi-</u><br><u>tion with</u><br><u>Private</u><br><u>Enterprise</u> | <u>Not</u><br><u>Authorized</u> | <u>5 MRSA</u><br><u>§55</u> |
|--------------------------------|---|---------------------------------|-----------------------------|

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

F. The applicant holds no more than 3 other limited-purpose aquaculture licenses issued under this section.

**3. Eligibility.** A limited-purpose aquaculture license may be issued only to an individual and is a resident license.

**4. License limitations.** The issuance of a limited-purpose aquaculture license does not constitute the issuance of a lease of an area in, on or under the coastal waters.

**5. Application.** The application for a limited-purpose aquaculture license must:

A. Be written on forms supplied by the commissioner;

B. Identify the species to be cultivated;

C. Describe the proposed source of organisms to be grown in the approved aquaculture gear;

D. Describe the location of the approved aquaculture gear deployment by coordinates or metes and bounds;

E. Include a clear set of plans that includes at a minimum:

(1) A location plan with an overhead plan view showing the aquaculture gear deployed at the proposed location. The area occupied by the gear must be drawn to scale on the plan. The location plan must include a north arrow, ebb and flood directions, any federal or local channels and anchorages, any nearby structures and property lines for all riparian owners within 300 feet; and

(2) Two gear drawings, one with an overhead plan view and one with a cross-sectional elevation view of the approved aquaculture gear proposed to be used. The gear drawings must be clearly dimensioned and include, at a minimum, mean high-water and mean low-water marks and the dimensions, profiles and materials used in the construction, deployment and securing of the approved aquaculture gear;

F. Include documentation that riparian landowners within 300 feet of the proposed activity have been notified of the license application and proposed activity; and

G. Include documentation that the municipal harbor master or appropriate municipal officers have been notified of the license application and proposed activity.

**6. Fee.** The application fee for a limited-purpose aquaculture license is \$50 and is nonrefundable. All fees collected under this subsection must be deposited in the Aquaculture Research Fund established in section 6081.

**7. Prohibition; molesting gear.** It is unlawful for a person other than a marine patrol officer, the licensed owner of the gear or the licensed owner's assistant, with written permission from the licensed owner, to utilize, raise, lift, transfer, possess or in any manner molest any approved aquaculture gear that is deployed under a current limited-purpose aquaculture license.

A. If a person violates this subsection by cutting any lines or marker buoys or intentionally damaging approved aquaculture gear, the court shall, upon finding a violation of this subsection:

(1) Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and

(2) Direct that person to provide the commissioner, upon making full payment as ordered by the court, proof of that payment.

B. A penalty imposed under this subsection is in addition to any penalty imposed under section 6204.

**8. Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, rules establishing the type of gear that is approved aquaculture gear for the purposes of a limited-purpose aquaculture license, minimum standards for maintaining gear, methods of gear identification and license application and review procedures. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**Sec. 3. 12 MRSA §6081** is enacted to read:

**§6081. Aquaculture Research Fund**

The Aquaculture Research Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department. In addition to the fees derived from the limited-purpose aquaculture license, the commissioner may receive on behalf of the fund funds from any source. The commissioner shall use all money received into the fund for research and management related to the aquaculture industry. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund.

**Sec. 4. Initial rules.** In the rules initially adopted pursuant to the Maine Revised Statutes, Title 12, section 6072-C, the Commissioner of Marine Resources shall include the following as approved aquaculture gear: floating upwelling systems, shellfish rafts, shellfish tray racks, floating trays, soft bags, semirigid bags, over-wintering cages, lantern nets, spat collectors, predator netting, fencing and brushing. The commissioner may amend the rules to exclude any of the initial approved gear if the commissioner determines the gear generates a discharge into the coastal waters.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

2000-01

**MARINE RESOURCES,  
DEPARTMENT OF**

**Bureau of Resource  
Management**

|   |         |
|---|---------|
| All Other   | \$5,000 |
| Allocates funds from the Aquaculture Research Fund for research and management related to the aquaculture industry. |         |

See title page for effective date.

**CHAPTER 568**

**H.P. 1147 - L.D. 1644**

**An Act to Clarify Laws Governing  
Simulcasting**

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

**Whereas,** confusion now exists in the interpretation of statutes governing simulcasting; and

**Whereas,** it is imperative that ambiguity in the law be eliminated as quickly as possible; 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. 8 MRSA §275-N,** as amended by PL 1997, c. 528, §33, is further amended to read:

**§275-N. Limitations on off-track betting facilities**

The commission may not allow interstate simulcasting or license any off-track betting facility for any calendar year unless during the preceding calendar year there ~~was~~ were at least 150 race dates on which live racing ~~was~~ actually was conducted at the commercial tracks. Interstate simulcasting ~~must~~ must always be allowed at any commercial track that conducted at least 136 race dates during the immediately preceding calendar year or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B at which at least 35 race dates were conducted during the immediately preceding year if the interstate simulcasting at the commercial track is conducted during the regular meeting. For the purposes of this section, any race date that the commission determines was canceled due to a natural or other disaster must be counted as a race date.

**Sec. 2. 28-A MRSA §1065, sub-§4,** as repealed and replaced by PL 1987, c. 342, §90, is amended to read:

**4. Minors not allowed on premises.** Minors are not permitted to remain on the premises except when:

A. The minor is accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002; ~~or~~

B. The licensee does not permit consumption of liquor on the premises for a specific period of time or event; or

C. Wagering on harness horse racing is being conducted in accordance with Title 8, chapter 11 and the minor is at least 18 years of age.

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

Effective March 21, 2000.

**CHAPTER 569**

**S.P. 937 - L.D. 2387**

**An Act to Amend the Qualifying  
Examination for Initial Teacher  
Certification**