

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.

J.S. McCarthy Company
Augusta, Maine
2000

person's declared lobster zone. The commissioner shall stamp each ~~lobster and crab fishing license application that contains such a request~~ with the time and date of submission. A person may not be authorized as a new zone entrant unless that person made a request under this subsection no later than December 15th of the previous calendar year.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license in the previous licensing year and wishes to be a new zone entrant shall indicate to the commissioner in writing a request to declare a limited-entry zone as the person's declared lobster zone. The person must be put on a waiting list maintained under subsection 6 according to the time and date the commissioner receives the request.

B. A person who did not hold a Class I, Class II or Class III lobster and crab fishing license in the previous licensing year and wishes to be a new zone entrant shall indicate to the commissioner in writing which zone the person requests to declare as the person's declared lobster zone. The person must be put on a waiting list maintained under subsection 6 according to the date the commissioner determines that the person is eligible for a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, except that if the person does not indicate to the commissioner in writing which zone the person requests to declare as the person's declared lobster zone within 30 days of the date the commissioner determines that the person is eligible, the person must be put on the waiting list according to the time and date the commissioner receives such a written request.

6. Chronological waiting list. The commissioner shall maintain and make available a waiting list ~~in chronological order~~ of people who have requested to declare a limited-entry zone as their declared lobster zone. The list must be arranged in chronological order in accordance with subsection 5. The commissioner shall create a waiting list for a zone at the time the commissioner closes the zone pursuant to subsection 2, paragraph D.

7. Authorization of new zone entrants. The commissioner shall determine by February 1st of each licensing year the number of new zone entrants that may be authorized for each limited-entry zone. The number of new zone entrants authorized in a licensing year must be in accordance with the exit ratio established under subsection 2 for that zone. The commissioner shall authorize new zone entrants in chronological order of requests received under subsection 5. The commissioner shall notify the authorized new zone entrants by certified mail. If a person does not declare a zone within 30 days after

receiving the notification by certified mail, that person must be taken off the waiting list and the next person on the list must be authorized as a new zone entrant. If a person has indicated a request for more than one zone pursuant to subsection 5, that person must be taken off the waiting list for the 2nd zone when the person declares one of the zones as that person's declared lobster zone after being authorized to do so. If a person who holds a current Class I, Class II or Class III license is authorized as a new zone entrant and declares the zone as that person's declared lobster zone, the commissioner shall change the zone identified on that person's license to the limited-entry zone for which the person is authorized.

Sec. 3. Transition; closed zones. The Commissioner of Marine Resources shall send a notification to all persons who became eligible for a Class I, Class II or Class III lobster and crab fishing license pursuant to the Maine Revised Statutes, Title 12, section 6421, subsection 5, paragraph C or H prior to the effective date of this Act but who have not yet been issued a license. The notification must state that if the person wishes to declare a zone that is closed pursuant to section 6448 as that person's declared lobster zone, the person must indicate to the commissioner in writing which zone the person wishes to declare. A person who submits such a request in writing within 30 days of receiving the notification must be placed on the waiting list for the requested zone according to the date the commissioner determined that the person was eligible for a Class I, Class II or Class III lobster and crab fishing license. A person who does not submit such a request in writing within 30 days of receiving the notification must be placed on the waiting list for the requested zone according to the date upon which the written request is received by the commissioner.

A person who held a Class I, Class II or Class III lobster and crab fishing license in the previous licensing year and indicated to the commissioner in writing a request to declare a limited-entry zone as the person's declared lobster zone prior to the effective date of this Act must be placed on the waiting list for the requested zone according to the date upon which the written request is received by the commissioner.

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

Effective April 13, 2000.

CHAPTER 694

H.P. 1855 - L.D. 2591

An Act Relating to Telemarketing

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

Sec. 1. 10 MRSA §1498, sub-§7, as amended by PL 1991, c. 524, §3, is repealed.

Sec. 2. 10 MRSA §1498, sub-§7-A is enacted to read:

7-A. Failure to produce transcript. A person using an automated telephone calling device for making solicitation calls shall maintain a full transcript of each solicitation call message that the person has transmitted to consumers during the previous 24 months. A copy of the transcript must be made available to the Attorney General upon request. Failure to provide a copy of a requested transcript is a violation of this section.

Sec. 3. 10 MRSA §1498, sub-§8, as enacted by PL 1989, c. 775, is amended to read:

8. Penalty. Violation of this section, including the provision of false registration information, is an unfair trade practice as prohibited by Title 5, section 207.

Sec. 4. 32 MRSA §4690-A is enacted to read:

§4690-A. Telemarketers

1. Incorporation of federal standards. Violation of any provision of the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Part 310, as in effect on January 1, 2000, by a transient seller of consumer merchandise is a violation of this chapter.

2. Additional prohibitions. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, and who initiates telephone contact with a consumer may not procure the services of any professional delivery courier or other pick-up service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected.

3. Do-not-call list. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000:

A. Shall semiannually obtain subscription listings of consumers in this State who have arranged to be included on the national do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.,

Farmingdale, New York or its successor organization; and

B. May not call any consumer in this State whose name is on the national do-not-call list unless the seller has an established business relationship with the consumer at the time the call is made.

A person is not in violation of paragraph B if the person obtained the listing of a consumer in accordance with paragraph A but called that consumer as the result of a good faith error.

4. Other applicable law. A transient seller of consumer merchandise who is a telemarketer, as defined in the Federal Trade Commission's Telemarketing Sales Rule, 16 Code of Federal Regulations, Section 310.2, as in effect on January 1, 2000, is subject to and shall comply with the provisions of chapter 69, subchapter V.

See title page for effective date.

CHAPTER 695

H.P. 1919 - L.D. 2665

An Act to Provide for Statewide Standards for Timber Harvesting in Shoreland Areas and to Modify Regulation of Stream Crossings

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

Sec. 1. 12 MRSA §8867-B is enacted to read:

§8867-B. Regulation of timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters

In accordance with the purposes of chapter 206-A and Title 38, chapter 3, no later than January 2, 2002, the Commissioner of Conservation shall provisionally adopt rules in accordance with Title 5, chapter 375 to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature no later than January 2, 2002 for review.

In addition to the materials submitted pursuant to Title 5, section 8072, subsection 2, upon submitting the rules authorized by this section, the Commissioner