

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

CHAPTER 123

H.P. 490 - L.D. 630

**An Act Concerning Closed Periods
for Lobstering**

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

Whereas, this legislation clarifies certain limitations involving lobster fishing; and

Whereas, this legislation needs to be enacted in a timely manner due to the upcoming lobster harvesting season; 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 §6440, as amended by PL 1999, c. 790, Pt. E, §1, is further amended to read:

§6440. Closed periods

It is unlawful to raise, ~~or haul or transfer~~ any lobster trap:

1. Summer. During the period 1/2 hour after sunset until 1/2 hour before sunrise from June 1st to October 31st, both days inclusive; and

2. Weekends. During the period from 4 p.m., Eastern Daylight Savings Time, Saturday, to 1/2 hour before sunrise the following Monday morning from June 1st to August 31st, both days inclusive, except that it is lawful to raise, ~~or haul or transfer~~ traps during this period if a hurricane warning issued by the National Weather Service is in effect for any coastal waters of the State.

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

Effective May 9, 2001.

CHAPTER 124

S.P. 190 - L.D. 662

**An Act to Remove Barriers to
Providing Natural Gas Services**

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

Sec. 1. 35-A MRSA §2104, as amended by PL 1997, c. 707, §3, is repealed and the following enacted in its place:

**§2104. Commission approval for gas companies to
furnish service**

1. Approval of commission required; generally. Except as provided in subsection 2, a gas utility may not furnish its service in or to any municipality within the State without the approval of the commission.

2. Approval not required; no other utility serving. Notwithstanding section 2102 or 2105, a gas utility authorized to furnish service and serving customers within the State is not required to obtain the approval of the commission to serve in any municipality in which no other gas utility is furnishing similar service unless the commission, in an order issued pursuant to subsection 3, specifically provides otherwise.

3. Limited grant of authority. The commission, in an order granting authorization to a person to operate, manage or control a gas utility in any municipality in this State, may expressly limit the area in which the gas utility may provide service without further approval of the commission only if:

A. The commission finds that the financial and technical capacity of the gas utility is limited in a manner that public convenience and necessity require such limited authorization; or

B. The person seeking authorization requests that the authorization be limited to a particular area.

See title page for effective date.

CHAPTER 125

S.P. 451 - L.D. 1505

**An Act to Streamline the
Administration of the Potato
Marketing Improvement Fund**

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

Whereas, the efficient administration of the Potato Marketing Improvement Fund enhances the benefits of the program; and

Whereas, the changes in administration proposed by this Act can most expeditiously be implemented at the beginning of the next fiscal year; 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. 7 MRSA §972, as amended by PL 1989, c. 503, Pt. B, §42, is further amended to read:

§972. Potato Marketing Improvement Committee

There is established an advisory committee, as authorized by Title 5, section 12004-H, subsection 10, of 10 members to be known as the Potato Marketing Improvement Committee. The Potato Marketing Improvement Committee shall advise the commissioner on the development and implementation of improved potato marketing systems, including the modernization, construction and operation of storage and central packing facilities. The Potato Marketing Improvement Committee shall also advise the commissioner concerning the funding and expenditures of the Potato Marketing Improvement Fund created pursuant to Title 10, section 973 1023-N. The commissioner shall appoint one member representing the University of Maine System, one member representing the Farmers Home Administration, one member representing the Farm Credit System, one member representing the Department of Economic and Community Development and one member representing the public. Each executive council established pursuant to Title 36, section 4603, subsection 3, shall appoint one person to serve as a member of the committee. The commissioner and the executive councils shall appoint as members persons with education, training or experience relevant to the development and implementation of improved potato marketing systems, including the modernization, construction and operation of storage and central packing facilities and with an understanding of the importance of those facilities for potato quality and marketing. When the commissioner finds it appropriate, the members representing the Farmers Home Administration and the Farm Credit System may serve as a loan review committee and advise the commissioner, on a confidential basis, on applications for funding.

Sec. 2. 7 MRSA §973, as amended by PL 1993, c. 699, §5, is repealed.

Sec. 3. 7 MRSA §973-A is enacted to read:

§973-A. Administration of Potato Marketing Improvement Fund

The commissioner shall administer the Potato Marketing Improvement Fund established under Title 10, section 1023-N.

Sec. 4. 7 MRSA §974-A, sub-§2, as amended by PL 1999, c. 127, Pt. A, §14, is further amended to read:

2. State loan interest rate. The interest rate for state loans is 5%. Loans current on April 21, 1988 must be renegotiated to an interest rate of 5%.

A fee for administrative costs, which must be at a rate set by rule by the commissioner upon consultation with the Potato Marketing Improvement Committee but ~~which~~ that may not exceed 1% of the loan, must be charged on all loans made for projects, the total cost of which exceeds \$50,000. This fee must be deposited in the ~~fund~~ Potato Marketing Improvement Fund.

Sec. 5. 7 MRSA §977 is enacted to read:

§977. Potato Marketing Improvement Fund Operating Account

There is established a Potato Marketing Improvement Fund Operating Account. This account draws funds from the Potato Marketing Improvement Fund established in Title 10, section 1023-N on a periodic basis to be determined by the department to cover the costs of administering the fund and any grants made.

Sec. 6. 10 MRSA §1023-N is enacted to read:

§1023-N. Potato Marketing Improvement Fund

There is created a fund known as the Potato Marketing Improvement Fund, referred to in this section as the "fund." The fund must be deposited with and maintained by the authority. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 103, subchapter X. All money received by the authority from any source for the development and implementation of an improved storage, packing and marketing program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for agricultural development may be used only for the purposes of state loans as prescribed by Title 7, section 974-A to provide assistance to farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made therein, to the extent that the costs exceed the fee for administrative costs established by

Title 7, section 974-A, subsection 2. Repayment of these loans and interest on the loans must be credited to the fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by Title 7, section 975-A. In order to provide additional amounts for loans, the Commissioner of Agriculture, Food and Rural Resources, at the commissioner's discretion, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the authority, under the terms and conditions the commissioner considers advisable. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the fund and used for the purposes authorized in this section.

A purchaser of a modern storage facility that was previously financed with a state loan from the fund may receive a loan under the conditions of this section. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. The Department of Agriculture, Food and Rural Resources shall adopt rules concerning the purchase of existing buildings.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. These rules must include provisions that ensure that such purchases are in keeping with the purposes and intent of this subchapter and of Private and Special Law 1981, chapters 65 and 75. They must also include a definition of a modern storage facility.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Market and Production Development, Division of		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$63,582	\$65,402
All Other	116,033	104,210
TOTAL	\$179,615	\$169,612
Potato Marketing Improvement Fund		
Positions - Legislative Count	(-1,000)	(-1,000)
Personal Services	(\$63,582)	(\$65,402)
All Other	(116,033)	(104,210)

TOTAL	(\$179,615)	(\$169,612)
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	\$0	\$0

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 2001.

Effective July 1, 2001.

CHAPTER 126

H.P. 40 - L.D. 49

An Act Regarding Civil Actions Involving Insurance Coverage

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

Sec. 1. 24-A MRSA §2436-B is enacted to read:

§2436-B. Declaratory judgment actions involving insurance policies

1. Definition. For purposes of this section, "insured" means a natural person and does not include a corporation, trust, partnership, incorporated or unincorporated association or any other legal entity.

2. Costs and attorney's fees. In an action pursuant to Title 14, chapter 707 to determine an insurer's contractual duty to defend an insured under an insurance policy, if the insured prevails in such action, the insurer shall pay court costs and reasonable attorney's fees.

3. Application. This section does not apply to workers' compensation, disability, life, health, accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance.

4. Construction. This section may not be construed to permit any assignment of rights by an insured to any other person or to create or extend any right or cause of action for a 3rd-party claimant under an insurance policy.

See title page for effective date.
