

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
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As part of the selection process, proposers must make oral presentations to the selection panel established under paragraph B.

B. The director shall appoint members of a selection panel for each project. The selection panel must include representatives of the owner, designer, if selected, and individuals who will use the facility. From among the proposals submitted, the bureau shall select the most advantageous proposal according to the published evaluation criteria.

C. The position of general contractor must be awarded to the lowest responsive and eligible bidder. Additional trade contracts, if any, must be awarded to the lowest responsive and eligible bidder or bidders.

8. Owner's representative. The bureau may employ a qualified individual to represent the owner on any public improvement project awarded under the competitive bid process provided in subsection 2 or an alternative method of project delivery provided in subsection 3. Owner's representative services must be consistent with the standard scope of services employed by the bureau. The services of the owner's representative must be procured in a manner consistent with the bureau's rules governing selection of architects and engineers or with policies and procedures adopted by rule of the bureau with the advice of the review panel.

Sec. 2. 5 MRSA §1747, sub-§3, as amended by PL 1997, c. 295, §1, is further amended to read:

3. Insufficient resources. If, in the opinion of the director, there is evidence the contractor does not have sufficient resources to successfully complete the work; ~~or~~. The director may require additional information about the contractor's resources, including identification of major claims or litigation pending and whether the contractor has sought protection under the bankruptcy laws in the past 5 years. That information is confidential and not subject to disclosure under Title I, chapter 13, subchapter I.

Sec. 3. 5 MRSA §1747, sub-§4, as enacted by PL 1989, c. 483, Pt. A, §20, is amended to read:

4. Misconduct. If the contractor has been convicted of collusion or fraud or any other civil or criminal violation relating to construction projects:

Sec. 4. 5 MRSA §1747, sub-§§5, 6 and 7 are enacted to read:

5. Safety record. If, in the opinion of the director, there is evidence of a history of inadequate safety performance and lack of formal safety procedures:

6. Material misrepresentation. If, in the opinion of the director, there is evidence of a material misrepresentation on the contractor's prebid qualification statement; or

7. Termination, suspension, defaults. If, in the opinion of the director, there is evidence that the contractor through its own fault has been terminated, has been suspended for cause, has been debarred from bidding, has agreed to refrain from bidding as part of a settlement or has defaulted on a contract or had a contract completed by another party.

Sec. 5. 5 MRSA §1747, last ¶, as enacted by PL 1997, c. 295, §1, is amended to read:

If a contractor is disqualified for any of the reasons stated in subsection 1, 2 ~~or~~ 4, 5, 6 or 7, the director may disallow the contractor from bidding on any similar public improvements for a period not to exceed one year.

See title page for effective date.

CHAPTER 272

S.P. 530 - L.D. 1653

An Act Making Technical Changes in the Marine Resources Laws

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

Sec. 1. 12 MRSA §6001, sub-§6, as enacted by PL 1977, c. 661, §5, is amended to read:

6. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide ~~and within the marine limits of the jurisdiction of the State~~ out to the limits of the exclusive economic zone as shown on the most recently published Federal Government nautical chart, but it does not include areas above any fishway or dam when the fishway or dam is the dividing line between tidewater and fresh water.

Sec. 2. 12 MRSA §6001, sub-§48-B is enacted to read:

48-B. Territorial waters. "Territorial waters" means all waters of the State within the rise and fall of the tide seaward to the 3-nautical-mile line as shown on the most recently published Federal Government nautical chart, but does not include areas above any fishway or dam when that fishway or dam is the dividing line between tidewater and fresh water.

Sec. 3. 12 MRSA §6439, as amended by PL 1985, c. 268, §5, is further amended to read:

§6439. Areas of limited lobster fishing

It shall be ~~is~~ unlawful to have on any trawl more than 3 lobster traps ~~in any of the coastal waters~~ in the following areas:

1. West of Cape Elizabeth and east of Kittery.

Westerly of a line drawn from the active lighthouse at Two Lights in Cape Elizabeth ~~to~~ through the Hue and Cry Buoy and, continuing in a straight line, to the point of intersection with the 3-nautical-mile line, and northerly and easterly of a line running between the Kitts Rocks Whistle Buoy and the West Sister Buoy and extending westerly to the New Hampshire border, and from the West Sister Buoy to the Murray Rock Buoy and thence to and through the lighthouse on Boone Island and, continuing in a straight line, to the ~~boundary of the coastal waters within the jurisdiction of this State~~ point of intersection with the 3-nautical-mile line;

2. Between Pemaquid and Robinson's Points.

Between the following lines:

A. Beginning at a point 48 miles true north of the lighthouse on Pemaquid Point, Lincoln County; thence true south through the lighthouse to a point ~~where that line intersects the southeasterly boundary of the coastal waters within the jurisdiction of the State~~ of intersection with the 3-nautical-mile line; and

B. Beginning at a point 40 miles true north from the lighthouse at Robinson's Point, Isle au Haut, Knox County; thence true south through the lighthouse to a point ~~where the line intersects the southeasterly boundary of the coastal waters within the jurisdiction of the State~~ of intersection with the 3-nautical-mile line; and

3. Off Hancock County. ~~Within the following radio direction finder LORAN C bearings:~~ Beginning at Schoodic Point, Hancock County; thence running a True compass course of 159° for approximately 16 miles to ~~LORAN C bearing of 9960 W 12349.0 and 9960 X 25693.0~~ latitude 44°04.33' north and longitude 067°54.64' west; thence running along a True compass course of ~~234°~~ 236° for approximately 11.4 miles, to and through Mt. Desert Rock to ~~LORAN C bearing of 9960 W 12456.0 and 9960 X 25695.0~~ latitude 43°57.87' north and longitude 068°08.2' west; thence running in a True compass course of 336° for approximately 4.2 miles to ~~LORAN C bearing of 9960 W 12440.0 and 9960 X 25718.0~~ latitude 44°01.65' north and longitude 068°10.55' west; thence running in a westerly direction to a point where that line intersects with the line described in subsection 2, paragraph B, if it is extended to that line.

Sec. 4. 12 MRSA §6439-A, as enacted by PL 1979, c. 152, §2, is amended to read:

§6439-A. Limited lobster fishing in the vicinity of Kittery

It shall be ~~is~~ unlawful to have on a trawl more than 10 lobster traps ~~on one warp and buoy~~ in the ~~coastal~~ waters southerly of a line running between the Kitts Rocks Whistle Buoy and the West Sister Buoy and extending westerly to the New Hampshire border, and from the West Sister Buoy to the Murray Rock Buoy and thence to and through the lighthouse on Boone Island and, continuing in a straight line, to the ~~boundary of the coastal waters within the jurisdiction of this State~~ point of intersection with the 3-nautical-mile line. Each trawl set in this area shall ~~must~~ be marked on each end with at least one buoy with a buoy stick of at least 4 feet in length.

Sec. 5. 12 MRSA §6439-B is enacted to read:

§6439-B. Limited lobster fishing in certain portions of Saco Bay

1. Limited lobster fishing in certain portions of Saco Bay. Notwithstanding section 6439, subsection 1, a person may have a maximum of 6 lobster traps on a trawl within the following area:

Beginning at a point where the 3-nautical-mile line intersects with an arc that is 3 miles by radar from the most eastern point of Adams Head on Richmond Island and then continuing westerly along that arc until it intersects with an arc that is 3 miles by radar from the most eastern point of Stratton Island and then continuing southwesterly along that arc until it intersects with the Loran line 13365 and then following the Loran line 13365 southeasterly until it intersects with the 3-nautical-mile line and then continuing northerly along the 3-nautical-mile line until it intersects with an arc that is 3 miles by radar from the most eastern point of Adams Head on Richmond Island.

2. Repeal. This section is repealed on January 30, 2008.

Sec. 6. 12 MRSA §6471, as enacted by PL 1997, c. 574, §4, is amended to read:

§6471. Monhegan Lobster Conservation Area

1. Monhegan Lobster Conservation Area. The following ~~coastal territorial~~ waters of the State in the vicinity of Monhegan Island are known as the Monhegan Lobster Conservation Area:

Beginning at a point located ~~on Loran line 9960-25850~~ at latitude 43°45.09' north and longitude 069°22.16' west that is 2 nautical miles southwesterly of the nearest shore of Monhegan Island; ~~then following Loran line 9960-25850~~ in

a southwesterly direction to the point where it intersects the 3-mile territorial sea latitude 43° 44.28' north and longitude 069° 23.37' west at a point on the 3-nautical-mile line; then following the territorial sea 3-nautical-mile line around the southern end of Monhegan Island to the point where it intersects Loran line 9960-12889 latitude 43° 44.94' north and longitude 069° 14.26' west; then following Loran line 9960-12889 in a somewhat northerly direction to the point where it intersects latitude 43° 45.8' north and longitude 069° 15.3' west, to a point that is 2 nautical miles from the nearest shore of Monhegan Island; then following a line that is 2 nautical miles from the nearest shore of Monhegan Island and that continues around the northern end of Monhegan Island to the point of beginning.

Sec. 7. 12 MRSA §6501, sub-§6, as amended by PL 1999, c. 491, §4, is further amended to read:

6. Definition. For the purposes of this chapter, "fish" means all marine finfish and squid or other marine animals organisms, except lobsters, crabs, sea urchins, shellfish, scallops, marine worms, elvers, eels or shrimp or seaweed.

Sec. 8. 12 MRSA §6523, as amended by PL 1999, c. 771, Pt. B, §5 and affected by Pt. D, §§1 and 2, is further amended to read:

§6523. Marking ice fishing shacks

A person may not place any shack or temporary structure used for ice fishing on the frozen coastal territorial waters or use the shack or structure, unless the owner's name and address are painted or otherwise clearly marked on the outside with 2-inch letters. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

Sec. 9. 12 MRSA §6555, as amended by PL 1989, c. 788, §2, is further amended to read:

§6555. Striped bass; method of taking

It is unlawful to fish for or take striped bass in the waters of the State, except by hook and line.

Sec. 10. 12 MRSA §6556, as amended by PL 1989, c. 788, §3, is further amended to read:

§6556. Striped bass; limits; personal use

It is unlawful for any person to fish for or take striped bass in the waters of the State, except for personal use.

Sec. 11. 12 MRSA §6571, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Within the coastal territorial waters of adjacent to Washington County:

Sec. 12. 12 MRSA §6572, sub-§1, as enacted by PL 1997, c. 92, §1, is amended to read:

1. Spawning areas for certain species. By January 1, 1998, the commissioner shall by rule identify the location of all coastal all locations of the territorial waters that serve as spawning areas for cod, haddock or yellowtail flounder and the dates during which those spawning activities occur in each area. In determining the coastal spawning areas for cod, haddock and yellowtail flounder, the commissioner shall solicit information on the State's historic coastal groundfish spawning areas from persons who participate in, or are otherwise knowledgeable about, commercial and recreational coastal marine fisheries. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 13. 12 MRSA §6575-E, as enacted by PL 1995, c. 536, Pt. A, §9, is amended to read:

§6575-E. Method of eel fishing

Except as provided in section 6505-C, subsection 2, it is unlawful for a person licensed under section 6505-C to fish for or take eels in the coastal waters of the State by any method other than eel pot or hoop net.

Sec. 14. 12 MRSA §6722, as amended by PL 1999, c. 94, §1, is further amended to read:

§6722. Closed areas

Unless modified by regulation adopted under section 6171-A, it is unlawful to fish for or take scallops in the coastal territorial waters from April 16th to November 30th, both days inclusive.

Sec. 15. 12 MRSA §6726, sub-§1, as amended by PL 1999, c. 94, §2, is further amended to read:

1. Minimum size. It is unlawful to utilize a drag to fish for or take scallops in the coastal territorial waters with rings that measure less than:

B. From December 1, 1999 to April 15, 2000, 3 1/4 inches in diameter; and

C. On December 1, 2000 and thereafter, 3 1/2 inches in diameter.

Sec. 16. 12 MRSA §6727, sub-§2, as amended by PL 1999, c. 94, §4, is further amended to read:

2. Open season. It is unlawful for a person to possess on any vessel fishing for scallops in the

~~coastal territorial~~ waters, or to utilize when fishing for or taking scallops in the ~~coastal territorial~~ waters, a drag or any combination of drags that measures in excess of 10 feet, 6 inches across from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge.

Sec. 17. 12 MRSA §6954-C, sub-§1, as enacted by PL 1997, c. 281, §3, is amended to read:

1. Gear requirements. It is unlawful to fish in the ~~coastal territorial~~ waters northerly and inshore of the international bridge that connects Lubec to Campobello Island, New Brunswick, Canada with any drag or combination of drags:

A. That measures in excess of 5 feet, 6 inches in width measuring from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge; and

B. If used for the taking of scallops, that is greater than 8 rings deep.

Sec. 18. 12 MRSA §6959, as enacted by PL 1999, c. 576, §1, is amended to read:

§6959. Dragging in the Taunton River area

It is unlawful for a person to fish with any drag or combination of drags in the ~~coastal territorial~~ waters westerly and northerly of the Route 1 bridge that connects the towns of Hancock and Sullivan in Hancock County, including Egypt Bay, Taunton Bay and Hog Bay. This section is repealed March 1, 2005.

See title page for effective date.

CHAPTER 273

H.P. 1104 - L.D. 1473

An Act to Make Uniform the Language Governing Parental Rights and Responsibilities in the Maine Revised Statutes

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

Sec. 1. 19-A MRSA §1653, sub-§5-A is enacted to read:

5-A. Effect of protective order. Although the court shall consider the fact that a protective order was issued under chapter 101, the court shall determine the proper award of parental rights and responsibilities and award of rights of contact de novo and may not use as precedent the award of parental rights and responsibilities and rights of contact included in the protective order.

Sec. 2. 19-A MRSA §4001, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Enforcement. To provide protection by promptly entering and diligently enforcing court orders that prohibit abuse and, when necessary, by reducing the abuser's access to the victim and addressing related issues of ~~child-custody~~ parental rights and responsibilities and economic support so that victims are not trapped in abusive situations by fear of retaliation, loss of a child or financial dependence;

Sec. 3. 19-A MRSA §4006, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

5. Interim relief. The court, in an ex parte proceeding, may make an order concerning the ~~care and custody of parental rights and responsibilities relating~~ to minor children residing in the household and may enjoin the defendant from engaging in the following:

A. Imposing a restraint upon the person or liberty of the plaintiff;

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;

C. Entering the family residence or the residence of the plaintiff;

D. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

E. Taking, converting or damaging property in which the plaintiff may have a legal interest; or

F. Having any direct or indirect contact with the plaintiff.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

Sec. 4. 19-A MRSA §4007, sub-§1, ¶G, as amended by PL 1999, c. 486, §5 and affected by §6, is further amended to read:

G. Either awarding some or all temporary custody of parental rights and responsibilities with regard to minor children or ~~establishing awarding~~ temporary visitation rights of contact with regard