

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

the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing immunization requirements for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. Rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 4. 20-A MRSA §6359, sub-§1, ¶C, as amended by PL 1991, c. 146, §1, is further amended to read:

C. "Disease" means ~~diphtheria, measles, mumps, rubella and tetanus~~ those conditions that are preventable by immunizing agent, as specified in rules.

Sec. 5. 20-A MRSA §6359, sub-§2, as enacted by PL 1985, c. 771, §§2 and 7, is amended to read:

2. Immunization. Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease as specified by rule.

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Human Services.

Sec. 6. 20-A MRSA §6359, sub-§3, ¶B, as enacted by PL 1985, c. 771, §§2 and 7, is amended to read:

B. The student or the parent, if the student is a minor, states in writing a sincere religious belief, which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for ~~moral, philosophical or other personal~~ reasons.

See title page for effective date.

CHAPTER 327

S.P. 299 - L.D. 1010

An Act to Manage the Sea Urchin Fishery

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

Sec. 1. 5 MRSA §12004-I, sub-§57-B, as enacted by PL 1995, c. 595, §1, is amended to read:

57-B. Sea Urchin ~~None~~ 12 MRSA
Marine Zone Expenses §6749-X
Resources: Council Only
Zones

Sec. 2. 12 MRSA §6404-B, as enacted by PL 1999, c. 244, §1, is amended to read:

§6404-B. Suspension based on conviction of fishing on closed days for sea urchin fishing

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-W or any rule adopted under section 6749. The suspension must be for one year from the date of conviction.

Sec. 3. 12 MRSA §6404-D is enacted to read:

§6404-D. Suspension based on conviction of sea urchin fishing in a closed area

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-N. The suspension must be for one year from the date of conviction.

Sec. 4. 12 MRSA §6748, sub-§5 is enacted to read:

5. Rebuttable presumption. It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

Sec. 5. 12 MRSA §6748-A, sub-§1, as amended by PL 1993, c. 740, §1, is repealed and the following enacted in its place:

1. License required. It is unlawful for a person to engage in the activities authorized under this section without a current sea urchin dragging license.

Sec. 6. 12 MRSA §6748-A, sub-§2, as enacted by PL 1993, c. 416, §2, is repealed and the following enacted in its place:

2. Licensed activity. The holder of a sea urchin dragging license may use the vessel named on the holder's license to drag for sea urchins. The license also authorizes the captain and crew members aboard the vessel named on the license to drag for and possess, ship, transport and sell sea urchins, except that the captain and crew members may not drag for sea urchins if the license holder is not aboard the vessel.

Sec. 7. 12 MRSA §6748-A, sub-§§2-A and 2-B are enacted to read:

2-A. Change of named individual. A person who is the owner of a vessel named on a sea urchin dragging license in 2000 but not the individual named on that license may apply to the commissioner to be the individual named on that sea urchin dragging license in 2002. The person must provide written notarized documentation to the commissioner authorizing the change in license name by the individual who was named on that license in 2000. If no such request is received by the commissioner by December 1, 2001, then the individual named on the 2002 sea urchin dragging license will be the same as the individual named on the 2001 sea urchin dragging license and no future changes of the named individual will be permitted.

2-B. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take sea urchins from a vessel when the person holding a sea urchin dragging license that contains the name of that vessel is not on board if:

A. The holder of the sea urchin dragging license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking sea urchins from that vessel and requests in writing to the commissioner that the commissioner authorize another person to use that vessel to fish for or take sea urchins from the vessel;

B. The vessel named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another vessel to fish for or take sea urchins; or

C. An individual documents to the commissioner that the individual has held or leased more than one sea urchin dragging license for 3 consecutive years, was the owner of the vessels named on those licenses during those same years and is currently the owner of the vessels named on those licenses. Under this paragraph, the commissioner may renew each license held by the eligible individual if the vessel named on that license is unchanged from the vessel named on the license in 2000.

Sec. 8. 12 MRSA §6749, as repealed and replaced by PL 1995, c. 392, §5, is repealed and the following enacted in its place:

§6749. Sea urchin harvesting season and open days

1. Closed season. It is unlawful for a person to fish for or take sea urchins from May 1st to August 31st.

2. Open days. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall establish by rule, within that area designated Zone 1 and that area designated as Zone 2 under section 6749-N, the open days for those zones during which a person may fish for or take sea urchins. Rules may specify the open days for gear type and may further define more than one time period. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Prohibition. It is unlawful for a person to possess aboard a vessel, fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

Sec. 9. 12 MRSA §6749-A, as enacted by PL 1993, c. 416, §2, is amended to read:

§6749-A. Minimum size

It is unlawful for a person to take, possess, ship, transport, buy or sell a sea urchin having a shell measuring less than 2 inches in the longest diameter, exclusive of spines. A violation of this section does not occur if a harvested sea urchin measuring less than 2 inches in the longest diameter is culled on board immediately after harvesting and is liberated alive into the marine waters. The department may adopt rules to provide for an increase in the minimum size after consultation with the Sea Urchin Zone Council. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 10. 12 MRSA §6749-N, as amended by PL 1997, c. 685, §1, is further amended to read:

§6749-N. Closed areas; zone identification

Notwithstanding section 6749, it is unlawful for a person to fish for or take sea urchins from:

1. Zone 1. Zone 1, from May 1st to July 31st. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then

running southerly to the TB1 whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

2. Zone 2. Zone 2, from May 1st to July 31st. For the purpose of this article, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

The commissioner shall report annually to the joint standing committee of the Legislature having subject matter jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.

3. Conservation areas. The commissioner may adopt rules to establish conservation areas pursuant to section 6171 for the purposes of sea urchin research that are considered closed areas for the purpose of this section. Fishing for sea urchins in a conservation area adopted through the department for sea urchin research is considered a violation of this subchapter and subject to the penalties under section 6749-Y. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 11. 12 MRSA §6749-O, sub-§§2-A and 2-B, as enacted by PL 1997, c. 685, §3, are amended to read:

2-A. License eligibility. The commissioner may not issue a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license to any person ~~for calendar year 1999, 2000 or 2001~~ unless that person possessed that license in the previous calendar year or becomes eligible to obtain that license pursuant to a lottery limited entry system under subsection 2-B.

2-B. Sea urchin license limited entry system. The commissioner shall establish by rule a lottery limited entry system under which a person who did not hold a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license in the previous calendar year may become eligible to obtain that license ~~in calendar year 1999, 2000 or 2001~~ for use in a zone established pursuant to section 6749-N. The rules for a lottery limited entry system must include provisions for the method and administration of a lottery the program. ~~The rules may include provisions for a method under which a person may submit more than one entry in a lottery based on the prior calendar years a person held a license that qualify that person for a lottery.~~ Rules adopted pursuant to this subsection are routine

technical rules as defined in Title 5, chapter 375, subchapter II-A.

~~A. Pursuant to section 6749-P, all licenses issued to a person in a calendar year must be for use in the same zone.~~

~~B. A person may not enter more than one license lottery during a calendar year.~~

~~C. A person is eligible to enter a lottery for a handfishing sea urchin license and a sea urchin hand raking and trapping license if that person held in the previous calendar year a sea urchin and scallop diving tender license issued under section 6535 that was valid for more than 30 days or if that person held in the previous calendar year a handfishing scallop license issued under section 6701.~~

~~D. A person is eligible to enter a lottery for a sea urchin dragging license if that person held in the previous calendar year a commercial fishing license issued under section 6501, a scallop boat license issued under section 6702, a mahogany quahog license issued under section 6731 or a mussel boat license issued under section 6746.~~

~~E. Except as provided in paragraph F, the number of persons awarded eligibility in a lottery for a handfishing sea urchin license, a sea urchin hand raking and trapping license or a sea urchin dragging license in a zone must be in accordance with the exit ratio for that license in that zone. For the purposes of this paragraph, "exit ratio" means that one person may be awarded eligibility in a license lottery for every 5 persons who held that license in the year prior to the previous calendar year but who did not renew that license in the previous calendar year.~~

~~F. The commissioner may hold a combined lottery for sea urchin handfishing licenses and sea urchin hand raking and trapping licenses in a zone if the exit ratio for those licenses in that zone is reached. For the purposes of this paragraph, "exit ratio" means that one person may be awarded eligibility in a lottery to obtain either a sea urchin handfishing license or a sea urchin hand raking and trapping license for every 5 persons who held a sea urchin handfishing license or a sea urchin hand raking and trapping license in the year prior to the previous calendar year but who did not renew the license in the previous calendar year.~~

Sec. 12. 12 MRSA §6749-P, as amended by PL 1997, c. 685, §4, is further amended to read:

§6749-P. Licenses by zone

A person eligible to purchase a license under section 6749-O may purchase those licenses only for Zone 1 or Zone 2. All of those licenses issued to any one person in any one year must be for the same zone. A person may not change from the zone in which the person harvested sea urchins in the previous calendar year unless the change is authorized in accordance with section 6749-Z. A handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license authorizes the licensed activity only in the zone for which it is issued. A sea urchin dragging license must list the documentation or registration number of the vessel to be used by that licensee when dragging. A vessel documentation number or registration number may not be listed on more than one sea urchin ~~boat~~ dragging license.

Sec. 13. 12 MRSA §6749-Q, first ¶, as amended by PL 1997, c. 685, §5, is further amended to read:

The following surcharges are assessed on licenses ~~sold for calendar years 1998, 1999, 2000 and 2001~~ issued by the department:

Sec. 14. 12 MRSA §6749-Q, sub-§5, as amended by PL 1995, c. 462, Pt. A, §32, is further amended to read:

5. Wholesale seafood license with a sea urchin processor's permit. ~~Two thousand five hundred~~ One thousand dollars on a wholesale seafood license with a sea urchin processor's permit.

Sec. 15. 12 MRSA §6749-R, sub-§1, as repealed and replaced by PL 1999, c. 790, Pt. A, §13, is amended to read:

1. Uses of the fund. The commissioner shall use the fund for research directly related to sea urchin fishery management information needs and for reporting to licensed sea urchin harvesters, boat tenders, processors and buyers on the results of research and the use of fund revenues. The purpose of that research must be to determine, with the highest reliability possible given available resources, the greatest level of effort that may be applied to the sea urchin fishery without harming the long-term economic and biological sustainability of the sea urchin fishery. The commissioner shall consult with the Sea Urchin Zone Council under section 6749-X before deciding upon research projects and awarding grants from the fund. The fund may also be used to cover the costs associated with determining eligibility for licenses under this subchapter, for law enforcement and support for the Sea Urchin Zone Council, including reimbursement for travel expenses. Up to 30% of allotted revenues may be used for law enforcement purposes.

Sec. 16. 12 MRSA §6749-T, as amended by PL 1997, c. 685, §7, is repealed.

Sec. 17. 12 MRSA §6749-W, as amended by PL 1999, c. 244, §4, is repealed.

Sec. 18. 12 MRSA §6749-X, sub-§3, ¶A, as enacted by PL 1997, c. 177, §7, is amended to read:

A. The designation of open days for the harvesting of sea urchins by handfishing, dragging, hand-raking and trapping pursuant to section 6749-W or under rules adopted under section 6749;

Sec. 19. 12 MRSA §6749-X, sub-§6 is enacted to read:

6. Compensation. Members are entitled to compensation according to Title 5, chapter 379.

Sec. 20. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
MARINE RESOURCES, DEPARTMENT OF		
Bureau of Resource Management		
All Other	\$3,750	\$5,000
Allocates additional funds to the Sea Urchin management Fund to pay for the reimbursement costs of the Sea Urchin Zone Council.		

Sec. 21. Effective date. Those sections of this Act that repeal and replace the Maine Revised Statutes, Title 12, section 6748-A, subsections 1 and 2 take effect January 1, 2002. That portion of that section of this Act that enacts the Maine Revised Statutes, Title 12, section 6748-A, subsection 2-B takes effect January 1, 2002. That section of this Act that repeals the Maine Revised Statutes, Title 12, section 6749-W takes effect December 31, 2001.

See title page for effective date, unless otherwise indicated.

CHAPTER 328
H.P. 99 - L.D. 103
An Act to Amend Eminent Domain Powers