

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

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Sec. 15. 12 MRSA §6749-R, sub-§1, as repealed and replaced by PL 1999, c. 790, Pt.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

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

Sec. 1. 1 MRSA c. 21 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 21

EMINENT DOMAIN

Sec. 2. 1 MRSA §815 is enacted to read:

§815. Abandonment of purpose; rights of condemnee

Notwithstanding any other provision of law, if an entity that has taken property by eminent domain fails to use the property for the project or purpose for which that property was taken, the condemnee or the condemnee's heirs have a right of first refusal to purchase the property as provided in this section. The right may be exercised at a price equal to the total compensation paid to the condemnee for the taking plus an adjustment for any improvements made to the property and for changes in inflation based upon the Consumer Price Index as defined in Title 36, section 5402, subsection 1. The right of first refusal automatically terminates once the property is used for the project or purpose for which that property was taken. The purpose of a taking may be passive in nature, including conservation or preservation.

1. Reaffirmation of public purpose. If a property has not been used for the purpose for which it was taken after 8 years from the date of condemnation, the entity must reaffirm the need to retain the property for that purpose by giving notice to the public of its continuing intent to use the property for that purpose. Notice to the public is by publication twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property is located. If the purpose of the taking was to construct improvements, the property is deemed as being used for that purpose upon the commencement of substantial on-site construction activity. After the initial reaffirmation, for so long as the property has not been used for the purpose for which it was taken, the entity must reaffirm the need to retain the property every 3 years. Reaffirmation under this subsection does not constitute a retaking of the property, and this section does not require the entity to make additional payments to the condemnee or the condemnee's heirs. If the entity fails to reaffirm the need to retain the property, the entity must notify the condemnee or the condemnee's heirs as described in subsection 2.

2. Notification of right of first refusal. If the need to retain the property is not reaffirmed as required by subsection 1, the entity using eminent

domain must give written notice of the right of first refusal provided by this subsection to the condemnee or the condemnee's heirs by certified mail, return receipt requested, or by any other method that produces written evidence of receipt. Notice is sufficient under this subsection if the signed receipt is returned or the certified mail is returned as refused by the recipient.

A. If after reasonable diligence the address of the condemnee or the condemnee's heirs can not be determined, the notice is sufficient if it is published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property obtained by eminent domain is located.

B. If, within 90 days of the issuance of the written notice or the second publishing date as required by this subsection, the condemnee or the condemnee's heirs have either refused the right of first refusal on the property or failed to respond to the notice, then the entity may dispose of the property in any manner allowed by law free and clear from any rights provided by this section.

3. Waiver of rights under this section. Notwithstanding any other provision of this section, the condemnee or the condemnee's heirs may waive or release any rights provided under this section at any time.

4. Exemptions. This section does not apply to property taken by eminent domain if that property:

A. Was taken in whole or in part using federal funds or the eminent domain authority to take the property was derived from federal law;

B. Does not meet state or municipal lot size or frontage requirements;

C. Was taken to expand existing corridors used for transportation or utility purposes including highways, bridges, railroad lines or utility lines;
or

D. Was taken before October 1, 2001.

See title page for effective date.

CHAPTER 329

H.P. 1048 - L.D. 1405

An Act to Encourage Joint Child Rearing Between Divorced Parents