

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

2. Examination. A written examination is required for any person who applies for a noncommercial lobster and crab fishing license who has not successfully completed a written examination under this subsection or met the requirements of section 6421, subsection 5-B, paragraph B. The commissioner shall determine the form and content of the written examination. The written examination must be provided to an applicant with the pamphlet required under subsection 1. The applicant must return the completed written examination to the department and receive a passing grade on the written examination prior to receiving a noncommercial license.

3. Surcharge; credit to Lobster Management Fund. The commissioner shall set a surcharge, not to exceed \$15, sufficient to recover the costs incurred by the department in providing the program under this section. A person who successfully completes the program and pays the surcharge may not be charged the surcharge to renew the license. The commissioner may provide copies of the education materials developed under this section to an applicant for another lobster and crab fishing license upon receipt of the surcharge. Surcharges collected under this subsection must be credited to the Lobster Management Fund established in section 6431-C.

Sec. 3. 12 MRSA §6431-C, sub-§2, as amended by PL 2001, c. 93, §2, is further amended to read:

2. Purpose. All money credited to the Lobster Management Fund must be used to cover the costs of trap tags and the administration and enforcement of a lobster trap tag system under section 6431-B, the costs associated with lobster management policy councils and referenda pursuant to section 6447, costs associated with the Lobster Advisory Council not supported by the General Fund ~~and~~ the costs associated with determining eligibility for lobster and crab fishing licenses and eligibility to fish for or take lobsters from a vessel and the costs associated with the provision of educational programs, for which a surcharge is collected from the enrollee, pursuant to section 6423.

Sec. 4. License year for noncommercial lobster and crab fishing license. Notwithstanding the Maine Revised Statutes, Title 12, chapter 619, for 2003, the license year for noncommercial lobster and crab fishing licenses issued pursuant to Title 12, section 6421 begins May 1, 2003 and ends December 31, 2003.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF
Division of Administrative Services

Initiative: Allocates funds for the costs of certain educational materials.

Other Special Revenue Funds	2001-02	2002-03
All Other	\$0	\$28,950

See title page for effective date.

CHAPTER 582

S.P. 753 - L.D. 2090

An Act to Clarify the Law Governing Unlawful Solicitation to Benefit Law Enforcement Agencies

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

Sec. 1. 25 MRSA §3701, sub-§6 is enacted to read:

6. Solicitation agent. "Solicitation agent" means a person or entity that receives payment for or retains any portion of the proceeds from soliciting. "Solicitation agent" includes, but is not limited to, a person or entity that receives or retains reimbursement for expenses related to soliciting.

This subsection is repealed February 1, 2004.

Sec. 2. 25 MRSA §3702-A, as enacted by PL 1991, c. 510, §2, is amended to read:

§3702-A. Solicitation unlawful

A ~~person~~ law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. Any violation of this chapter constitutes a violation of the Maine Unfair Trade Practices Act. This section is repealed February 1, 2004.

Sec. 3. 25 MRSA §3702-B is enacted to read:

§3702-B. Solicitation unlawful

A person may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. A violation of this chapter constitutes a violation of the Maine Unfair Trade Practices Act. This section takes effect February 1, 2004.

Sec. 4. Report. The Attorney General, the Maine Sheriffs' Association, the Maine Chiefs of Police Association, the Maine State Troopers Association and the Maine Association of Police shall report their findings related to the change in the law enforcement solicitation law that allows persons to solicit the public for the tangible benefit of law enforcement as long as the solicitor has no financial interest in the solicitation to the joint standing committee of the Legislature having jurisdiction over criminal justice matters by May 1, 2003. Upon receiving that report and reviewing the current law, the committee may report out legislation to amend the law if necessary.

Sec. 5. Legislative intent. The Legislature finds that the compelling interests of the State underlying the laws governing solicitation by law enforcement officers are to eliminate the coercion that is inherent in many solicitations by or on behalf of law enforcement officers and to preserve public confidence in the integrity of law enforcement by prohibiting those solicitations in which those compelling interests are implicated.

The Legislature finds that at least the appearance of coercion inheres in every solicitation by a law enforcement officer or by a financially interested agent that represents to tangibly benefit law enforcement, and that the appearance of coercion undermines the integrity of the office. The Legislature further finds that there is no inherent coercion or appearance of coercion when the person soliciting has no financial interest at stake, because the person solicited will know that the person soliciting will not gain any tangible benefit from the solicitation and, consequently, will not be concerned with who donates. As a result, in this Act, the Legislature amends the law to allow solicitations by persons who gain no tangible benefit from the donation.

See title page for effective date.

CHAPTER 583

S.P. 669 - L.D. 1873

An Act to Amend the Tax Laws

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

Whereas, a delay in making changes to the tax laws would interfere with administration of those laws; and

Whereas, legislative action is immediately necessary in order to ensure continued and efficient administration of the tax laws; 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. 36 MRSA §151, as amended by PL 1999, c. 414, §7, is further amended to read:

§151. Review of decisions of State Tax Assessor

Any person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the ~~State Tax Assessor~~ assessor and who is aggrieved as a result of that action may request in writing, within 30 days after receipt of notice of the assessment or the determination, reconsideration by the ~~State Tax Assessor~~ assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a request for reconsideration within the specified time period, the assessor may not reconsider the assessment pursuant to this section and no review is available in Superior Court regardless of whether the taxpayer subsequently makes payment and requests a refund.

If a request for reconsideration is filed within the specified time period, the ~~State Tax Assessor~~ assessor shall reconsider the assessment or the determination. If the petitioner has so requested in the petition, the ~~State Tax Assessor~~ assessor shall hold an informal conference with the petitioner to receive additional information and to hear arguments regarding the protested assessment or determination. The ~~State Tax Assessor~~ assessor shall give the petitioner 10 working days' notice of the time and place of the conference. The conference may be held with less than 10 working days' notice if a mutually convenient time and place can be arranged ~~between the petitioner and the State Tax Assessor~~. The reconsideration, with or without an informal conference, is not an "adjudicatory proceeding" within the meaning of that term in the Maine Administrative Procedure Act. If the requested reconsideration involves a denial or deemed denial of a refund claim, a refund claim with respect to which a conference has been requested under section 5280 or an assessment that is paid in full or part and the ~~State Tax Assessor~~ assessor fails to mail to the taxpayer a decision on the reconsideration within 9 months after the reconsideration request was filed, the taxpayer may elect but is not obligated to deem the request for reconsideration denied. The taxpayer elects to deem the reconsideration denied by filing in Superior Court a petition for review of the deemed denial. The deemed denial constitutes final agency action and is subject to court review as otherwise provided in this