

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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FIRST REGULAR SESSION
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SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

B. Loans over \$50,000 for borrowers other than quality child care projects may not exceed 1/3 of the net new funds being provided to a borrower. Loans of \$50,000 or less for projects other than quality child care projects may not exceed 1/2 of the net new funds being provided to a borrower. Loans for quality child care projects may be for the total amount of new funds being provided to the borrower.

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

Effective May 16, 2003.

CHAPTER 196

H.P. 1115 - L.D. 1524

An Act To Conform to Federal Standards Maine's Law Regarding Strip Searches of Persons in Custody

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

Sec. 1. 5 MRSA §200-G, sub-§2, ¶A, as enacted by PL 1983, c. 789, §1, is repealed.

See title page for effective date.

CHAPTER 197

H.P. 1125 - L.D. 1532

An Act To Raise the Threshold under the Fair Minimum Wage Rate on Construction Projects Law

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

Sec. 1. 26 MRSA §1304, sub-§8, as enacted by PL 1967, c. 403, is amended to read:

8. Public works. "Public works" includes all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, demolition, waterworks, airports and all other structures upon which construction may be let to contract by the State of ~~Maine~~ and which contract amounts to ~~\$10,000~~ \$50,000 or more.

See title page for effective date.

CHAPTER 198

H.P. 1033 - L.D. 1406

An Act To Separate the Office of Tourism from the Office of Community Development

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

Sec. 1. 5 MRSA §13055, sub-§1, as amended by PL 1995, c. 560, Pt. B, §2, is further amended to read:

1. Organizations. The department contains the following organizations:

- A. The Office of Business Development; ~~and~~
- B. The Office of Tourism ~~and Community Development;~~ and
- F. The Office of Community Development.

Sec. 2. 5 MRSA §13072, first ¶, as amended by PL 1995, c. 560, Pt. B, §9, is further amended to read:

The Office of ~~Tourism and~~ Community Development shall assist municipalities in planning for and achieving economic growth and development while, at the same time, preserving and protecting their resources and assets. To achieve this purpose, the department, through the office, shall strive to remove barriers to balanced economic growth and provide planning, technical and financial resources to the municipalities to enhance economic development.

Sec. 3. 5 MRSA §13072, 2nd ¶, as amended by PL 1995, c. 560, Pt. B, §10, is further amended to read:

The Director of the Office of ~~Tourism and~~ Community Development shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter. The director has the following powers and duties.

Sec. 4. 5 MRSA §13073-A, first ¶, as enacted by PL 1999, c. 731, Pt. VVV, §2, is amended to read:

The Director of the Office of ~~Tourism and~~ Community Development shall administer the Regional Economic Development Assistance Fund, referred to in this section as the "fund."

Sec. 5. 5 MRSA §13073-A, sub-§1, as enacted by PL 1999, c. 731, Pt. VVV, §2, is amended to read:

1. Fund established. The fund is established as a nonlapsing fund within the Office of ~~Tourism and Community Development~~.

Sec. 6. 5 MRSA §13090-C, sub-§1, as reallocated by RR 1995, c. 2, §11, is amended to read:

1. Tourism; establishment. The Office of ~~Tourism and Community Development~~ shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of ~~Tourism and Community Development~~ shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the Maine Tourism Commission and the Maine State Film Commission.

Sec. 7. 5 MRSA §13090-C, sub-§2, as reallocated by RR 1995, c. 2, §11, is amended by amending the first paragraph to read:

2. Duties. The Director of the Office of ~~Tourism and Community Development~~ shall:

Sec. 8. 5 MRSA §13090-D, sub-§§1 and 2, as reallocated by RR 1995, c. 2, §11, are amended to read:

1. Historical markers. The Director of the Office of ~~Tourism and Community Development~~ may erect historical markers or signs on any highway. No more than 10 historical markers may be erected in one year. Markers that would interfere with reasonable use of highways may not be erected.

2. Review council. The Director of the Office of ~~Tourism and Community Development~~ shall consult with the Maine Historic Preservation Commission and the Department of Transportation on the historical marker program. Before erecting any marker, the director shall secure the Maine Historic Preservation Commission's approval of the marker, the marker's location and the marker's wording. The Maine Historic Preservation Commission shall obtain, or cause to be obtained, as needed, information on the event to be commemorated and on the appropriate location for the marker, including consulting historians and holding public hearings.

Sec. 9. 5 MRSA §13090-E, as reallocated by RR 1995, c. 2, §11, is amended to read:

§13090-E. Tourism marketing and development strategy

1. Development. The Office of ~~Tourism and Community Development~~ shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the

State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

2. Administration. The Office of ~~Tourism and Community Development~~ shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical assistance and response mechanisms. The Office of ~~Tourism and Community Development~~ shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy.

Sec. 10. 5 MRSA §13090-F, as amended by PL 1999, c. 445, §1, is further amended to read:

§13090-F. Maine Tourism Commission

1. Maine Tourism Commission. The Maine Tourism Commission, established by section 12004-I, subsection 87 and referred to in this section as the "commission," shall assist and advise the Office of ~~Tourism and Community Development~~ to achieve its purpose under section 13090-C. The commission consists of 24 voting members appointed by the Governor as follows:

A. Three members representing the outdoor sporting interests of the State, including:

- (1) One member representing a statewide organization of hunters, anglers and trappers;
- (2) One member representing the interests of large landowners; and
- (3) One member representing a statewide organization of licensed Maine guides;

B. Eight public members who represent their respective regions and have experience in the field or have demonstrated concern for the travel industry; and

C. Thirteen members of major tourism trade associations, including:

- (1) At least one member representing a statewide organization of hotels, motels and inns;
- (2) At least one member representing a statewide organization of restaurants;

- (3) At least one member representing a statewide organization of campground owners;
- (4) At least one member representing the retail sector in the State;
- (5) At least one member representing the motorcoach industry;
- (6) At least one member representing the air transportation industry;
- (7) At least one member representing arts and cultural organizations; and
- (8) At least one member representing a statewide organization of children's camps.

The terms of the voting members are for 4 years each. The Governor shall fill a vacancy in the membership for any unexpired term. The commissioners, directors or designees of the following state departments or offices shall serve as ex officio, nonvoting members of the commission: the department; the State Planning Office; the Department of Conservation; the Department of Transportation; the Department of Inland Fisheries and Wildlife; the Department of Agriculture, Food and Rural Resources; the Department of Education; and the Bureau of Public Improvements. The Canadian Affairs Coordinator shall also serve as an ex officio, nonvoting member of the commission. A chair and vice-chair of the commission must be elected annually from the appointed membership.

2. Powers and duties. The commission shall:

- A. Recommend rules for the implementation of section 13090-G and make recommendations on the award of matching funds to the commissioner and the Director of the Office of Tourism ~~and Community Development~~;
- B. Recommend policy guidelines on marketing, promotion and advertising strategies to the Office of Tourism ~~and Community Development~~;
- C. Conduct public hearings necessary to obtain input concerning tourism policy development from a broad cross-section of travel interests;
- D. Assist the Office of Tourism ~~and Community Development~~ in providing technical assistance to the travel industry and in planning and conducting periodic tourism conferences;
- E. Prepare a report for annual submission to the Governor and the Legislature relative to the programs, policies and accomplishments of the commission; and

F. Assist the Office of Tourism ~~and Community Development~~ in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section.

3. Compensation. Commission members are entitled to compensation as provided by chapter 379.

Sec. 11. 5 MRSA §13090-G, sub-§1, ¶B, as reallocated by RR 1995, c. 2, §11, is amended to read:

B. To strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism ~~and Community Development~~.

Sec. 12. 5 MRSA §13090-G, sub-§4, as reallocated by RR 1995, c. 2, §11, is amended to read:

4. Administration. The Office of Tourism ~~and Community Development~~ shall administer the Travel Promotion Matching Fund Program with such flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Maine Tourism Commission shall recommend rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Maine Tourism Commission shall establish a schedule for review of grant applications and make timely recommendations of grant awards to the Office of Tourism ~~and Community Development~~. Grants recommended by the Maine Tourism Commission to the Office of Tourism ~~and Community Development~~ must be approved by the Director of the Office of Tourism ~~and Community Development~~ prior to any disbursement of funds.

Sec. 13. 5 MRSA §13090-H, sub-§1, as reallocated by RR 1995, c. 2, §11, is amended to read:

1. Maine State Film Commission established. The Maine State Film Commission, as established by section 12004-I, subsection 88, is within the Office of Tourism ~~and Community Development~~ and shall advise and assist the office as necessary. The commission shall advise the commissioner and the Director of the Office of Tourism ~~and Community Development~~ with respect to the operation of the Maine State Film Commission program.

A. The commission consists of 11 members appointed by the Governor.

- (1) The members appointed must be involved in a related business field or have experience or familiarity with media mar-

keting or public relations. The Governor shall ensure an equitable regional representation from the State.

(2) The Director of the Maine Arts Commission and the commissioner shall serve as ex officio, nonvoting members of the commission.

B. The terms of office of commission members are as follows.

(1) All members are appointed for 3-year terms. Of those first appointed, 3 are appointed for 3-year terms, 4 are appointed for 2-year terms and 4 are appointed for one-year terms. The Governor shall designate the terms of office of those first appointed at the time of appointment.

(2) Members shall serve until their successors are appointed and take office. The Governor may terminate the membership of any appointee for just cause and the reason for the termination must be communicated in writing to each member whose term is so terminated.

(3) Vacancies must be filled in the same manner as original appointments, except that any person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the vacancy.

C. The chair and vice-chair are appointed by the Governor annually at the first meeting of the commission and serve for one-year terms.

(1) The chair shall call meetings of the commission.

D. Members are compensated for expenses only in accordance with chapter 379.

E. Financing of promotional and development materials and expenses pursuant to this section must be made with funds within the limit of the budget of the department for the Office of Tourism ~~and Community Development~~.

Sec. 14. 5 MRSA §13090-H, sub-§2, ¶B, as reallocated by RR 1995, c. 2, §11 and corrected by §14, is amended to read:

B. To advise and assist the Director of the Maine State Film Office and the Director of the Office of Tourism ~~and Community Development~~ with respect to this section and section 13090-I;

Sec. 15. 5 MRSA §13090-I, as reallocated by RR 1995, c. 2, §11, is amended to read:

§13090-I. Maine State Film Office

The Maine State Film Office is established within the Office of Tourism ~~and Community Development~~. The Director of the Maine State Film Office is responsible for undertaking a program of film promotion and implementing the recommendations and policies of the commissioner.

Sec. 16. 5 MRSA §13090-J, as enacted by PL 1997, c. 395, Pt. H, §1, is amended to read:

§13090-J. Tourism Cooperative Marketing Fund

1. Statement of purpose. The Tourism Cooperative Marketing Fund is established to allow the Office of Tourism ~~and Community Development~~ to accept private donations to be used in support of special public and private marketing opportunities.

2. Tourism Cooperative Marketing Fund. The Tourism Cooperative Marketing Fund, referred to in this section as the "fund," is established as an interest-bearing account. All charges collected pursuant to this section must be deposited into the fund. All interest earned by the account becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. Revenue to the fund is collected, managed, deposited, invested and disbursed by the Office of Tourism ~~and Community Development~~.

3. Revenue sources. For purposes of funding its activities, the Office of Tourism ~~and Community Development~~ is authorized to accept donations from private sources and shall consult with donors in making distribution determinations.

4. Administrative costs. The Office of Tourism ~~and Community Development~~ may retain a portion of the total donations collected equivalent to the office's administrative costs incurred in the collection and remission of the donations, not to exceed 2% of the total donations collected.

5. Reporting requirements. The Office of Tourism ~~and Community Development~~ shall submit a report by February 1, 1998 and February 1st of each subsequent year to the joint standing committees of the Legislature having jurisdiction over economic development matters and appropriations and financial affairs identifying the amount collected and how the fund was disbursed by the office.

6. Repeal. This section is repealed on July 1, 2007. The Office of Tourism ~~and Community Development~~ shall provide its recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over economic

development matters concerning the need for extending authorization of the fund.

Sec. 17. 5 MRSA §13092-A, as enacted by PL 1989, c. 553, §1 and amended by c. 700, Pt. A, §21 and repealed by c. 875, Pt. M, §§8 and 13, is repealed.

See title page for effective date.

CHAPTER 199

S.P. 482 - L.D. 1450

An Act Regarding Railroad Police Training

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

Sec. 1. 23 MRSA §6072, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §4, is amended to read:

1. Qualified person. "Qualified person" means a person who:

A. Has met all the education and training requirements as outlined under ~~Mandatory Training Law, former~~ Title 25, section 2805, ~~first paragraph or Title 25, sections 2804-B and 2804-C; and~~

A-1. Continues to meet all the in-service training requirements pursuant to Title 25, section 2804-E; and

B. Is of good moral character and has no record of conviction of a serious crime.

The qualification ~~and in-service training~~ requirements of paragraph A do not apply to any individual who was employed on a full-time basis by a railroad as a police officer on October 24, 1977.

See title page for effective date.

CHAPTER 200

S.P. 483 - L.D. 1451

An Act To Manage the Sea Urchin Fishery

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

Whereas, the sea urchin population along the coast of Maine has dramatically declined over the last decade and increased conservation efforts are needed to maintain a viable sea urchin fishery; and

Whereas, the sea urchin fishing season will begin on August 31st and this legislation will affect that fishing 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 §6404-E is enacted to read:

§6404-E. Suspension based on 3 or more convictions of possessing small sea urchins

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of a 3rd or subsequent offense of possessing sea urchins smaller than the minimum size established pursuant to section 6749-A. The suspension must be for at least one year from the date of conviction and may be up to 3 years. Any conviction occurring more than 5 years before the last conviction may not be counted in determining the suspension.

Sec. 2. 12 MRSA §6749-A, as amended by PL 2001, c. 327, §9, is repealed and the following enacted in its place:

§6749-A. Minimum size

1. Zone 1 prohibition. Except as provided in this subsection, a person may not take, possess, ship, transport, buy or sell a sea urchin having shell measurements less than the minimum size established by rule for Zone 1.

A. A person holding a dragging license may take a sea urchin that measures less than the minimum size established by rule for Zone 1 if that sea urchin is harvested by dragging and is immediately culled on board and liberated alive into the marine waters.

B. A person who holds a hand-fishing license may take a sea urchin that measures less than the minimum size established by rule for Zone 1 as provided by the commissioner.

2. Zone 2 prohibition. A person may not take, possess, ship, transport, buy or sell a sea urchin having shell measurements less than the minimum size established by rule for Zone 2. A person may take a sea urchin that measures less than the minimum size established by rule for Zone 2 if that sea urchin is culled on board immediately after harvesting and is liberated alive into the marine waters.