

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST SPECIAL SESSION**  
**August 21, 2003 to August 22, 2003**

**The General Effective Date For**  
**First Special Session**  
**Non-Emergency Laws Is**  
**November 22, 2003**

**SECOND REGULAR SESSION**  
**January 7, 2004 to January 30, 2004**

**The General Effective Date For**  
**Second Regular Session**  
**Non-Emergency Laws Is**  
**April 30, 2004**

**SECOND SPECIAL SESSION**  
**February 3, 2004 to April 30, 2004**

**The General Effective Date For**  
**Second Special Session**  
**Non-Emergency Laws Is**  
**July 30, 2004**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2004**

The commissioner shall immediately notify the Secretary of State of New Hampshire if this section is repealed or amended to significantly alter its application.

**Sec. 2. Contingent repeal date; reciprocal legislation.** This Act is repealed if the Maine Commissioner of Marine Resources certifies to the Secretary of State and submits a copy of that certification to the Office of the Revisor of Statutes that the State of New Hampshire has repealed the New Hampshire Revised Statutes Annotated, Title XXII, chapter 270, section 270:12-e or amended that section so that it is no longer substantially the same as the Maine Revised Statutes, Title 12, section 6025-A as enacted in this Act.

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

Effective February 19, 2004.

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## CHAPTER 520

H.P. 1280 - L.D. 1758

### An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws

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

**Sec. 1. 12 MRSA §6030**, as enacted by PL 1995, c. 507, §1, is amended to read:

**§6030. Department of Marine Resources Educational Fund**

**1. Fund.** There is established the Aquarium and Resource Center at West Boothbay Harbor Department of Marine Resources Educational Fund, referred to in this section as the "fund." The department is authorized to set and receive fees to be deposited in the fund. The fund receives all funds collected by the department from the operation of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse, including admission fees, the proceeds of sales at the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and donations, grants or other funds presented to the department for the benefit of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and its their educational programs. All money deposited in the fund and the earnings on the money remain in the fund to be used for the management and maintenance of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island

Living Lighthouse and its their programs that educate the State's children, teachers and visitors about the State's marine resources. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the same purpose.

**2. Annual report.** By February 1st of each year, the commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over fisheries matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The report must detail the amount of money collected in the fund over the course of the prior year and the expense of managing and maintaining the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and its their programs. The commissioner shall make recommendations concerning how the fund may be increased or expenses reduced or both so that the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and its their programs become increasingly financially self-sustaining.

**Sec. 2. 12 MRSA §6036** is enacted to read:

**§6036. Marine Fisheries Research and Development Fund**

**1. Fund established.** The Marine Fisheries Research and Development Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department. Unexpended balances in the fund at the end of the fiscal year may not lapse and must be carried forward to the next fiscal year and used for the purposes of this section.

**2. Sources and uses of fund.** Revenues from the total gasoline tax revenues credited to the fund under Title 36, section 2903-D may be used for research, development, propagation and management activities of the department. The commissioner may select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sport fisheries in the State. In addition to the revenues derived from the total gasoline tax revenues, the fund may receive money from any source for the purposes of this subsection.

**3. Allocations from fund.** Expenditures from the fund are subject to legislative approval in the same manner as appropriations from the General Fund. The joint standing committee of the Legislature having jurisdiction over appropriations must approve the allocations.

**Sec. 3. 12 MRSA §6410** is enacted to read:

**§6410. Suspension of license for failure to comply with court order of support**

If a license or registration is suspended pursuant to Title 19-A, section 2201, the suspension remains in effect until the person is in compliance with a court order of support. On condition of payment of a \$25 reinstatement fee to the department, the suspension is rescinded and the license reinstated.

**Sec. 4. 12 MRSA §6432, sub-§1**, as enacted by PL 1977, c. 661, §5, is amended to read:

**1. Conventional traps.** ~~It shall be unlawful to A person may not~~ fish for or take lobster by any method other than conventional lobster traps, as defined in rule, or from any platform other than a vessel. A vessel does not include a dock.

**Sec. 5. 12 MRSA §6434**, as amended by PL 1993, c. 543, §2, is further amended to read:

**§6434. Molesting lobster gear**

~~No person~~ A person may not raise, lift, transfer, possess or in any manner molest any lobster trap, warp, buoy or car except as provided in this section.

**1. Permitted activities.** Lobster traps, warps, buoys and cars may be raised, lifted, transferred, possessed or otherwise molested by the following:

- A. A marine patrol officer;
- B. The licensed owner;
- C. Any person having written permission from the ~~licensed owner~~ commissioner;
- D. Any person authorized by rule pursuant to subsection 2.

**2. Adoption of rules required.** The commissioner shall ~~promulgate~~ adopt rules, no later than January 1, 1990, authorizing the removal of traps, warps, buoys or cars that are washed up above the mean low tide mark or are otherwise abandoned or lost.

**3. Prohibition.** Traps, warps, buoys or cars may not be used for fishing by any person other than the licensed owner unless with written permission from the ~~licensed owner~~ commissioner.

**4. Additional penalty.** If the holder of a lobster and crab fishing license violates this section by cutting a lobster trap line, the court shall:

- A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the ~~Commissioner of Marine Resources~~ commissioner as required by section 6402, subsection 1.

A penalty imposed under this subsection is in addition to any penalty imposed under section 6204.

**Sec. 6. 12 MRSA §6451, sub-§1**, as amended by PL 2003, c. 20, Pt. WW, §5, is further amended to read:

**1. Allocation of license fees.** Ten dollars of each \$113.75 fee, ~~\$10 of each \$114 fee~~, \$20 of each \$228.50 fee, \$30 of each \$341.25 fee and \$5 of each \$56 fee for each lobster and crab fishing license must be allocated to the Lobster Fund, which must be used for the purposes of lobster biology research, of propagation of lobsters by liberating seed lobsters and female lobsters in Maine coastal waters and of establishing and supporting lobster hatcheries.

**Sec. 7. 12 MRSA §6621, sub-§3, ¶B**, as amended by PL 1995, c. 323, §1, is repealed.

**Sec. 8. 12 MRSA §6728-A**, as reallocated by RR 2003, c. 1, §7, is reallocated to §6721-A.

**Sec. 9. 12 MRSA §6743, sub-§3**, as enacted by PL 1981, c. 297, §4, is amended to read:

**3. Exception.** This section ~~shall~~ does not apply to the taking of quahogs under the authority of section 6856 ~~or to quahogs kept or washed in waters sterilized with a system which has been approved in writing by the commissioner, provided that the waters are also approved for that use.~~

**Sec. 10. 12 MRSA §6747, sub-§3**, as enacted by PL 1987, c. 328, §3, is amended to read:

**3. Exception.** This section ~~shall~~ does not apply to:

A. The taking of mussels under the authority of section 6856; ~~or,~~

~~B. Mussels kept or washed in waters sterilized with a system that has been approved in writing by the commissioner, provided that the waters are also approved for that use.~~

**Sec. 11. 12 MRSA §6804, sub-§4**, as repealed by PL 2003, c. 170, §2 and amended by c. 248, §10, is repealed.

**Sec. 12. Transfers from Aquarium and Resource Center at West Boothbay Harbor Fund.** The Department of Marine Resources may transfer the existing balance and encumbrances from the Aquarium and Resource Center at West Boothbay Harbor Fund, at any time prior to its lapsing, to the

Department of Marine Resources Educational Fund, in order to fund any of the activities outlined in the Maine Revised Statutes, Title 12, section 6030.

**Sec. 13. Transfers from gas tax fund.** The Department of Marine Resources may transfer the existing balance and encumbrances from the gas tax fund that was authorized by the Maine Revised Statutes, Title 36, section 2903-A, and was repealed by Public Law 2001, chapter 693, at any time prior to its lapsing, to the Marine Fisheries Research and Development Fund, in order to fund any of the activities outlined in Title 12, section 6036.

**Sec. 14. Appropriations and allocations.** The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Provides a base allocation for the Marine Fisheries and Research Development Fund.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$500
Other Special Revenue		
Funds Total	\$0	\$500

See title page for effective date.

**CHAPTER 521**

**H.P. 1266 - L.D. 1744**

**An Act To Amend the Laws Governing the Display of Fireworks and Indoor Pyrotechnics**

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

**Sec. 1. 8 MRSA §227-A, sub-§1, ¶¶A and B,** as enacted by PL 1999, c. 671, §6, are amended to read:

A. Applies in writing to the commissioner for a permit at least ~~10~~ 20 days in advance of the proposed display;

B. Applies on forms furnished by the department. An application for a permit must include:

- (1) A certificate of public liability insurance in the amount of ~~\$500,000~~ \$1,000,000 to cover loss, damage or injuries to persons or property that might result from the display; and

- (2) A site plan for the proposed display depicting a diagram of the grounds or facilities at which or in which the display will be held. The diagram must show points of discharge, fallout areas, any buildings or other structures in proximity to the display site and the location of any audience that may be present. Distances of and distances between the points of discharge and any buildings or structures must be stated on the diagram; and

**Sec. 2. 8 MRSA §227-A, sub-§3,** as amended by PL 2001, c. 437, §2 and affected by §8, is further amended to read:

**3. Fees.** The fee for a permit is \$30 per display and the fee for a site inspection is \$111. The fee for all monitored indoor pyrotechnic events that occur outside of normal business hours is \$100.

**Sec. 3. 8 MRSA §227-A, sub-§7** is enacted to read:

**7. Indoor pyrotechnics.** All indoor pyrotechnic events must be monitored by the State Fire Marshal or the State Fire Marshal's designee.

**Sec. 4. 8 MRSA §233, sub-§§1 to 3** are enacted to read:

**1. Complete application required.** A licensee shall submit a complete application for renewal at least 30 days prior to the expiration of a license under this chapter. An application is not complete unless it includes all materials required to be evaluated for licensure.

**2. Renewal submitted within 90 days following license expiration.** Notwithstanding subsection 1, a person may renew a license under this chapter for up to 90 days after the date of expiration of the license. The 90-day period does not postpone the expiration date of the existing license. A licensee whose license has lapsed may not work as a fireworks technician until a renewed license is issued.

**3. Renewal submitted more than 90 days following license expiration.** An application for license renewal under this section submitted more than 90 days after the license expiration date is considered an application for a new license and is subject to all requirements governing a new application.

See title page for effective date.