

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
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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

CHAPTER 39**S.P. 491 - L.D. 1485****Resolve, To Update Water Quality Criteria**

Sec. 1. Review. Resolved: That the Department of Environmental Protection shall review the necessity of amending the bacteria criteria for Class B waters, the bacteria criteria and the dissolved oxygen standard for Class C waters and the dissolved oxygen standard for estuarine and marine waters; and be it further

Sec. 2. Legislation. Resolved: That the Department of Environmental Protection shall recommend any needed changes related to the bacteria criteria for Class B waters, the bacteria criteria and the dissolved oxygen standard for Class C waters and the dissolved oxygen standard for estuarine and marine waters to the Joint Standing Committee on Natural Resources by January 1, 2004. The Joint Standing Committee on Natural Resources may report out legislation on these issues to the Second Regular Session of the 121st Legislature.

See title page for effective date.

CHAPTER 40**H.P. 1112 - L.D. 1519****Resolve, To Establish a Task Force on the Planning and Development of Marine Aquaculture in Maine**

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

Whereas, marine aquaculture is controversial and of great public interest. There is controversy surrounding its impact on the environment, existing wild fisheries, recreation, tourism and conserved land; and

Whereas, marine aquaculture is an important element of the State's marine economy and is a legitimate use of state water; and

Whereas, the process by which state water is leased for the conduct of marine aquaculture is affected by this controversy, which is leading to lengthy administrative procedures, litigation and acrimony; and

Whereas, there is an immediate need for a distinguished group of citizens to deliberate upon state

policy for aquaculture leasing in order to develop a broader consensus on the place of aquaculture among other sectors of the marine economy; 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

Sec. 1. Task force established. Resolved: That the Task Force on the Planning and Development of Marine Aquaculture in Maine, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force includes 11 members of the public with expertise in marine resources, fisheries, economic development, business, planning and natural resource conservation to be appointed by the Governor; and be it further

Sec. 3. Chair. Resolved: That the task force shall elect a chair from among its members; and be it further

Sec. 4. Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. Within 15 days after appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the task force; and be it further

Sec. 5. Staff assistance; technical assistance. Resolved: That the Department of Marine Resources, with cooperation from the Maine Coastal Program of the Executive Department, State Planning Office, shall provide staff services to the task force. The task force or the department may also seek or contract for technical assistance from any other agency, institution, individual or group that it determines appropriate to support the work of the task force; and be it further

Sec. 6. Issues to be considered. Resolved: That the task force shall, at a minimum, consider the following issues in developing its recommendations on how to balance the range of potential uses of state waters and plan for the growth of marine aquaculture while considering all applicable scientific data and all reasonable constraints and opportunities:

1. Any bay management or aquaculture development strategies presently being developed in this State and in other national and international jurisdictions that allocate or plan for amounts of aquaculture within geographically defined areas. An examination of these examples must include an investigation of the

type of information and technical and financial resources needed to implement such a plan in this State;

2. The present size and characteristics of the industry, as well as the short-term, 2-year, and long-term, 10-year, projections of industry growth, based on market demand and capital investment;

3. An assessment of the impacts aquaculture has on tourism, recreation, conserved lands and surrounding fisheries and the ecological health of any bay where aquaculture is located;

4. An assessment of how the external impact of aquaculture farms can best be mitigated in an equitable and effective fashion;

5. An assessment of present decision-making criteria for granting leases;

6. An assessment of the role of municipal government in the leasing application and approval process;

7. An assessment of the economic impacts aquaculture has on the State; and

8. A review and assessment of all state and federal law relating to submerged property and riparian rights and whether such law is adequate to address current issues relating to the use of Maine's coastal waters; and be it further

Sec. 7. Public meetings. Resolved: That, in examining these issues, the task force shall meet to the extent necessary to fulfill its duties, as well as hold at least 4 public meetings held in different regions of the coast expressly for the purpose of receiving public comment and testimony on its work; and be it further

Sec. 8. Stakeholder Advisory Panel established. Resolved: That the Stakeholder Advisory Panel, referred to in this resolve as "the advisory panel," is established to provide information to the task force at the solicitation of the task force and to review and comment upon the draft report of the task force as provided in this resolve. The task force shall periodically consult with the advisory panel regarding issues identified in this resolve. The advisory panel consists of 11 members, appointed within 30 days following the effective date of this resolve, as follows:

1. Two members of the finfish aquaculture industry, with one member representing a large finfish company and one member representing a small finfish company, appointed by the Speaker of the House of Representatives;

2. Two members of the shellfish aquaculture industry, with one member representing a small shellfish company and one member representing a large shellfish company, appointed by the President of the Senate;

3. One member representing the fishing industry, appointed by the Speaker of the House of Representatives;

4. One member from a coastal municipality who is a municipal official, appointed by the President of the Senate;

5. One member who is of the commercial recreational industry, such as a boat or schooner captain, appointed by the Speaker of the House of Representatives;

6. One member representing a marine industry, such as boat builders or marinas, appointed by the President of the Senate;

7. One member representing the land conservation field, appointed by the Speaker of the House of Representatives;

8. One member representing the environmental field, appointed by the President of the Senate; and

9. One member representing the tourism industry, appointed by the Speaker of the House of Representatives; and be it further

Sec. 9. Report. Resolved: That the task force shall submit a draft report that includes its draft findings and recommendations to the advisory panel no later than December 31, 2003. The advisory panel must review the draft report of the task force and submit its recommendations on the draft report to the task force no later than January 15, 2004. The task force must meet to review the recommendations of the advisory panel and make its final report to the Joint Standing Committee on Marine Resources and the Legislative Council no later than January 31, 2004. If the task force chooses not to include one or more of the recommendations of the advisory panel in its final report, the task force must include in its final report an explanation of the reason why it chose not to adopt that recommendation. The task force may submit legislation to the Second Regular Session of the 121st Legislature, not later than January 31, 2004, to implement the recommendations in its final report. If the task force requires an extension of time to complete its report, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. 10. Compensation. Resolved: That the members of the task force and the advisory panel, unless otherwise compensated by their employers or

other entities that they represent, are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force or the advisory panel. The Commissioner of Marine Resources shall use funds from the department's existing resources for costs incurred in carrying out the purposes of this resolve.

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

Effective May 21, 2003.

CHAPTER 41

S.P. 109 - L.D. 327

Resolve, Requiring the Department of Agriculture, Food and Rural Resources To Adopt Rules Regarding Care and Treatment of Elephants

Sec. 1. Rules. Resolved: That the Department of Agriculture, Food and Rural Resources shall adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A that reflect the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture on the care and treatment of elephants.

See title page for effective date.

CHAPTER 42

H.P. 57 - L.D. 49

Resolve, Requiring the Department of Inland Fisheries and Wildlife To Implement the Recommendations of the Maine Inland Fisheries Management Program 2002 Review

Sec. 1. Implementation of the Maine Inland Fisheries Management Program. Resolved: That, no later than 7 days after the effective date of this resolve, the Commissioner of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife the commissioner's plans to implement the recommendations of the Maine Inland Fisheries Management Program 2002 Review and provide progress reports on the implementation of those recommendations every 6 months thereafter until November 1, 2008.

See title page for effective date.

CHAPTER 43

H.P. 786 - L.D. 1068

Resolve, Directing the Bureau of Veterans' Services To Provide Assistance To Obtain Information Regarding Maine Members of the United States Armed Forces Presumed Lost or Deceased

Preamble. Whereas, the citizens of the State have dutifully supported the United States Armed Forces through faithful service in war and in peace; and

Whereas, many of her sons and daughters have made the supreme sacrifice in the preservation of peace and liberty throughout the world during their service in the United States Armed Forces; and

Whereas, those who have died or are presumed lost during such service as well as their surviving family members merit all honors and benefits due them in accordance with state and federal law; and

Whereas, the citizens of the State have a right to the fullest possible accounting of all Maine members of the United States Armed Forces who are presumed lost or deceased during their active military service, regardless of whether the presumed loss or death occurred in operations during a recognized period of war or conflict; now, therefore, be it

Sec. 1. Staff assistance; technical assistance. Resolved: That the Department of Defense, Veterans and Emergency Management, Bureau of Veterans' Services shall provide to the best of its ability staff assistance and technical assistance to assist individuals in obtaining information that may be available from the appropriate federal or state agencies concerning any Maine member of the United States Armed Forces who is presumed lost or deceased during the member's active military service, regardless of whether the presumed loss or death occurred in operations during a recognized period of war or conflict.

See title page for effective date.

CHAPTER 44

S.P. 122 - L.D. 346

Resolve, Authorizing the Commissioner of Inland Fisheries and Wildlife To Allow a Well and Waterline Easement