

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

3. Other employees. The salaries of the following employees ~~shall be~~ are within salary range ~~88~~ 53:

- A. General counsel;
- B. Director of finance;
- C. Administrative Director;
- D. Director of technical analysis; ~~and~~
- D-1. Director of energy programs; and
- E. Director of consumer assistance.

See title page for effective date.

CHAPTER 24

S.P. 97 - L.D. 302

An Act To Encourage Parties To Agree to the Selection of Independent Medical Examiners in Workers' Compensation Cases

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

Sec. 1. 39-A MRSA §312, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

2. Duties. An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. ~~—A— Unless agreed upon by the parties, a~~ physician who has examined an employee at the request of an insurance company, employer or employee in accordance with section 207 during the previous 52 weeks is not eligible to serve as an independent medical examiner.

Sec. 2. 39-A MRSA §312, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

7. Weight. ~~If the parties agree to a medical examiner, the examiner's findings are binding. If the board assigns an independent medical examiner, the~~ The board shall adopt the medical findings of the independent medical examiner unless there is clear

and convincing evidence to the contrary in the record that does not support the medical findings. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

See title page for effective date.

CHAPTER 25

H.P. 245 - L.D. 322

An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board

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

Sec. 1. 39-A MRSA §320, first ¶, as amended by PL 2003, c. 608, §13, is further amended to read:

~~Within 5 days after issuing a decision, a~~ A hearing officer may request that the full board review a decision of the hearing officer if the decision involves an issue that is of significance to the operation of the workers' compensation system. Except when a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 25 days of the issuance of a decision. If a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 5 days of the issuance of a decision on the motion. There may be no such review of findings of fact made by a hearing officer.

See title page for effective date.

CHAPTER 26

H.P. 319 - L.D. 434

An Act To Clarify Maine's Authority To Enforce Its Marine Resources Laws

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

Sec. 1. 12 MRSA §6001, sub-§13-I is enacted to read:

13-I. Established base of operations. "Established base of operations" means the location where a vessel has its primary relationship. Among the factors

identifying a primary relationship are the locations at which the vessel is primarily moored or docked, where it prepares for expeditions and hires a crew and to which it regularly returns for repairs, supplies and activities relating to its business or trade. The fact that a vessel carries on one or more of these activities at more than one location within this State or at a location or locations outside this State does not prevent the vessel from being considered to have an established base of operations within the State if a substantial portion of these activities are carried on at a location or locations within this State. For purposes of this subsection, "substantial portion" means a period exceeding 60 days in any calendar year.

Sec. 2. 12 MRSA §6001, sub-§36, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

36. Registered vessel. "Registered vessel" means:

A. A vessel that is owned or operated by a person licensed under this Part;

B. A vessel that is used to bring a marine organism into the State or its territorial waters;

C. A vessel that is registered or has been issued a certificate of number under chapter 935;

D. A vessel documented in accordance with 46 United States Code, Chapter 121 that has designated a Maine port of hail;

E. A vessel that has been issued a certificate of number by the United States Coast Guard under 46 United States Code, Chapter 123 that has identified Maine as the state of principal use; or

F. A vessel that has an established base of operations within this State.

Sec. 3. 12 MRSA §6001, sub-§37-A, as enacted by PL 1979, c. 590, §1, is amended to read:

37-A. Rigged. "Rigged" means to have on board the equipment necessary to undertake the activity. The commissioner shall determine by rulemaking what equipment is necessary to undertake the activity. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 27

H.P. 435 - L.D. 602

An Act To Provide for a Limited Sea Cucumber Fishery

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

Sec. 1. 12 MRSA §6801-A is enacted to read:

§6801-A. Sea cucumber drag license

1. License required. A person may not engage in the activities authorized under this section without a current sea cucumber drag license. A sea cucumber drag license must list the documentation or registration number of the vessel to be used by the licensee when dragging.

2. Licensed activities. The holder of a sea cucumber drag license may use the vessel named on the holder's license to drag for sea cucumbers. The license also authorizes the captain and crew members aboard the vessel named on the license to drag for and possess, ship, transport and sell sea cucumbers, except that the captain and crew members may not drag for sea cucumbers if the license holder is not aboard the vessel.

3. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take sea cucumbers from a vessel when the person holding a sea cucumber drag license that contains the name of that vessel is not on board if:

A. The holder of the sea cucumber drag license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking sea cucumbers from that vessel and requests in writing to the commissioner that the commissioner authorize another person to use that vessel to fish for or take sea cucumbers from the vessel; or

B. The vessel named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another vessel to fish for or take sea cucumbers.

4. Eligibility. A sea cucumber drag license may be issued only to an individual.

5. Fee. The fee for a sea cucumber drag license is \$111.