

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

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Sec. 2. 12 MRSA §6001, sub-§36, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place: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

6. Violation. A person who commits a violation under this section commits a civil violation for which a forfeiture of not less than \$100 may be adjudged.

Sec. 2. 12 MRSA §6813, sub-§3 is enacted to read:

3. Fees. The following fees must be assessed and credited to the fund. Every wholesale seafood license holder that purchases sea cucumbers shall keep, as a part of permanent records, a record of all sea cucumbers purchased at point of first sale. Every wholesale seafood license holder that purchases sea cucumbers shall, on or before the last day of each month, pay to the commissioner a fee of up to 20¢ for every 100 pounds reported as purchased. The commissioner shall establish by rule the amount of the fee and any procedural requirements for collection of the fee, including, but not limited to, reporting forms and monthly reporting of purchase amounts. Timely payment of the fee is a condition of renewal of the wholesale seafood license issued under section 6851. If it appears to the commissioner from an inspection of records or otherwise that an additional fee is due or overpayment has been made, additional assessments or refunds must be made by the commissioner to the wholesale seafood license holder.

Sec. 3. 12 MRSA §6814 is enacted to read:

§6814. Sea cucumber rules

The commissioner may adopt rules under chapter 607, subchapter 1 to promote the conservation and propagation of sea cucumbers. Those rules may include, but are not limited to, the establishment of management areas in which the harvest of sea cucumbers will be permitted, limits on the number of licenses associated with those management areas and annual limits on total harvest from each of those management areas. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA c. 623, sub-c. 4, art. 3 is enacted to read:

Article 3

LIMITATIONS ON SEA CUCUMBER DRAG LICENSES

§6821. Limited entry

1. License eligibility. The commissioner may not issue a sea cucumber drag license under section 6801-A to any person unless that person possessed that license in the previous calendar year or becomes eligible to obtain that license pursuant to a limited entry system under subsection 2.

2. Sea cucumber drag license limited entry system. The commissioner may establish by rule a limited entry system under which a person who did not hold a sea cucumber drag license under section 6801-A in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the system. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Exceptions. Notwithstanding subsection 1, the following persons may be issued a sea cucumber drag license for license year 2006:

A. A person who was certified as eligible for and obtained a sea cucumber endorsement in 2000; and

B. A person who reported landings of at least 100,000 pounds of sea cucumbers during license year 2002, 2003 or 2004.

4. Protection from depletion. The commissioner may adopt rules for the sea cucumber drag license limited entry system to prohibit new entry in a year when it is necessary to protect or conserve the sea cucumber resource from imminent depletion.

§6822. Licenses by area

If management areas are established pursuant to section 6814, then a person eligible to purchase a license under section 6821 may purchase that license for only one of the management areas. A person may not change from the management area in which the person harvested sea cucumbers in the previous calendar year unless the change is authorized in accordance with section 6823. A sea cucumber drag license authorizes the licensed activity only in the management area for which it is issued.

§6823. Changing sea cucumber management areas

This section applies if management areas are established pursuant to section 6814.

1. Authorization of changes. Beginning in calendar year 2007, a person eligible to purchase a sea cucumber drag license under section 6821 who wishes to change the management area in which the person harvests sea cucumbers may not change management areas unless the change is authorized by the commissioner in accordance with this section.

2. Management area change request on application. A person eligible to purchase a sea cucumber drag license under section 6821 who wishes to change the management area in which that person was licensed to harvest sea cucumbers in the previous calendar year must indicate on a sea cucumber drag

license application form a preference to change the management area in which the person harvests sea cucumbers. The commissioner shall stamp each sea cucumber drag license application form with the time and date of submission.

3. Conditions for authorization. A request to change management areas is authorized based on the commissioner's assessment of the ability of the management area to sustain additional fishing effort. The commissioner shall authorize management area change requests in chronological order of requests received under this section.

4. Limitation on approving management area change. The commissioner may not authorize a management area change during the period from October 1st to June 30th.

5. Effective date of management area change. The effective date of a management area change authorized by the commissioner is October 1st.

See title page for effective date.

CHAPTER 28

S.P. 37 - L.D. 95

An Act To Support the Department of Conservation, Bureau of Forestry's Aerial Fire Suppression Program

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

Sec. 1. 12 MRSA §8908 is enacted to read:

§8908. Aerial Fire Suppression Fund

1. Establishment of fund. The Aerial Fire Suppression Fund, referred to in this section as "the fund," is established through the Office of the State Controller as a nonlapsing fund under the jurisdiction of the bureau to ensure the viability of its aerial fire suppression program. The bureau may assess charges to agencies of the State for the use of the bureau's aerial fire suppression resources for purposes other than fire suppression and shall deposit any such money received into the fund. The bureau may apply for and accept any appropriation, grant, gift or service made available from any public or private source consistent with the purpose of this section and shall deposit any such money into the fund.

2. Use of fund. The bureau may use the fund to purchase aerial fire suppression resources, including helicopters, airplanes and spare parts, in accordance

with the bureau's plan to diversify and modernize its aerial fire suppression fleet.

Sec. 2. Appropriations and allocations.

The following appropriations and allocations are made.

CONSERVATION, DEPARTMENT OF

Division of Forest Protection 0232

Initiative: Allocates funds for the newly established Aerial Fire Suppression Fund.

OTHER SPECIAL REVENUE		
FUNDS	2005-06	2006-07
All Other	\$75,000	\$75,000
<hr/>		
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$75,000	\$75,000

See title page for effective date.

CHAPTER 29

H.P. 406 - L.D. 551

An Act To Amend the Budget Timetable for Oxford County

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

Sec. 1. 30-A MRSA §893, sub-§2, as enacted by PL 1991, c. 204, §2, is amended to read:

2. Budget estimate; submission to budget advisory committee. The Oxford County commissioners shall submit a budget estimate for the coming year to the budget advisory committee no later than November 1st of each year. The budget advisory committee shall review the budget estimate and prepare the budget. The budget must be presented to the county commissioners before December 1st of each year. The county commissioners shall act on the budget in a timely fashion, not later than the 3rd Tuesday in December ~~15th~~ of the year preceding the budget year. If the adopted budget is changed by the county commissioners, the budget advisory committee may reject that change by a 2/3 vote of its membership. Those actions are final and not subject to further action by either the county commissioners or the budget advisory committee.

See title page for effective date.