

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

Sec. 22. 29-A MRSA §2458, sub-§2, ¶Q, as amended by PL 2003, c. 434, §31 and affected by §37, is further amended to read:

Q. Has, as a condition of bail pursuant to Title 15, chapter 105-A or, if a juvenile, as a condition of release pursuant to Title 15, chapter 505, been ordered not to operate a motor vehicle. If the conditions of bail or release allow a person to operate a motor vehicle only under certain conditions or with restrictions on time, place or purpose, the Secretary of State may, without hearing, issue a restricted license reflecting the restrictions imposed; ~~or~~

Sec. 23. 29-A MRSA §2458, sub-§2, ¶R, as enacted by PL 2003, c. 434, §32 and affected by §37, is amended to read:

R. Is not in compliance with the conditions and requirements of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272-;

Sec. 24. 29-A MRSA §2458, sub-§2, ¶¶S to U are enacted to read:

S. Has failed to deliver or assign the certificate of title upon the request of the Secretary of State;

T. Has failed to comply with the provisions of Title 36, chapter 457 or 459; or

U. Has failed to provide the information required in section 401, subsection 2.

Sec. 25. 29-A MRSA §2458, sub-§2, as amended by PL 2003, c. 25, §1 and c. 434, §§30 to 32 and affected by §37, is further amended by repealing the last 2 blocked paragraphs.

Sec. 26. 29-A MRSA §2472, sub-§1, as amended by PL 1997, c. 737, §15 and affected by §22, is further amended to read:

1. Licensee not yet 21 years of age. A license issued to a person who has not yet attained the age of 21 years is a provisional license for a period of 2 years following the date of issue or until the holder attains 21 years of age, whichever occurs last. That license remains in force as a nonprovisional license to the next normal expiration date. A license issued by another jurisdiction to a person who has not yet attained the age of 21 years is a provisional license for the purpose of operating a motor vehicle within this State.

A license of a person who has not yet attained 21 years of age includes the condition that the person not operate a motor vehicle with any amount of alcohol in

the blood. When a person who has not yet attained 21 years of age operates a motor vehicle with any amount of alcohol in the blood, the provisions of section 1251, subsection 1, paragraph B apply.

Sec. 27. 29-A MRSA §2486, sub-§4 is enacted to read:

4. Electronic payment. A person electronically transmitting the fee pursuant to this section shall pay the fee associated with that transmittal.

Sec. 28. Effective date; contingency. This Act takes effect 90 days after adjournment of the First Special Session of the 122nd Legislature, except as otherwise indicated, and except that that portion of this Act that enacts the Maine Revised Statutes, Title 29-A, section 523, subsection 5, paragraphs T and U takes effect January 1, 2006 or when the United States Secretary of Defense approves the Iraq Campaign Medal and Afghanistan Campaign Medal designs, whichever occurs first, but in no event may that portion of this Act that enacts the Maine Revised Statutes, Title 29-A, section 523, subsection 5, paragraphs T and U take effect until 90 days after adjournment of the First Special Session of the 122nd Legislature. If the Secretary of Defense approves the Iraq Campaign Medal and Afghanistan Campaign Medal designs before January 1, 2006, the Secretary of State shall provide the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes written notice of the date the Secretary of Defense approved these designs.

Emergency clause. In view of the emergency cited in the preamble, that section of this Act that amends the Maine Revised Statutes, Title 29-A, section 1253, subsection 2 takes effect when approved.

Effective June 23, 2005, unless otherwise indicated.

CHAPTER 434

H.P. 1013 - L.D. 1449

An Act To Amend Maine's Shellfish Laws To Maintain Compliance with Federal Law and Protect Maine's Shellfish Industry

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

Sec. 1. 12 MRSA c. 420, as amended, is repealed.

Sec. 2. 12 MRSA §6103, as amended by PL 1991, c. 784, §4, is further amended to read:

§6103. Implementation of fishery product or shellfish inspection programs

The Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Marine Resources shall cooperate in developing and implementing any fishery product or shellfish inspection programs, ~~including any national seafood inspection program developed and administered under chapter 420.~~ Those programs must meet the standards established by the Commissioner of Agriculture, Food and Rural Resources under the Maine Food Law.

Sec. 3. 12 MRSA §6301, sub-§2, ¶D, as amended by PL 1995, c. 492, §2, is further amended to read:

D. A shellfish sanitation certificate issued under section 6856 expires on ~~April 30th~~ May 31st of each year;

Sec. 4. 12 MRSA §6601, as amended by PL 2003, c. 20, Pt. WW, §11, is further amended to read:

§6601. Commercial shellfish license

1. License required. A person may not engage in the activities authorized under this section without a current commercial shellfish license or other license issued under this Part authorizing the activities.

2. Licensed activities. The holder of a commercial shellfish license may fish for ~~or~~ take shellfish or possess, ~~ship~~ or transport shellfish within the state limits or sell shellstock the holder has taken to a wholesale seafood license holder certified under section 6856. The holder may also ~~shuck, in the holder's home, shellfish sell shellstock~~ the holder has taken and sell those shucked shellfish from that license holder's home in the retail trade. This license does not authorize the holder to fish for or take shellfish in violation of a municipal ordinance adopted pursuant to section 6671.

3. Eligibility. A commercial shellfish license may be issued only to an individual who is a resident.

4. Personal use exception. ~~Any~~ A person may take or possess no more than 1/2 bushel of shellfish shellstock or 3 bushels of "hen" or "surf" clams for personal use in one day without a license, unless municipal ordinances further limit the taking of shellfish.

5. Fee. The fee for a commercial shellfish license is \$115.

6. Definition. For the purposes of this subchapter, "shellfish" means shellstock clams, quahogs other than mahogany quahogs, ~~oysters and includes shellstock and shucked shellfish~~ oyster shellstock.

8. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

Sec. 5. 12 MRSA §6625, as enacted by PL 1993, c. 497, §3, is amended to read:

§6625. Identification and tagging of shellfish

1. Tagging required. The holder of a commercial shellfishing license issued under section 6601, ~~6731, 6732, 6745 or 6746~~ shall identify ~~shellfish~~ shellstock the license holder has taken by means of a harvester's tag. The tag must be consistent with the format required by the department under rules adopted ~~under this section to meet this requirement.~~ Each container, ~~hod or bag~~ of shellstock must be tagged ~~prior to landing the shellstock in accordance with department rules.~~ The tag must accompany the harvested product while the product is in wholesale or retail commerce within the State.

~~**2. Exception.** A commercial shellfish license holder who is certified under section 6856 is not required to tag shellfish at the time of harvest.~~

3. Rules. The commissioner may adopt or amend rules that establish requirements for shellfish harvesters' tags.

Sec. 6. 12 MRSA §6676, as enacted by PL 1985, c. 48, §2, is amended to read:

§6676. Summary of municipal ordinances

The department shall prepare a summary description of all municipal shellfish ordinances, which ~~shall~~ must include, but not be limited to, a listing for each municipality of the license application period, fee structure, and number of licenses available to residents and nonresidents. The department shall update the summary and ~~publish the summary every 6 months in a trade or industry journal which make it available to the public in a manner that~~ the commissioner considers to be effective in reaching the persons affected.

Sec. 7. 12 MRSA §6731, sub-§2, ¶¶B and C, as enacted by PL 1989, c. 828, §2, are amended to read:

B. Possess, ~~ship~~ or transport mahogany quahogs within the State; or

C. Sell mahogany quahogs that the holder has taken to a wholesale seafood license holder certified under section 6856.

Sec. 8. 12 MRSA §6732, sub-§§1 and 2, as amended by PL 2001, c. 421, Pt. B, §43 and affected by Pt. C, §1, are further amended to read:

1. License required. A person may not engage in the activities authorized under this section without a current commercial shellfish license or other license issued under this Part authorizing the activities.

2. Licensed activities. The holder of a commercial shellfish license may fish for or take quahogs, other than mahogany quahogs, or possess, ~~ship~~ or transport quahogs within the state limits or sell quahogs the holder has taken to a wholesale seafood license holder certified under section 6856.

Sec. 9. 12 MRSA §6745, sub-§§2 and 4, as amended by PL 2001, c. 421, Pt. B, §44 and affected by Pt. C, §1, are further amended to read:

2. Licensed activity. The holder of a hand-raking mussel license may take mussels by hand raking or possess, ~~ship~~, or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856.

4. Exception. In any one day, a person may take or possess not more than 2 bushels of ~~shell mussels~~ shellstock for personal use without a mussel license.

Sec. 10. 12 MRSA §6746, sub-§2, as amended by PL 2001, c. 421, Pt. B, §45 and affected by Pt. C, §1, is further amended to read:

2. Licensed activity. A boat license under this section may be used for dragging for mussels. The holder of a mussel boat license may also possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856. The license also authorizes the captain and crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities.

Sec. 11. 12 MRSA §6852, sub-§2, as amended by PL 1989, c. 348, §§10 and 11, is further amended to read:

2. License activity. The holder of a retail seafood license may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock or lobsters and shucked shellfish if they are bought from a wholesale seafood license holder certified under section 6856;

~~B. Shucked shellfish, if they are bought from a wholesale seafood license holder certified under section 6856;~~

C. Lobster parts or meat, if they are ~~properly~~ permitted under section 6857, or have been lawfully imported; ~~or~~

D. Crayfish; ~~or~~

E. Lobsters.

Sec. 12. 12 MRSA §6852, sub-§6 is enacted to read:

6. Rules. The commissioner may adopt or amend rules that establish requirements for retail seafood license holders concerning:

A. The minimum sanitation standards for establishments and vehicles;

B. The sanitation and quality control standards for shellfish and whole scallops and their products;

C. The methods for handling, shipping and transporting of shellfish and whole scallops;

D. The records and reports of purchases, shipping and transporting of shellfish and whole scallops;

E. The labeling or marking of shipments of shellfish and wholesale scallops; and

F. The protection of public health.

Rules adopted pursuant to this subsection must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data and must be designed to protect the public health and safety while allowing reasonable use of shellfish and whole scallops. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 13. 22 MRSA §2152, sub-§4-A, ¶B, as enacted by PL 1995, c. 331, §1, is amended to read:

B. Fish and shellfish processing establishments inspected under Title 12, section ~~4682~~, 6101, 6102 or 6856;

Sec. 14. Department of Marine Resources to develop tiered wholesale seafood dealer's license. The Department of Marine Resources shall develop a tiered wholesale seafood dealer's license based on the amount of seafood that a wholesale seafood dealer handles. The department shall report back to the Joint Standing Committee on Marine Resources with its recommendations, including any proposed legislation, no later than January 13, 2006. The department may submit legislation to the Legislature at the time it submits its report to the committee.

Sec. 15. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF**Division of Community Resource Development 0043**

Initiative: Deappropriates funds that are no longer needed for certain publication costs.

GENERAL FUND	2005-06	2006-07
All Other	(\$2,500)	(\$2,500)
GENERAL FUND TOTAL	(\$2,500)	(\$2,500)

See title page for effective date.

CHAPTER 435**S.P. 263 - L.D. 796**

**An Act To Implement the
Recommendations of the Commission
To Study Public Health That
Concern Schools, Children and
Nutrition**

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

Sec. 1. 20-A MRSA c. 223, sub-c. 9 is enacted to read:

SUBCHAPTER 9**NUTRITION EDUCATION****§6661. Nutrition education**

The department shall work with public schools to encourage nutrition education for students and for teachers and staff as part of coordinated school health programs and school food service programs and in accordance with chapter 222. The department shall work with public schools to encourage an outreach component for students' parents and guardians as part of a coordinated school health program. The department may adopt rules to implement the purposes of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

§6662. Foods outside school meal program

1. Nutritional information. After August 31, 2008, food service programs must post caloric information for prepackaged a la carte menu items at the point-of-decision.

2. Food and beverages outside school lunch programs. The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school meal programs. These standards must include maximum portion sizes, except for portion sizes for

milk, that are consistent with single-serving standards established by the United States Food and Drug Administration. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Rules adopted pursuant to this subsection do not apply to food and beverages sold or offered at community events or fund-raisers held outside the hours of the normal school day.

Sec. 2. Dairy vending machines. By January 31, 2006, the Department of Education, in collaboration with the Maine Dairy and Nutrition Council, shall implement a pilot program to install dairy vending machines selling flavored or unflavored milk with 1% or less fat in schools.

Sec. 3. Implementation of National Farm to School Program. By January 31, 2006, the Department of Education, in collaboration with the Department of Agriculture, Food and Rural Resources, shall implement the National Farm to School Program, funded by the United States Department of Agriculture, as fully as is practicable to provide locally grown fruits and vegetables in public schools.

See title page for effective date.

CHAPTER 436**H.P. 838 - L.D. 1220**

**An Act To Improve the Process for
Reporting Accidents Involving
Recreational Vehicles**

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

Sec. 1. 12 MRSA §10501, sub-§11, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §57 and affected by §422, is further amended to read:

11. Failure to give notice of snowmobile accident. Failure of a person who is required to give notice of a snowmobile accident under ~~section 13106 A, subsection 23~~ sections 13069-C and 13106-B to give that notice to the available law enforcement officer nearest to the place where the accident occurred is prima facie evidence that the accident was not reported.

Sec. 2. 12 MRSA §13052, sub-§6, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

6. Information to federal officials or agencies. The commissioner shall transmit any information