

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

3. Trap limit. The commissioner shall establish by rule a trap limit for the open season established pursuant to subsection 2. The trap limit may not exceed 475 traps per individual registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474.

A. Before establishing or amending the trap limit under this subsection, the commissioner shall determine the trap limit preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474. The commissioner may accept the preferences proposed by 2/3 of the registrants as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for Zone D before making this decision.

B. In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052.

C. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule establishing the trap limit in the Monhegan Lobster Conservation Area.

D. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this subsection without the advice and consent of the Marine Resources Advisory Council. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA §6475, sub-§1, ¶B, as enacted by PL 1997, c. 574, §4, is amended to read:

B. A person fulfills the time requirements of a Monhegan Lobster Conservation Area apprenticeship if, after November 30, 1998, that person serves for ~~150~~ 200 fishing days during a minimum period of 24 months in the Monhegan Lobster Conservation Area on a vessel operated by a Monhegan Lobster Conservation Area trap tag registrant who agrees to sponsor that person as an apprentice. For the purposes of this subsection, a "fishing day" means 5 hours or more in a calendar day of lobster-fishing-related activity. The commissioner shall administer the apprenticeship pursuant to rules adopted under section 6422 regarding an apprentice log book and educational courses. A person completes a Monhegan Lobster Conservation Area apprenticeship upon presentation to the commissioner of a validated log book that documents that person meets the requirements of this paragraph.

Sec. 4. 12 MRSA §6475, sub-§5 is enacted to read:

5. Registrants exiting the Monhegan Lobster Conservation Area. A person who is registered to fish within the Monhegan Lobster Conservation Area and who no longer wishes to fish there may exit the area at the end of the registration period established in this section in the following manner:

A. A person who has been registered for a period of not less than 5 open seasons and who can document to the commissioner that that person has harvested lobsters in each of 5 open seasons may exit the Monhegan Lobster Conservation Area and fish elsewhere in Zone D without going on a waiting list as established in section 6448.

B. A person who has been registered for a period of less than 5 open seasons or who cannot document to the commissioner that that person harvested lobsters in at least 5 open seasons may exit the Monhegan Lobster Conservation Area and become eligible to fish elsewhere in Zone D if that person complies with the waiting list requirement established in accordance with section 6448.

Sec. 5. Report. The Commissioner of Marine Resources shall report on the implementation, enforcement and results from the changes to the lobster and crab fishing season and trap limits for Monhegan Lobster Conservation Area under this Act to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15, 2011. The joint standing committee of the Legislature having jurisdiction over marine resources matters may submit legislation related to that report.

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

Effective June 4, 2007.

CHAPTER 220

S.P. 686 - L.D. 1887

An Act To Provide Additional Financing for Costs Associated with the Remediation of a Waste Oil Site in Plymouth

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

Whereas, Portland-Bangor Waste Oil Services, a now defunct Maine corporation, operated a waste oil handling facility in Plymouth; and

Whereas, this site is contaminated and must be cleaned up expeditiously to protect the public health, safety and welfare; and

Whereas, investigation and cleanup of the site will be expensive; and

Whereas, under state and federal law, any entity that sent waste oil or other contaminants to the site is a "responsible party" and, as such, is jointly and severally liable for the cost of investigation and cleanup; and

Whereas, this liability may pose an extraordinary financial hardship to small businesses, municipalities and others who sent waste oil to the site; and

Whereas, some waste oil handled at the site was collected from households as a public service and it is in the public interest to ensure the continued financial viability of the service station owners and other small business owners who provided this service; and

Whereas, responsible parties at the Plymouth site have been asked to reimburse the United States Environmental Protection Agency for expenses incurred at that site; and

Whereas, legislation concerning the Plymouth Waste Oil Loan Program was enacted in 1999, 2001, 2003 and 2004 and now further amendment is required to authorize loans to eligible parties to pay for the implementation of the clean-up remedy that is scheduled to commence in 2007-08; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §1023-M, sub-§2, as amended by PL 2003, c. 537, §28 and affected by §53, is further amended to read:

2. Eligibility to participate in loan program. The authority may use money in the fund to carry out any power of the authority under this section or under section 1026-A, subsection 1, paragraph A, subparagraph (1), division (e), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the costs of the Plymouth waste oil site remedial study, past cost settlement, implementation of institutional controls selected by the United States Environmental Protection Agency to prevent use of contaminated groundwater by nearby residents, oversight costs of the United States and the State, remedial action costs and time-critical removal action costs when the authority determines that:

A-1. The applicant has been identified by the United States Environmental Protection Agency as a potentially responsible party with respect to the waste oil disposal site and the applicant is alleged by the United States Environmental Protection Agency to have generated waste oil from an address or location within the State;

B. The applicant has signed the Administrative Order by Consent pursuant to United States Environmental Protection Agency Docket No. CERCLA 1-2000-0004;

B-1. The applicant has signed the West Site/Hows Corner RI/FS Group Agreement;

B-2. The applicant has entered into a consent decree with the United States and the State regarding past cost settlement at the Plymouth waste oil disposal site and the applicant is a participant in that consent decree or the applicant has entered into an inability-to-pay settlement with the United States Environmental Protection Agency;

B-3. The applicant has signed the Remedial Action Consent Decree for the West Site/Hows Corner Superfund Site in Plymouth, Maine;

C. The applicant is not a state or federal agency; and

D. There is a reasonable likelihood that the applicant will be able to repay the loan.

Money in the fund may not be used for attorney's fees associated with costs of the Plymouth waste oil site remedial study, past cost settlement, implementation of institutional controls ~~or~~, time-critical removal action or remedial action or a de minimis settlement, except that money in the fund may be used for attorney's fees incurred for the preparation of restrictive covenants, including deed and title research, for the properties within the area identified by the United States Environmental Protection Agency as the institutional control zone in order to implement the institutional controls selected by the United States Environmental Protection Agency.

A past cost settlement share may not be paid from the fund to a person if the United States Environmental Protection Agency has waived payment of the share based on the person's financial capacity. The authority may condition payments related to the Plymouth waste oil disposal site on receipt of an ability-to-pay determination from the agency.

The authority, pursuant to Title 5, chapter 375, subchapter 2, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under \$2,000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter

2-A. The authority shall charge an interest rate of 0% on all loans. Loan repayment must be deferred until the United States Environmental Protection Agency determines that construction of the final remedy is complete. If the total amount of the loan requests exceeds funds available under section 1023-L, the authority shall prorate the amount of the loan available to each applicant by the ratio of the funds available to the total loans requested.

Sec. 2. 10 MRSA §1023-M, sub-§2-D is enacted to read:

2-D. De minimis settlement. In addition to the uses authorized in subsection 2, money in the fund may be used for direct loans or deferred loans for payments as part of a de minimis settlement, including any settlement premium, between the United States, the State, responsible parties and an applicant. Money may be used only if the authority determines that the applicant has signed all of the settlement documents required by the United States and the State for a de minimis settlement in the matter of the West Site/Hows Corner Superfund Site in Plymouth, Maine. The provisions of subsection 2 apply to loans authorized under this subsection.

Applications submitted pursuant to this subsection must be received within 180 days after the effective date of this subsection, except that the authority may extend that deadline by an additional period of time not to exceed 60 days for good cause shown.

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

Effective June 4, 2007.

CHAPTER 221

H.P. 71 - L.D. 73

An Act To Place Land in Centerville in Trust

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

Sec. 1. 30 MRSA §6205, sub-§1, ¶C, as amended by PL 2001, c. 251, §2 and affected by §4, is further amended to read:

C. Any land not exceeding 100 acres in the City of Calais acquired by the secretary for the benefit of the Passamaquoddy Tribe as long as the land is acquired by the secretary prior to January 1, 2001, is not held in common with any other person or entity and is certified by the secretary by January 31, 2001, as held for the benefit of the Passamaquoddy Tribe, if:

(1) The acquisition of the land by the tribe is approved by the legislative body of that city; and

(2) A tribal-state compact under the federal Indian Gaming Regulatory Act is agreed to by the State and the Passamaquoddy Tribe or the State is ordered by a court to negotiate such a compact; ~~and~~

Sec. 2. 30 MRSA §6205, sub-§1, ¶D, as enacted by PL 2001, c. 251, §3 and affected by §4, is amended to read:

D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in T. 19, M.D. to the extent that the land is acquired by the secretary prior to January 31, 2020, is not held in common with any other person or entity and is certified by the secretary by January 31, 2020 as held for the benefit of the Passamaquoddy Tribe; ~~and~~

Sec. 3. 30 MRSA §6205, sub-§1, ¶D-1 is enacted to read:

D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the land is acquired by the secretary prior to January 31, 2017, is not held in common with any other person or entity and is certified by the secretary by January 31, 2017 as held for the benefit of the Passamaquoddy Tribe.

Sec. 4. Effective date; certification. This Act does not take effect unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes, except that in no event may this Act become effective until 90 days after the adjournment of the Legislature.

See title page for effective date, unless otherwise indicated.
