

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, Article 3-A, the certificates or instruments are made negotiable instruments within the meaning of and for all purposes of Title 11, Article 3-A, subject only to such registration requirements as the authority may establish.

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

Effective March 27, 2008.

CHAPTER 521

H.P. 1453 - L.D. 2069

An Act To Update Department of Defense, Veterans and Emergency Management Laws

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

Whereas, spouses and dependents of veterans are currently receiving educational benefits at state postsecondary institutions; and

Whereas, clarification is required to ensure that those receiving educational benefits will be afforded the time to complete their degree programs; 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. 37-B MRSA §504, sub-§4, ¶A-1, as amended by PL 2005, c. 273, §1, is further amended to read:

A-1. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried minor child, unmarried dependent child enrolled in secondary school or unmarried adult child who became incapable of self-support before reaching 18 years of age on account of mental or physical disabilities.

(2) "Eligible veteran" means any person who:

(a) Served in the active United States Armed Forces and who:

(i) If discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on active state service as provided in chapter 3, subchapter 3; ~~or~~

(d) Served in the Reserve Components of the United States Armed Forces and was entitled to retired pay under 10 United States Code, chapter 1223 or would have been entitled to retired pay under chapter 1223 except that the person was under 60 years of age; ~~or~~

(e) Died while serving in the Active Guard Reserve and whose death is determined to be in the line of duty.

Sec. 2. 37-B MRSA §505, sub-§1-A, as enacted by PL 2001, c. 439, Pt. QQ, §2, is amended to read:

1-A. Financial assistance. Financial assistance may be granted as follows.

A. The bureau may provide a grant of temporary assistance not to exceed \$200 per month and not to exceed \$600 in any 12-month period to a veteran ~~in~~ currently a resident of this State who has filed a valid claim for a veteran's pension, pending notification of the award of such a pension, if that veteran is not incarcerated and requests such assistance. For purposes of this paragraph, "claim for a veteran's pension" means a claim filed with the federal Veterans' Administration pursuant to 38 United States Code, Chapter 15.

B. The bureau may provide a grant of emergency assistance not to exceed \$500 to a veteran currently a resident of this State who suffers an emergency, such as the loss of that veteran's home to fire, flood or hurricane, that is not fully compensable by insurance; illness or the illness of an immediate family member; or a similar emergency. No more than \$1,000 in emergency assistance may be provided to a veteran in any 12-month period. For the purposes of this paragraph, "veteran" has the same meaning as "eligible veteran" in section 504, subsection 4, paragraph A-1.

C. A veteran who requests either temporary assistance under paragraph A or emergency assistance under paragraph B and is denied such assistance may request a reconsideration and review of

this decision by the director. The decision of the director is final and may not be appealed to a court.

D. The department may adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 3. 37-B MRSA §505, sub-§2, ¶A, as amended by PL 2007, c. 167, §6, is further amended to read:

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Child" means a natural child whose mother or father is or was a veteran or a child who was adopted prior to turning 18 years of age and whose adoptive mother or father is or was a veteran and the child who:

- (a) Is at least 16 years of age;
- (b) Has graduated from high school; and
- (c) Enrolled in a degree program and was awarded benefits under this subsection prior to turning 22 years of age and is not over 25 years of age at the time of application for a benefit under this subsection the child's 22nd birthday. If the child is unable to enroll in a degree program prior to turning 22 years of age due to service in the United States Armed Forces, then the child may apply to begin this benefit until reaching 26 years of age. Other requirements must be met as described in paragraph F.

"Child" also means a stepchild who is a member of a veteran's household either at the time of application or, in the event of the veteran's death, at the time of death, and who continues as a member of the household after the death of the veteran. At least 5 years must have elapsed since the veteran married the parent of the stepchild before the stepchild is eligible for educational benefits, and the biological parent of the stepchild must reside in the veteran's household while the stepchild receives educational benefits.

(2) "Spouse" means the person currently legally married to a living veteran or the unre-married widow or widower of a deceased veteran, not previously divorced from that veteran. Awards under the educational benefits program are authorized to provide benefits to only one spouse per veteran.

(3) "Veteran" means any person who served in the military or naval forces of the United

States and entered the service from this State ~~or resided in~~ has been a resident of this State for 5 years immediately preceding application for aid and, if living, continues to reside in this State throughout the duration of benefits administered under the educational benefits program and who:

- (a) Has a total permanent disability resulting from a service-connected disability as a result of service;
- (b) Was killed in action;
- (c) Died from a service-connected disability as a result of service;
- (d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or
- (e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

The continuous residency requirement of this subparagraph does not apply to a person who is receiving educational benefits under this chapter on or before January 1, 2006.

Sec. 4. 37-B MRSA §505, sub-§2, ¶E, as amended by PL 2007, c. 167, §7, is further amended to read:

E. Spouses of veterans who are attending state-supported postsecondary vocational schools or institutions of collegiate grade must be admitted free of tuition including mandatory fees and lab fees for a certificate program or an associate's, bachelor's or master's degree program. Room and board may not be waived. Spouses are entitled to receive up to ~~8 semesters~~ 120 credit hours of educational benefits and have 10 years from the date of first entrance to complete the program. This paragraph applies to all spouses enrolled in the educational benefits program as of September 1, 2007.

Sec. 5. 37-B MRSA §505, sub-§6 is enacted to read:

6. Determination of residency. The bureau shall verify that a person seeking benefits as provided by this section is a current resident of the State. The forms of identification sufficient to determine residency in accordance with this section are:

- A. A valid state driver's license;
- B. A valid state-issued identification card;

C. A current state motor vehicle registration form;

D. A current state fishing or hunting license; and

E. Items other than those listed in paragraphs A to D that allow the bureau to reasonably determine residency.

Sec. 6. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 37-B, section 505, subsection 2, paragraph E is retroactive to September 1, 2007.

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

Effective March 27, 2008.

CHAPTER 522

H.P. 1517 - L.D. 2137

An Act To Clarify the Licensing Requirements for Aquaculturists and Allow for the Appropriate Handling of Bycatch from Aquaculture Lease Sites

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

Sec. 1. 12 MRSA §6073-A, as amended by PL 2005, c. 92, §6, is further amended to read:

§6073-A. Season and minimum size exemption; aquaculture

The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement regarding the time of taking or possessing, minimum or maximum length or other minimum or maximum size requirement for any marine organism cultivated on the leased area. The exemption applies only to those organisms actually cultivated on the leased area, except that upon harvest of finfish from the leased area pursuant to an aquaculture lease, any finfish of a species that was not cultivated on the leased area but occurred in the enclosure must also be harvested and retained for appropriate disposal by the holder of a lease. Such finfish may not be sold and may not be released or disposed of into the waters of the State and must be reported to the department at the same time as reports of the harvest are filed. The commissioner shall require a system of identification of organisms exempted under this section.

Sec. 2. 12 MRSA §6073-B is enacted to read:

§6073-B. Harvester license exemption; aquaculture

The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement under sections 6421, 6501, 6748, 6748-A, 6748-D, 6751, 6801-A and 6803 to hold a separate license for the removal, possession, transport or sale of the cultured organisms, except for molluscan bivalve shellfish, from the leased area or the licensed gear.

Sec. 3. 12 MRSA §6601, sub-§2-A is enacted to read:

2-A. Licensed activities; aquaculture. The holder of a commercial shellfish license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a commercial shellfish license may remove, possess, transport within the state limits or sell cultured shellfish the holder has removed from the leased area or the licensed gear to a wholesale seafood license holder certified under section 6856. Such a holder of a commercial shellfish license may also sell such shellstock from that license holder's home in the retail trade. The department shall establish by rule a means to identify personnel operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA §6745, sub-§2-A is enacted to read:

2-A. Licensed activities; aquaculture. The holder of a hand-raking mussel license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a hand-raking mussel license may remove, possess, transport within the state limits or sell cultured mussels the holder has removed from the leased area or the licensed gear to a wholesale seafood license holder certified under section 6856. Such a holder of a hand-raking mussel license may also sell such mussels from that license holder's home in the retail trade. The department shall establish by rule a means to identify personnel operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 12 MRSA §6746, sub-§2-A is enacted to read:

2-A. Licensed activities; aquaculture. The holder of a mussel boat license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who