

# 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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

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

are operating under the authority of such a holder of a mussel boat license may remove, possess, transport within the state limits or sell cultured mussels the holder has removed from the leased area to a wholesale seafood license holder certified under section 6856. Such a holder of a mussel boat 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.

See title page for effective date.

**CHAPTER 523**

**S.P. 790 - L.D. 1996**

**An Act To Allow Changes of Beneficiaries under the Maine Public Employees Retirement System**

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

**Whereas,** the implementation of this legislation is necessary for those retirees whose ability to make a change in beneficiaries is limited by time; 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. 4 MRSA §1357, sub-§3,** as enacted by PL 1999, c. 744, §2, is amended to read:

**3. Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but ~~may not~~ change the already elected payment option or ~~in~~ the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Judicial Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit.

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date.

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

- (1) The date of the new beneficiary's death; or
- (2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2).

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C.

**Sec. 2. 5 MRSA §17804, sub-§5-F,** as amended by PL 1999, c. 790, Pt. K, §1 and affected by §5, is further amended to read:

**5-F. Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but ~~may not~~ change the already elected payment option or ~~in~~ the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.