

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

gency medical services professionals and appointed by the Attorney General.

See title page for effective date.

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**CHAPTER 150  
S.P. 129 - L.D. 365**

**An Act To Amend the Laws  
Governing MaineCare Estate  
Recovery Undertaken by the  
Department of Health and  
Human Services**

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

**Sec. 1. 18-A MRSA §2-401**, as amended by PL 2001, c. 57, §1, is further amended to read:

**§2-401. Homestead allowance**

A surviving spouse of a decedent who was domiciled in this State is entitled to a homestead allowance of \$10,000. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to \$10,000 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share. The homestead allowance established by this section is the sole exemption available for a decedent's homestead.

**Sec. 2. 18-A MRSA §2-405**, as corrected by RR 2003, c. 1, §11, is amended to read:

**§2-405. Estate property exempt**

Notwithstanding any provisions to the contrary, any ~~part of personal property included in the decedent's estate which shall be that~~ is exempt under Title 14, section 4422, on the date of the decedent's death, ~~shall is not be~~ liable for payment of debts of the decedent or claims against ~~his~~ the decedent's estate; ~~provided, except that nothing in this section may be deemed to affect~~ affects the provisions of sections 2-401 through 2-404.

**Sec. 3. 22 MRSA §14, sub-§2-I, ¶F**, as enacted by PL 1993, c. 707, Pt. I, §1, is amended to read:

F. As used in this subsection, unless the context otherwise indicates, the term "estate" means:

- (1) All real and personal property and other assets included in the recipient's estate, as defined in Title 18-A, section 1-201; and

- (2) Any other real and personal property and other assets in which the recipient had any legal interest at the time of death, to the extent of that interest, including assets conveyed to a survivor, heir or assign of the deceased recipient through tenancy in common, survivorship, life estate, living trust, joint tenancy in personal property or other arrangement but not including joint tenancy in real property.

See title page for effective date.

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**CHAPTER 151  
H.P. 836 - L.D. 1211**

**An Act To Amend the Marine  
Resources Suspension Laws**

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

**Sec. 1. 12 MRSA §6352**, as amended by PL 1991, c. 390, §3, is repealed and the following enacted in its place:

**§6352. Notice**

The commissioner shall give notice of a suspension or a revocation and may give an opportunity for a hearing to the holder.

**1. Time of notice.** Notice must be given within 60 days of the conviction or adjudication pursuant to section 6351 and must be mailed to the last known address as provided in the department's marine resources licensing and enforcement database or be served in hand.

**2. Nature of notice.** The notice must contain:

A. A statement of the conviction or adjudication pursuant to section 6351;

B. The reason and statutory grounds for the suspension or revocation;

C. The effective date of the suspension or revocation; and

D. The opportunity for a hearing, should one exist.

**4. Receipt date.** The notice is deemed received 3 days after the mailing.

**5. Effective date of suspension or revocation.** A suspension or revocation is effective on the date specified by the commissioner on the notice, which may not be less than 10 days after the mailing of the notice of suspension or revocation by the commissioner.

**Sec. 2. 12 MRSA §6353, sub-§1**, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

**1. Request for hearing; place of hearing.** A hearing must be requested in writing within 10 days from the effective date of the suspension. If requested, it must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

**Sec. 3. 12 MRSA §6353, sub-§2**, as enacted by PL 1977, c. 661, §5, is amended to read:

**2. Evidence.** At the hearing, the holder or the department may present any evidence concerning the violation ~~which might justify reinstatement of his license or certificate, or reduction of the suspension period.~~

**Sec. 4. 12 MRSA §6372, sub-§3, ¶A**, as enacted by PL 1977, c. 661, §5, is amended to read:

A. Evidence, Title 5, section 9057, except the issues ~~shall be limited~~ are limited to whether the licensee had a license and whether ~~he~~ the licensee refused inspection;

**Sec. 5. 12 MRSA §6402**, as amended by PL 2007, c. 201, §1, is further amended to read:

**§6402. Suspension based on adjudication of molesting**

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder ~~convicted~~ adjudicated in court of violating section 6434. This suspension is for 3 years from the date of ~~conviction~~ adjudication.

**1. Adjudications for cutting lobster trap lines.** A person ~~convicted~~ adjudicated under section 6434 of molesting lobster gear by cutting a lobster trap line shall, upon making full payment as ordered by the court under section 6434, subsection 4, paragraph A, provide the commissioner with proof of that payment. If the commissioner does not receive that proof within 3 years after the date of ~~conviction~~ adjudication, the commissioner shall continue that license suspension until such time as that proof is received.

**Sec. 6. 12 MRSA §6406, sub-§1**, as amended by PL 1991, c. 302, §1 and affected by §2, is further amended to read:

**1. Prohibited acts.** It is unlawful for any person whose license or right to obtain a license is under suspension to:

- A. Engage in any licensed activity;
- B. Give another person permission to raise, lift, transfer or possess lobster traps or cars marked with the suspended person's lobster and crab fishing license number or lobster traps with buoys

that carry the color design on file with the suspended license;

C. Assist a holder of a Class II lobster and crab fishing license as a crew member; or

E. For any violation occurring on or after the effective date of this paragraph, assist any license holder as a crew member in any activity authorized by the suspended license.

See title page for effective date.

**CHAPTER 152**

**H.P. 186 - L.D. 232**

**An Act To Require Businesses To Make Toilet Facilities Available to Individuals with Certain Medical Conditions**

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

**Sec. 1. 22 MRSA §1671**, as repealed and replaced by PL 1985, c. 737, Pt. A, §53, is amended to read:

**§1671. Definitions**

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

**1. Shopping center.** "Shopping center" means any building or facility containing 6 or more separate retail establishments ~~which that~~ are planned, developed, owned or managed as a unit, with an off-street parking area of not less than 2 acres.

**2. Customer.** "Customer" means an individual who is lawfully on the premises of a retail establishment.

**3. Eligible medical condition.** "Eligible medical condition" means Crohn's disease, ulcerative colitis or any other inflammatory bowel disease, irritable bowel syndrome, a condition requiring the use of an ostomy device or any other medical condition that requires immediate access to a toilet facility.

**4. Retail establishment.** "Retail establishment" means a place of business open to the general public for the sale of goods or services.

**Sec. 2. 22 MRSA §1672-B** is enacted to read:

**§1672-B. Retail establishments; access to employee toilet facilities**

**1. Access for customers with eligible medical conditions.** A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if: