

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-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.

Augusta, Maine
2009

§1812-J. Unlicensed assistive persons

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified nursing assistant" means an individual who has successfully completed an approved nursing assistant training program, holds a certificate of training and meets the eligibility requirements established by the State Board of Nursing for listing on the registry.

B. "Registry" means the Maine Registry of Certified Nursing Assistants, which is a list of certified nursing assistants, with notations if applicable, and a list of unlicensed assistive persons with notations and is established under section 1812-G.

C. "State survey agency" has the same meaning as in section 1812-G, subsection 2, paragraph B.

D. "Unlicensed assistive person" means an individual employed to provide hands-on assistance with activities of daily living to individuals in homes, assisted living programs, residential care facilities, hospitals and other health care settings. "Unlicensed assistive person" does not include a certified nursing assistant employed in the capacity of a certified nursing assistant.

2. Complaint investigation. The department may investigate complaints of abuse, neglect or misappropriation of property of a client, patient or resident in a home or health care setting against unlicensed assistive persons employed or placed by a licensed, certified or registered agency or facility.

3. Substantiated complaint; registry listing. When a complaint against an unlicensed assistive person is substantiated by the department and the unlicensed assistive person must be listed on the registry pursuant to subsection 4, the department's decision becomes final agency action as defined in Title 5, section 8002, subsection 4.

4. Registry listing. The registry listing for an unlicensed assistive person with a notation must include but is not limited to the following information:

A. Documentation of the department's investigation, including the nature of the allegation and the evidence that led the department to substantiate the allegation of abuse, neglect or misappropriation of property;

B. The date of the hearing, if the unlicensed assistive person chose to appeal the department finding that the complaint was substantiated; and

C. The unlicensed assistive person's statement to the department disputing the allegation, if the unlicensed assistive person chose to submit one.

5. Right to hearing. The department shall notify the unlicensed assistive person of the right to request a hearing to contest the finding that the complaint under subsection 3 was substantiated.

6. Petition for removal of a finding of neglect. No sooner than 12 months after the date a neglect finding is placed on the registry, an unlicensed assistive person may petition the department to remove a notation from the registry if the substantiated complaint of neglect is a one-time occurrence and there is no pattern of neglect.

7. Prohibited employment. The following unlicensed assistive persons may not be employed or placed by a licensed, certified or registered agency or facility:

A. An unlicensed assistive person listed on the registry with a notation;

B. An unlicensed assistive person who, while working as a certified nursing assistant, had a notation on the registry for a complaint that was substantiated by the state survey agency for abuse or neglect; or

C. An unlicensed assistive person who, while working as a certified nursing assistant, had a notation on the registry for a complaint that was substantiated by the state survey agency for misappropriation of property in a health care setting.

8. Rules. The department may adopt rules to implement this section. 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 216

H.P. 497 - L.D. 714

An Act To Empower Anglers in Fish Stocking Decisions

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

Sec. 1. 12 MRSA §12758-A is enacted to read:

§12758-A. Fish stocking; public notification

When the Bureau of Resource Management plans to stock an inland water for the first time or to stock a new fish species or permanently stop stocking a fish species that is currently being stocked in an inland water, the department shall notify the public as provided in this section and allow for public comments on the stocking plan prior to implementing that plan. The department shall include on its publicly accessible website, in a manner that is easily identifiable and

accessible by the public, notice of fish stocking plans identified under this section and allow public comment within a reasonable period of time. The department shall also provide notice by e-mail to organizations and individuals who have requested such notice. The department shall provide notification as provided in this section at the same time the stocking plan becomes a Bureau of Resource Management proposal. This section does not apply to a private pond or a fishing program for children.

See title page for effective date.

CHAPTER 217

H.P. 335 - L.D. 447

An Act To Allow the Direct Sale of Shellfish to Retailers

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

Sec. 1. 12 MRSA §6601, sub-§2, as amended by PL 2005, c. 434, §4, is further amended to read:

2. Licensed activities. The holder of a commercial shellfish license may fish for, take, possess or transport shellfish within the state limits or sell shellstock the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail seafood license holder under section 6852-A. The holder may also sell shellstock the holder has taken 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.

Sec. 2. 12 MRSA §6602, sub-§2, as enacted by PL 2007, c. 54, §2, is amended to read:

2. Licensed activity. A surf clam boat license issued under this section may be used for harvesting surf clams. The holder of a surf clam boat license may also possess or transport surf clams within state limits or sell surf clams the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail seafood license holder under section 6852-A. The license also authorizes the captain and crew members aboard the licensed boat when engaged in harvesting surf clams to undertake these activities.

Sec. 3. 12 MRSA §6731, sub-§2, ¶C, as amended by PL 2005, c. 434, §7, is further amended to read:

C. Sell mahogany quahogs that the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail seafood license holder under section 6852-A.

Sec. 4. 12 MRSA §6745, sub-§2, as amended by PL 2005, c. 434, §9, is further amended to read:

2. Licensed activity. The holder of a hand-raking mussel license may take mussels by hand raking or 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 or an enhanced retail seafood license holder under section 6852-A.

Sec. 5. 12 MRSA §6746, sub-§2, as amended by PL 2007, c. 494, §3, 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 or an enhanced retail seafood license holder under section 6852-A. The license also authorizes the captain and crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities. A mussel boat license does not authorize the holder to fish for or take mussels in violation of a municipal ordinance adopted pursuant to section 6671.

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

§6852-A. Enhanced retail seafood license

1. Licensed required. A person may not engage in the activities authorized under this section without a current enhanced retail seafood license or other license issued under this Part authorizing the activities.

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

A. Shellstock bought from a commercial shellfish license holder licensed under section 6601, a surf clam boat license holder licensed under section 6602, a mahogany quahog license holder licensed under section 6731, a hand-raking mussel license holder licensed under section 6745 and a mussel boat license holder licensed under section 6746;

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

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

D. Crayfish; and

E. Lobsters.

3. License limited. An enhanced retail seafood license authorizes the activities under subsection 2 at only one establishment or with only one vehicle.

4. Fee. The annual fee for an enhanced retail seafood license is \$150. Forty-four dollars of the license