

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.

Augusta, Maine
2009

I. One person representing a statewide association of business and industry and one person representing a business roundtable on early childhood investment, appointed by the Governor;

J. ~~One member~~ Up to 8 members of the public, appointed by the Governor; ~~and~~

K. Three ex-officio nonvoting members: the Commissioner of Education or the commissioner's designee, a Department of Health and Human Services employee who works with early childhood programs including Head Start and a person representing the office within the Department of Health and Human Services that is the fiscal agent for the federal grant program for comprehensive early childhood initiatives; ~~and~~

L. The director of the Head Start collaboration project within the Department of Health and Human Services, Office of Child Care and Head Start.

Sec. 2. 5 MRSA §24004, as enacted by PL 2007, c. 683, Pt. A, §2, is repealed.

Sec. 3. Funding. Expenses and per diem reimbursement for legislative members on the Maine Children's Growth Council may be funded from the legislative account for fiscal year 2009-10 but may not be funded for fiscal year 2010-11 or any subsequent fiscal year unless such funding is authorized by the Legislative Council.

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

Effective June 15, 2009.

CHAPTER 393

H.P. 874 - L.D. 1255

**An Act To Amend Certain
Laws Related to the
Department of Agriculture,
Food and Rural Resources**

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

Sec. 1. 7 MRSA §125, sub-§2, as enacted by PL 1997, c. 711, §5, is amended to read:

2. Membership. The board consists of the following ~~19~~ 20 members:

A. A designee of the President of the University of Maine at Orono;

B. A designee of the Chancellor of the University of Maine System;

C. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee;

D. The president of a statewide farm bureau or the president's designee;

E. The president of a statewide agricultural council or the president's designee;

F. Eight members representing the agricultural industry, one person designated by each of the following:

- (1) The Maine Potato Board;
- (2) The Wild Blueberry Commission of Maine;
- (3) A statewide pomological society;
- (4) A statewide vegetable and small fruit growers association;
- (5) A statewide dairy industry association;
- (6) A statewide landscape and nursery association;
- (7) A statewide florist and growers association; and
- (8) A statewide organic farmers and gardeners association;

G. Two members of the joint standing committee of the Legislature having jurisdiction over agricultural matters, one appointed by the President of the Senate and one appointed by the Speaker of the House;

H. One farmer with livestock experience in an area other than dairy farming, chosen from a list of 3 nominees submitted by a statewide beef and sheep producers association, appointed by the Governor;

I. Two research faculty members associated with agricultural research at the University of Maine at Orono, appointed by the Board of Trustees of the University of Maine System; ~~and~~

J. The Director of the University of Maine Cooperative Extension Service; ~~and~~

K. One member representing the aquaculture industry designated by a statewide aquaculture industry association.

Sec. 2. 7 MRSA §742, sub-§8 is amended to read:

8. Grade. "Grade" means any commercial fertilizer having a specific ~~and~~ minimum percentage of plant nutrients that is the same guarantee as the guaranteed analysis, expressed in whole numbers.

Sec. 3. 7 MRSA §743-A is enacted to read:

§743-A. Tonnage report

1. Registrants required to report. On or before September 1st of each year, a registrant shall file with the commissioner, on a form prescribed by the commissioner, the number of tons of each brand and grade of commercial fertilizer sold by the registrant in the State during the 12 months preceding July 1st of that year. A fee of \$1 per ton or \$100 for each brand and grade of fertilizer, whichever is more, sold during the 12 months preceding July 1st of that year must accompany the form.

2. Fees; nonlapsing fund. The commissioner shall deposit all fees collected under this section in a dedicated, nonlapsing account established under section 765, subsection 2 for the purpose of administering and enforcing this subchapter and subchapter 5-A.

3. Commissioner's report. The commissioner may publish and distribute annually, to each registrant and other interested persons, a report showing the total tons of commercial fertilizer and the total tons by grade sold in the State.

Sec. 4. 7 MRSA §765, sub-§2, as enacted by PL 1987, c. 425, §§1 and 3, is amended to read:

2. Fees; nonlapsing fund. The commissioner shall collect all fees under this subchapter and section 743-A and deposit them with the Treasurer of State. ~~These funds shall be appropriated for in a separate account to be used for carrying out this subchapter and subchapter 5, including the cost of inspection, sampling and analysis of commercial fertilizers and agricultural liming materials.~~ These funds shall do not lapse, but shall remain in a carry-over account.

Sec. 5. 7 MRSA §766, sub-§1, as enacted by PL 1987, c. 425, §§1 and 3, is amended to read:

1. By registrants. On or before September 1st in each year each registrant shall file with the commissioner, on forms prescribed by ~~him~~ the commissioner, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of ~~the~~ ~~current~~ that year. A fee of \$1 per ton or \$100 for each brand of agricultural liming material, whichever is more, sold during the 12 months preceding July 1st of that year must accompany the form.

Sec. 6. 7 MRSA §2104-A is enacted to read:
§2104-A. Arrears in payments to Seed Potato Board

A person who on July 15th of any year is in arrears as to full payment for potato seed purchased from the Seed Potato Board is not eligible for listing in the Maine certified seed potatoes book for that year published by the department's Division of Plant Industry.

Sec. 7. 7 MRSA §2701, as amended by PL 1999, c. 401, Pt. H, §2, is further amended to read:

§2701. Licensing

All persons owning honeybees within the State shall annually notify the commissioner of the keeping of bees and the location of the bees and shall forward to the commissioner for deposit with the Treasurer of State an annual license fee ~~not to exceed \$2 per colony~~ for all bees kept on June 15th of each year. ~~A license may be issued for a one year, 2 year or 3 year period. Licenses for a period in excess of one year may be issued only with the agreement of or at the request of the applicant. The fee for a 2 year license is 2 times the annual fee. The fee for a 3 year license is 3 times the annual fee. Fees must be established by rule in accordance with the Maine Administrative Procedure Act. No license fee returned may be less than \$2 per beekeeper. Notwithstanding Title 5, section 8071, subsection 3, rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. License fees accrue as a dedicated revenue to the Division of Plant Industry to fund the cost of apiary inspection and licensing.~~

Between 14 and 30 days prior to June 15th annually, the commissioner shall cause notice of the annual notification and license fee requirement to be ~~published at least twice in the state newspaper and in other newspapers or journals of general circulation adequate to provide reasonable notice throughout the State publicized.~~

Sec. 8. 22 MRSA §1471-N, as amended by PL 1979, c. 187, is repealed.

Sec. 9. 22 MRSA §2153-A is enacted to read:
§2153-A. Confidentiality of certain information

The following information is confidential and may not be disclosed to the public:

1. United States Department of Agriculture, Food Safety and Inspection Service. Information provided to the department or to any employee of the department by the United States Department of Agriculture, Food Safety and Inspection Service pursuant to 9 Code of Federal Regulations, Section 390.9 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure; and

2. Food and Drug Administration. Information provided to the department or to any employee of the department by the United States Food and Drug Administration pursuant to 21 Code of Federal Regulations, Section 20.88 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure.

Sec. 10. 22 MRSA §2169, 3rd ¶, as enacted by PL 1999, c. 598, §1 and affected by §4, is amended to read:

Beginning August 1, 2000, each one-, 2- or 3-year license or license renewal issued expires on December 31st of the appropriate year except that, beginning January 1, 2010, each one-year, 2-year or 3-year license or license renewal expires on the date of issuance of the appropriate year. When an initial license is issued or when a license is renewed between August 1, 2000 and August 1, 2003, the license fee is prorated based on the number of months the license is valid and the annual fee. When a license is renewed between January 1, 2010 and January 1, 2011, the period of time that the license is valid may be increased by up to 11 months and the license fee is prorated based on the number of months the license is valid and the annual fee.

Sec. 11. 22 MRSA §2513, as enacted by PL 1999, c. 777, §1, is amended to read:

§2513. Rules

The commissioner shall adopt rules to carry out the purposes of this chapter. Rules adopted under this section may incorporate by reference those provisions of the Code of Federal Regulations that are applicable to meat and poultry inspection, as such regulations may be amended, and that are necessary to remain in compliance with the federal requirements for the State's meat and poultry products inspection and licensing program under section 2512. Rules adopted under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Plant Industry 0831

Initiative: Provides one-time funding for rule-making costs.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$2,500	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,500	\$0

Sec. 13. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation 0393

Initiative: Provides funding for a limited-period Consumer Protection Inspector position and related All Other costs to establish and administer the commercial fertilizer sampling program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	\$65,832	\$67,860
All Other	\$56,155	\$56,155
OTHER SPECIAL REVENUE FUNDS TOTAL	\$121,987	\$124,015

See title page for effective date.

**CHAPTER 394
S.P. 87 - L.D. 246**

**An Act Regarding Violations of
Lobster Conservation Laws**

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

Sec. 1. 12 MRSA §6351, sub-§1, as enacted by PL 2001, c. 421, Pt. B, §15 and affected by Pt. C, §1, is amended to read:

1. Grounds for suspension. Any of the following is grounds for suspension of a license, the right to obtain a license or a certificate issued under this Part:

- A. A conviction for a violation of a marine resources law;
- B. A conviction for a violation of Title 17-A, chapter 31;
- B-1. A conviction for a violation of Title 17-A, chapter 15;
- C. A conviction for a criminal offense against a marine patrol officer while that officer is engaged in the performance of official duty; ~~or~~
- D. A civil adjudication of having violated a marine resources law; or
- E. A suspension authorized under section 6409 or 6410.

Sec. 2. 12 MRSA §6351, sub-§3 is enacted to read:

3. Denial of license. An applicant for any license or certificate as set out in this chapter may be denied a license or certificate in the same manner as provided for in this section.

Sec. 3. 12 MRSA §6402, first ¶, as amended by PL 2007, c. 201, §1, is further amended to read: