

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

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:

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 in court of violating section 6434. This suspension is for 3 years from the date of conviction. For a 3rd or subsequent conviction, the commissioner may permanently revoke the license holder's license.

Sec. 4. 12 MRSA §6402-B, as amended by PL 2007, c. 201, §2, is further amended to read:

§6402-B. Suspension based on 2 or more convictions of possessing illegal lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted of a 2nd or subsequent offense of possessing a lobster ~~smaller than the minimum size established in section 6431, subsection 1 in violation of section 6431, 6436, 6438-A or 6952-A~~ if the conviction of the 2nd or subsequent offense involved possession of ~~3~~ 5 or more ~~illegal~~ lobsters ~~smaller than that minimum size.~~ If the 2nd offense occurs on the same day as the first offense, the commissioner may waive the mandatory suspension.

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years.

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license.

~~**3. Offenses after July 1, 1994.** Subsections 1 and 2 apply only if that person's first conviction for possessing a lobster smaller than the minimum size established in section 6431, subsection 1 was for an offense that occurred after July 1, 1994.~~

Sec. 5. 12 MRSA §6406, sub-§2, as repealed and replaced by PL 1989, c. 455, §1, is amended to read:

2. Penalty. Violation of this section ~~shall be~~ is a Class D crime, except that the court shall impose a fine of not less than ~~\$100~~ \$500 nor more than ~~\$1,000~~ \$2,000.

Sec. 6. 12 MRSA §6431, sub-§7, as amended by PL 1999, c. 82, §1, is further amended to read:

7. Penalty. Possession of lobsters in violation of this section is a Class D crime, except that the court shall impose a fine of ~~\$50~~ \$500 for each violation and, in addition, a fine of ~~\$25~~ \$100 for each lobster involved, up to and including the first 5, and a fine of ~~\$50~~ \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not

less than \$1,000 or more than \$2,000 \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 7. 12 MRSA §6431-E, sub-§2, as enacted by PL 1997, c. 693, §1 and affected by §3, is amended to read:

2. Owner or family member on board. This subsection applies to a person that holds a Class I, Class II or Class III lobster and crab fishing license issued under section 6421. Except as provided in subsection 3, beginning January 1, 2000 a person who holds a Class I, Class II or Class III lobster and crab fishing license a vessel may not be used to fish for or take lobsters from a unless that vessel unless is owned by a Class I, Class II or Class III lobster and crab fishing license holder and:

A. The owner of that vessel is present on that vessel ~~and holds a~~ and has that vessel named on the owner's Class I, Class II or Class III lobster and crab fishing license; or

B. A family member of the vessel owner ~~under paragraph A is present on that vessel and~~ holds a Class I, Class II or Class III lobster and crab fishing license and is present on that vessel.

Sec. 8. 12 MRSA §6431-G is enacted to read:

§6431-G. Vessel operation

1. Limitation. Except as provided in subsection 2, the holder of a Class I, Class II or Class III lobster and crab fishing license may not operate a vessel for the purposes of fishing for or taking lobster other than the vessel named on the holder's lobster and crab fishing license. For the purposes of this section, "operate a vessel" means steering the vessel, operating the vessel's engine throttle or gear shift or operating the mechanism used to haul lobster traps from the water. "Operating a vessel" does not include the baiting of traps or the handling of traps once they are on board the vessel.

2. Exemptions. The commissioner may authorize an individual who possesses a Class I, Class II or Class III lobster and crab fishing license to fish for or take lobsters from a vessel other than the vessel named on the holder's lobster and crab fishing license if:

A. A Class I, Class II or Class III license holder is temporarily prevented by illness or disability from fishing for or taking lobsters from the license holder's vessel and requests in writing to the commissioner that the commissioner authorize the individual to operate that vessel to fish for or take lobsters and tend the license holder's traps pursuant to section 6434;

B. The vessel named on the individual's license has become temporarily inoperable because of an accident or a mechanical failure and the individual requests in writing and is granted permission from

the commissioner to use another vessel to fish for or take lobsters; or

C. The individual is designated as the sponsor of a student pursuant to section 6421 and is operating the vessel named on the student's license for the purposes of providing practical lobster fishing training to the student while the student is present on the vessel.

Sec. 9. 12 MRSA §6432, sub-§5, as amended by PL 1999, c. 82, §2, is further amended to read:

5. Penalty for possession. Possession of lobsters other than caught by the method specified in subsection 1 is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of ~~\$50~~ \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 10. 12 MRSA §6436, sub-§5, as amended by PL 1999, c. 82, §3, is repealed and the following enacted in its place:

5. Penalty for possession of egg-bearing lobsters. Possession of lobsters in violation of subsection 1, paragraph A is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$1,000 for each violation and, in addition, a fine of \$200 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$2,500 or more than \$10,000. A court may not suspend a fine imposed under this subsection.

Sec. 11. 12 MRSA §6436, sub-§6 is enacted to read:

6. Penalty for possession of v-notched lobsters. Possession of lobsters in violation of subsection 1, paragraph B is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 12. 12 MRSA §6438-A, sub-§2, as amended by PL 1999, c. 82, §4, is further amended to read:

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a fine of ~~\$500~~ \$1,000 for each violation and, in addition, a fine

of ~~\$150~~ \$300 for each lobster involved or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 13. 12 MRSA §6447, sub-§3, as enacted by PL 1995, c. 468, §8, is amended to read:

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote. An individual who has been convicted or adjudicated of a lobster violation within the previous 7 years is not eligible for election as a council member unless a waiver from this limitation has been granted by the commissioner for good cause as determined by the commissioner in the commissioner's discretion.

Sec. 14. 12 MRSA §6952-A, sub-§4 is enacted to read:

4. Penalty for possession. A violation of this section is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 15. 12 MRSA §6953, 2nd ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Violation of this section ~~shall be~~ is a Class ~~E~~ D crime, except that the court shall impose a fine of not less than ~~\$400~~ \$500. A court may not suspend a fine imposed under this section.

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for indigent defense costs as a result of an anticipated increase in the request for court-appointed counsel resulting from stricter penalties for lobster violations.

GENERAL FUND	2009-10	2010-11
All Other	\$2,800	\$4,200

GENERAL FUND TOTAL	\$2,800	\$4,200
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See title page for effective date.

**CHAPTER 395
H.P. 878 - L.D. 1259**

**An Act To Increase Access to
Nutrition Information**

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

Sec. 1. 22 MRSA §2491, sub-§2-A is enacted to read:

2-A. Calories per serving. "Calories per serving" means the caloric information for a food or beverage item being offered for consumption by one person, as usually prepared and as offered for sale on the menu, menu board or food display tag.

Sec. 2. 22 MRSA §2491, sub-§2-B is enacted to read:

2-B. Chain restaurant. "Chain restaurant" means an eating establishment that does business under the same trade name in 20 or more locations, at least one of which is located in the State, that offers predominantly the same type of meals, food, beverages or menus, regardless of the type of ownership of an individual location. "Chain restaurant" does not include a grocery store. "Chain restaurant" does not include a hotel or motel that provides a separately owned eating establishment but does include the separately owned eating establishment if the eating establishment meets the criteria of this subsection. "Chain restaurant" does not include a movie theater.

Sec. 3. 22 MRSA §2491, sub-§7-A is enacted to read:

7-A. Food display tag. "Food display tag" means a written or printed description of a food or beverage item, such as a label or placard, placed in the vicinity of the food or beverage item identifying the type or price of the food or beverage.

Sec. 4. 22 MRSA §2491, sub-§7-B is enacted to read:

7-B. Grocery store. "Grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish and poultry. "Grocery store" includes a convenience store, but does not include a separately owned eating establishment located within a grocery store.

Sec. 5. 22 MRSA §2491, sub-§7-C is enacted to read:

7-C. Menu. "Menu" means a written or printed list describing food or beverage items offered for sale at an eating establishment that may be distributed on or off the premises, but does not include a menu board.

Sec. 6. 22 MRSA §2491, sub-§7-D is enacted to read:

7-D. Menu board. "Menu board" means a list of food or beverage items offered for sale at an eating establishment that is posted in a public area for viewing by multiple customers, including a backlit marquee sign, chalkboard or drive-through menu sign.

Sec. 7. 22 MRSA §2500-A is enacted to read:

§2500-A. Menu labeling for chain restaurants

The provisions of this section apply to chain restaurants that are located in the State.

1. Caloric information. A chain restaurant shall state on a food display tag, menu or menu board the total amount of calories per serving of each food and beverage item listed for sale on the food display tag, menu or menu board. The statement of calories required in this subsection must be:

- A. Clear and conspicuous;
- B. Adjacent to or in close proximity and clearly associated with the item to which the statement refers;
- C. Printed in a font and format at least as prominent in size and appearance as the name or the price of the item to which the statement refers; and
- D. As it pertains to beer, wine and spirits must also meet the requirements of subsection 6.

2. Determining caloric content. The caloric content information required by subsection 1 must be determined on a reasonable basis and may be determined only once per standard menu item if the eating establishment follows a standardized recipe, trains to a consistent method of preparation and maintains a reasonably consistent portion size. For the purposes of this subsection a reasonable basis for determining caloric content means use of a recognized method for determining calorie content, including, but not limited to, nutrient databases, laboratory testing and other reliable methods of analysis. Caloric content may be rounded to the nearest 10 calories for caloric content above 50 calories and to the nearest 5 calories for caloric content of 50 calories and below.

3. Required statement. A menu or menu board or written nutrition information provided to a customer by a chain restaurant must contain the following statement in a clear and conspicuous manner and in a prominent location: "To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs