

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

**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**  
**2010**

findings for the purposes of this paragraph and that specify an individual's rights to appeal the department's findings. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;

See title page for effective date.

## CHAPTER 559

### S.P. 516 - L.D. 1432

#### An Act To Create a Saltwater Recreational Fishing Registry

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

**Sec. 1. 12 MRSA §6032**, as enacted by PL 1999, c. 85, §3, is repealed and the following enacted in its place:

#### **§6032. Marine Recreation Fishing Conservation and Management Fund**

**1. Fund established.** The Marine Recreation Fishing Conservation and Management Fund, referred to in this section as "the fund," is established within the department. In addition to fees derived from the striped bass endorsement and the commercial operator's license pursuant to section 6312, subsections 4 and 5, the commissioner may receive on behalf of the fund funds from any source. All money received into the fund must be used for the purposes of the fund under subsection 2. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund. By February 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the amount of money collected in the fund and all expenditures made from the fund in the previous fiscal year.

**2. Uses of fund.** The commissioner may authorize the expenditure of money from the fund for the implementation, administration and enforcement of the saltwater recreational fishing registry under section 6312 and for research and conservation efforts related to the saltwater recreational fishery.

**Sec. 2. 12 MRSA §6312** is enacted to read:

#### **§6312. Saltwater recreational fishing registry, endorsement and license**

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

A. "Disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability as determined by the United States Department of Veterans Affairs.

B. "Person with a disability" means a person who is physically or mentally incapacitated as determined by the commissioner.

C. "Registry" means the registry for persons engaged in saltwater recreational fishing established under subsection 2.

**2. Saltwater recreational fishing registry established.** The commissioner shall administer and maintain a registry of persons who engage in saltwater recreational fishing. The commissioner may designate by rule the methods of fishing or the saltwater areas for which registration is required under this section. The registry must at a minimum contain the name, address, date of birth and telephone number for each person registered. Only an individual may register.

**3. Registration required.** A person may not engage in saltwater recreational fishing or land or possess fish taken from salt water without registering pursuant to this section except the following persons are exempt from this prohibition and the endorsement requirement under subsection 4:

A. A person under 16 years of age;

B. A passenger on board a vessel captained by an individual who possesses a valid commercial operator's license pursuant to subsection 5;

C. A person renting a smelt fishing camp from an operator that possesses a valid commercial operator's license pursuant to subsection 5;

D. A person with a disability;

E. A disabled veteran;

F. A person that possesses a valid New Hampshire saltwater recreational fishing license that meets the requirements of 50 Code of Federal Regulations, Sections 600.1415 and 600.1416 (2009) engaging in recreational saltwater fishing from the State's southern border to Cape Neddick; and

G. A resident fishing on July 4th, Labor Day weekend or Memorial Day weekend.

Registration does not authorize a person registered on the registry to sell fish taken pursuant to the registry.

A person who has indicated on a valid freshwater fishing license issued under Part 13 that the person engaged in saltwater recreational fishing during the prior year or plans to engage in saltwater recreational fishing during the period covered by the freshwater fishing license is not required to register under this subsection, and residents of the State who make that indication are not required to obtain a striped bass endorsement un-

der subsection 4. The Department of Inland Fisheries and Wildlife shall provide registry data to the federal or state agency responsible for monitoring saltwater recreational fishing at a time and manner as determined by that agency.

**4. Striped bass endorsement.** A person required to register under subsection 3 may not engage in saltwater recreational fishing for striped bass or land or possess striped bass taken from salt water without a striped bass endorsement issued by the commissioner or a clerk or agent appointed by the commissioner pursuant to subsection 6. A striped bass endorsement is valid for one year and the fees are:

A. Five dollars for a resident;

B. Fifteen dollars for a nonresident; and

C. Ten dollars for a resident lifetime striped bass endorsement for an applicant who is 70 years of age or older. A resident lifetime striped bass endorsement is valid for one year and may be renewed free of charge.

Revenues collected pursuant to this subsection must be deposited in the Marine Recreation Fishing Conservation and Management Fund established under section 6032.

**5. Commercial operator's license.** The following persons must possess a valid commercial operator's license issued by the commissioner or a clerk or agent appointed by the commissioner pursuant to subsection 6:

A. A captain of a vessel licensed to carry passengers for hire for saltwater recreational fishing; and

B. A person operating a business that rents smelt fishing camps for saltwater recreational smelt fishing.

The annual fee for a commercial operator's license is \$50. Revenues collected pursuant to this subsection must be deposited in the Marine Recreation Fishing Conservation and Management Fund established under section 6032.

**6. Agent fee.** A clerk or other agent appointed by the commissioner to register a person on the registry, issue a commercial operator's license or issue a striped bass endorsement under this section shall charge a person a fee of \$2 for each registration, license or endorsement issued to that person by that clerk or agent. The commissioner shall charge a fee of \$1 for each registration, license or endorsement taken by a department employee.

**7. Native American.** Upon application, the commissioner shall register a member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs on the registry without a charge or fee if the Native American presents a certificate from the re-

spective reservation tribal clerk or the Aroostook Micmac Council stating that the person described is a Native American and a member of that nation, band or tribe. The commissioner may refuse to register a Native American that is otherwise prohibited from registering or from holding a recreational fishing license issued under Part 13. A registration under this subsection is valid for one year and may be renewed without a charge or fee.

**8. Penalty.** A person who violates this section commits a civil violation for which a fine of not less than \$100 may be adjudged.

**9. Suspension.** A person on the registry or holding a striped bass endorsement or a license issued under this section is subject to the applicable suspension provisions under chapter 617.

**10. Collaboration on outreach efforts.** The commissioner shall work with fishing and hunting groups and interested parties in the commissioner's efforts to notify and educate the public about the registry.

**11. Report.** The commissioner shall report registry information to the United States Department of Commerce, National Oceanic and Atmospheric Administration in a form and manner as required by the National Oceanic and Atmospheric Administration.

**12. Rules.** The commissioner may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

#### MARINE RESOURCES, DEPARTMENT OF Bureau of Resource Management 0027

Initiative: Provides funding for 2 seasonal Marine Patrol Officer positions, one full-time Marine Patrol Officer position, one part-time Marine Resource Scientist IV position, one part-time Marine Resource Scientist III position, one full-time Marine Resource Specialist I position, one full-time Marine Resource Scientist I position, 2 part-time Marine Resource Specialist I positions and 4 Conservation Aide positions and related All Other costs to administer, maintain and enforce the newly created saltwater recreational fishing registry.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	\$0	\$76,882
All Other	\$0	\$85,434
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$162,316

**Sec. 4. Effective date.** This Act takes effect January 1, 2011.

Effective January 1, 2011.

## CHAPTER 560

### S.P. 649 - L.D. 1677

#### An Act Regarding the Laws Governing Data Collection and Marketing Practices Directed at Minors

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

**Whereas,** there are concerns regarding the constitutionality of the Maine Revised Statutes, Title 10, chapter 1055 necessitating its earliest possible repeal; 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. 10 MRSA c. 1055,** as amended, is repealed.

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

Effective March 29, 2010.

## CHAPTER 561

### H.P. 1104 - L.D. 1567

#### An Act To Correct Errors and Inconsistencies in Marine Resources Laws

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

**Sec. 1. 3 MRSA §959, sub-§1, ¶G,** as amended by PL 2005, c. 477, §1, is further amended to read:

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Inland Fisheries and Wildlife in 2007; ~~and~~

(2) Advisory Board for the Licensing of Taxidermists in 2007; ~~and~~

(3) ~~Atlantic Salmon Commission in 2011.~~

**Sec. 2. 5 MRSA §12004-G, sub-§20-A,** as amended by PL 2007, c. 240, Pt. QQ, §1, is repealed.

**Sec. 3. 12 MRSA §6022, sub-§16** is enacted to read:

**16. Atlantic salmon powers and responsibilities.** The commissioner has the sole authority to introduce Atlantic salmon into the inland waters, other than in commercial aquaculture facilities. The commissioner has the sole authority to limit or prohibit the taking of Atlantic salmon and may adopt rules establishing the time, place and manner of Atlantic salmon fishing in all waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 12 MRSA §6071, sub-§1,** as amended by PL 2007, c. 695, Pt. C, §2, is further amended to read:

**1. Live importing for introduction into coastal waters.** Except for Atlantic salmon imported by the ~~Atlantic Salmon Commission under Part 9 commissioner~~, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

**Sec. 5. 12 MRSA §6137,** as enacted by PL 2007, c. 240, Pt. QQ, §4, is repealed.

**Sec. 6. 12 MRSA §6138,** as enacted by PL 2007, c. 240, Pt. QQ, §5, is repealed.

**Sec. 7. 12 MRSA §6301, sub-§2, ¶Q,** as amended by PL 1999, c. 491, §1 and affected by §9, is further amended to read:

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year; ~~and~~

**Sec. 8. 12 MRSA §6301, sub-§2, ¶R,** as enacted by PL 1999, c. 491, §2 and affected by §9, is amended to read:

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year; ~~and~~

**Sec. 9. 12 MRSA §6301, sub-§2, ¶S** is enacted to read:

S. An enhanced retail seafood license issued under section 6852-A expires on March 31st of each year;