

# 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**

**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**Sec. 1. 10 MRSA c. 1055,** as amended, is repealed.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 QQ, §1, is repealed.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;

**Sec. 10. 12 MRSA §6301, sub-§2, ¶T** is enacted to read:

T. A seaweed buyer's license issued under section 6803-A expires on March 31st of each year; and

**Sec. 11. 12 MRSA §6301, sub-§2, ¶U** is enacted to read:

U. A limited wholesale shellfish harvester's license issued under section 6851-A expires on March 31st of each year.

**Sec. 12. 12 MRSA §6371, sub-§2**, as amended by PL 2001, c. 421, Pt. B, §16 and affected by Pt. C, §1, is further amended to read:

**2. Suspension for refusal to allow a shellfish inspection or for violation of shellfish sanitation provisions.** Refusal to allow a shellfish inspection under section 6852-A or 6856 or violation of shellfish sanitation ~~regulations~~ rules adopted under section 6856 is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate for these reasons, the commissioner shall follow the procedures of section 6373.

**Sec. 13. 12 MRSA §6402, first ¶**, as amended by PL 2009, c. 151, §5 and c. 394, §3, is repealed and the following enacted in its place:

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

**Sec. 14. 12 MRSA §6409**, as reallocated by RR 1999, c. 2, §13, is amended to read:

**§6409. Suspension of license for failure to appear, answer or pay**

If a license is suspended pursuant to Title 14, section 3142, the suspension remains in effect and that person is ineligible to obtain or hold a license until the person pays the fine. On payment of the fine and on condition of payment of a \$25 ~~reinstatement~~ administrative fee to the department, ~~the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record~~ is rescinded and the eligibility to obtain or hold a license reinstated. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

**Sec. 15. 12 MRSA §6410**, as enacted by PL 2003, c. 520, §3, is amended to read:

**§6410. Suspension of license for failure to comply with court order of support**

If a person's eligibility to obtain or hold a license or registration is suspended pursuant to Title 19-A, section 2201, the suspension remains in effect until the person is in compliance with a court order of support. On condition of payment of a \$25 ~~reinstatement~~ administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain or hold a license reinstated.

**Sec. 16. 12 MRSA §6411** is enacted to read:

**§6411. Refusal to renew or reissue license for failure to file or failure to pay state tax obligations**

If a person's eligibility to obtain a license is suspended pursuant to Title 36, section 175, the suspension is in effect until the State Tax Assessor issues a certificate of good standing. On condition of payment of a \$25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain a license reinstated.

**Sec. 17. 12 MRSA §6434, sub-§4**, as repealed and replaced by PL 2007, c. 695, Pt. A, §15, is amended to read:

**4. Restitution.** ~~If the holder of a lobster and crab fishing license or a nonresident lobster and crab landing permit a person~~ violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the commissioner as required by section 6402, subsection 1.

Restitution imposed under this subsection is in addition to any penalty imposed under subsection 3-A.

**Sec. 18. 12 MRSA §6451, sub-§1**, as amended by PL 2009, c. 213, Pt. G, §4, is further amended to read:

**1. Allocation of license fees.** Ten dollars of each \$135.75 fee, \$10 of each \$132 fee, ~~\$10 of each \$136 fee~~, \$20 of each \$203 fee, \$20 of each \$272.50 fee, \$30 of each \$407.25 fee, \$30 of each \$387 fee, \$60 of each \$785 fee, \$60 of each \$790.75 fee, \$120 of each \$1,587.50 fee, \$180 of each \$2,369.25 fee, \$5 of each \$65 fee and \$5 of each \$66 fee for each lobster and crab fishing license must be allocated to the Lobster Fund, which must be used for the purposes of lobster biology research, of propagation of lobsters by liberating seed lobsters and female lobsters in Maine coastal waters and of establishing and supporting lobster hatcheries.

**Sec. 19. 12 MRSA §6505-C, sub-§5**, as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**5. Disposition of fees.** All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$33 §50 must accrue to the General Fund for each license sold under this section.

**Sec. 20. 12 MRSA §6533**, as amended by PL 2009, c. 396, §2, is further amended to read:

**§6533. Training required to act as a scallop or sea urchin tender**

~~The commissioner may not issue a sea urchin and scallop diving tender license under section 6535 to a person or allow a~~ A person to may not act as a tender under a license issued pursuant to section 6535, section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B unless that person has met the diving tender safety requirements established in rule.

**Sec. 21. 12 MRSA §6535**, as amended by PL 2009, c. 213, Pt. G, §11 and c. 396, §3, is repealed and the following enacted in its place:

**§6535. Sea urchin and scallop diving tender license**

**1. License required.** A person may not act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand unless that person is licensed under this section.

**2. Licensed activity.** A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops harvested by licensed harvesters the tender has tended. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops. As used in this subsection, "tend" means to assist the diver in any way, to operate a boat as a platform for harvesting or to cull or otherwise handle the harvested product.

As long as one person present on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand has met the tender safety requirements adopted by rule pursuant to section 6533, all other persons present on the boat may operate the boat or engage in culling activities or otherwise handle the harvested product. An individual who engages in harvesting activities in accordance with a license issued under section 6701 or 6748 may not be considered as the person who has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A sea urchin and scallop diving tender license may be issued only to an individual who is a resident.

**4. Fees.** The fee for a license issued under this section is \$133.

**4-A. Exception.** A person acting as a tender under section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B does not need to possess a license issued under this Part.

**6. Violation.** A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

**Sec. 22. 12 MRSA §6701**, as amended by PL 2009, c. 213, Pt. G, §17 and c. 396, §§5 to 7, is repealed and the following enacted in its place:

**§6701. Scallop license**

**1. License required.** A person may not engage in the activities authorized under this section without a current hand fishing scallop license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual hand fishing scallop license issued under subsection 5, paragraph A shall possess a scallop or sea urchin tender license issued under section 6535.

**2. Licensed activity.** The holder of a hand fishing scallop license may take scallops by hand or possess, ship, transport or sell shucked scallops the holder has taken. An unlicensed person acting as a tender for an individual licensed under subsection 5, paragraph B, in accordance with subsection 4, may possess, ship, transport and sell shucked scallops the hand fishing scallop license holder has taken. A person may not act as a tender under subsection 5, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A hand fishing scallop license may be issued only to an individual who is a resident.

**4. Exception.** A person may act as a tender to an individual possessing a current hand fishing scallop license with tender issued under subsection 5, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**5. Fees.** Fees for hand fishing scallop licenses are:

A. For an individual hand fishing scallop license, \$143; and

B. For a hand fishing scallop license with tender, \$193.

**6. Violation.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. 23. 12 MRSA §6721-A, sub-§2**, as amended by PL 2007, c. 607, Pt. A, §5, is further amended to read:

**2. Prima facie evidence.** It is prima facie evidence of possession of illegal scallops if a vessel contains scallops less than the minimum shell size set by this section or the minimum shell size set by rules adopted pursuant to this section while a ~~scallop dragging license holder or crew member~~ person licensed under this subchapter or crew member of a person licensed under this subchapter is shucking scallops.

**Sec. 24. 12 MRSA §6729, sub-§1, ¶C**, as amended by PL 2007, c. 607, Pt. A, §12, is further amended to read:

C. For a sea urchin and scallop diving tender license, \$50; and

**Sec. 25. 12 MRSA §6729, sub-§1, ¶D**, as enacted by PL 2007, c. 607, Pt. A, §12, is amended to read:

D. For a noncommercial scallop license, \$40; and

**Sec. 26. 12 MRSA §6729, sub-§1, ¶E** is enacted to read:

E. For a hand fishing scallop license with tender, \$100.

**Sec. 27. 12 MRSA §6729, sub-§2**, as enacted by PL 2003, c. 319, §2, is amended to read:

**2. Deposit.** The commissioner shall deposit surcharges assessed in this section in the Scallop Research Fund under section 6729-A, except that fees collected under subsection 1, paragraph C must be divided equally between the Scallop Research Fund and the Sea Urchin Research Fund established in section 6749-R.

**Sec. 28. 12 MRSA §6748**, as amended by PL 2009, c. 213, Pt. G, §23 and c. 396, §8, is repealed and the following enacted in its place:

**§6748. Handfishing sea urchin license**

**1. License required.** A person may not engage in the activities authorized under this section without a current handfishing sea urchin license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual handfishing sea urchin license is

sued under subsection 4, paragraph A shall possess a sea urchin and scallop diving tender license issued under section 6535. The handfishing sea urchin license with tender issued under subsection 4, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of sea urchins.

**1-A. Exception.** A person may act as a tender to an individual possessing a current handfishing sea urchin license with tender issued under subsection 4, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**2. Licensed activity.** The holder of a handfishing sea urchin license may take sea urchins by hand or possess, ship, transport or sell sea urchins taken by that licensee. An unlicensed person acting as a tender for an individual licensed under subsection 4, paragraph B, in accordance with subsection 1-A, may possess, ship, transport and sell sea urchins the handfishing sea urchin license holder has taken. A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

**3. Eligibility.** A handfishing sea urchin license may be issued only to an individual who is a resident.

**4. Fees.** Fees for handfishing sea urchin licenses are:

A. For an individual handfishing sea urchin license, \$152; and

B. For a handfishing sea urchin license with tender, \$202.

**4-A. Temporary Zone 1 fee.** Notwithstanding subsection 4, the fees for an individual handfishing sea urchin license and a handfishing sea urchin license with tender issued for calendar year 2010 or 2011 to handfish for sea urchins within the area designated as Zone 1 under section 6749-N are \$25 and \$50 per year, respectively.

This subsection is repealed December 31, 2011.

**5. Rebuttable presumption.** It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

**6. Violation.** A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

**Sec. 29. 12 MRSA §6749-Q, sub-§1-B** is enacted to read:

**1-B. Handfishing sea urchin license with tender.** One hundred and sixty dollars on a handfishing sea urchin license with tender.

**Sec. 30. 12 MRSA §6803-A, sub-§1**, as enacted by PL 2009, c. 283, §1, is amended to read:

**1. License required.** A seaweed buyer's license is required for a person who purchases more than 10 wet tons or an equivalent number of dry tons annually directly from seaweed harvesters holding a permit under section 6803. A person may not engage in the activities authorized under this section without a current seaweed buyer's license.

**Sec. 31. 12 MRSA §6851, sub-§2-D**, as amended by PL 2003, c. 170, §4, is further amended to read:

**2-D. Wholesale seafood license with shrimp permit.** At the request of the applicant, the commissioner shall issue a wholesale seafood license with a shrimp permit. A person holding a wholesale seafood license with a shrimp permit may engage in all of the activities in subsection 2 and may buy, sell, process, ship or transport shrimp.

**Sec. 32. 12 MRSA §6856, sub-§3-A**, as enacted by PL 2007, c. 15, §2 and affected by §6, is amended to read:

**3-A. Municipal consultation and approval; depuration harvesting.** ~~Within~~ The following provisions apply within a municipality that has a municipal shellfish conservation committee established pursuant to section 6671, ~~the following provisions.~~ Paragraphs A and B apply to shellfish growing areas that have been ~~downgraded~~ reclassified after January 1, 2006 from an approved to a restricted classification for water quality as defined in rule. Paragraph B-1 applies to shellfish growing areas reclassified after January 1, 2010 from a prohibited to restricted classification.

A. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area ~~downgraded~~ reclassified from an approved to a restricted classification for depuration harvesting for 2 years from the date of the reclassification to allow the municipality to develop a pollution abatement plan under subsection 3-B.

B. ~~Beginning April 1, 2007,~~ A municipality must notify the commissioner within 8 weeks of ~~the~~ a reclassification from an approved to a restricted classification of an area whether or not it intends to develop a pollution abatement plan. If the municipality does not wish to develop a pollution abatement plan in accordance with subsection 3-B or if it fails to notify the commissioner within the 8-week period, municipal approval is not required.

B-1. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area reclassified from a prohibited to a restricted classification for depuration harvesting. A municipality must document to the commissioner within 4 weeks of the reclassification from a prohibited to a restricted classification that the municipality intends to take significant measures following the reclassification to be incorporated in its pollution abatement plan. If the municipality fails to provide sufficient documentation or does not wish to develop a pollution abatement plan or if it fails to notify the commissioner within the 4-week period, municipal approval is not required. The municipality must provide the commissioner a progress report on activities under its abatement plan every 6 months.

C. If a municipal shellfish conservation committee has a pollution abatement plan as provided in subsection 3-B on file with the commissioner, the commissioner must obtain the approval of the committee before taking action to open an area within that municipality for depuration digging.

D. If a municipal shellfish conservation committee has a depuration management plan as provided in subsection 3-C approved by the commissioner, the municipality may manage the depuration harvesting over a shellfish growing area within that municipality.

**Sec. 33. 12 MRSA §12760, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Monitoring program.** The commissioner shall, in cooperation with the Department of Marine Resources ~~and the Atlantic Salmon Commission~~, establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. The commissioner has sole authority to take corrective action at fishways as prescribed under this section.

**Sec. 34. 12 MRSA §12804, sub-§1, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the ~~Atlantic Salmon Commission~~ Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this

paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

**Sec. 35. 37-B MRSA §1112**, as enacted by PL 2001, c. 460, §3, is amended to read:

**§1112. Administration**

The department shall administer this chapter. In carrying out the provisions of this chapter, the department shall consult as appropriate with other state agencies, including the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, the Maine Land Use Regulation Commission, ~~the Maine Atlantic Salmon Commission~~ and the State Planning Office, for their aid and assistance.

**Sec. 36. 37-B MRSA §1119, sub-§3**, as enacted by PL 2001, c. 460, §3, is amended to read:

**3. Review conference.** After receiving the inspector's report and prior to issuing any dam safety order, the commissioner shall hold a review conference and shall invite the emergency management director of the county in which the dam is located to the review conference as well as representatives from appropriate state agencies which may include the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, the Maine Land Use Regulation Commission, ~~the Maine Atlantic Salmon Commission~~ and the State Planning Office, to discuss the public safety, environmental, economic and other concerns relating to the dam and the necessary remedial measures under consideration. A state dam inspector shall attend the review conference. The commissioner shall maintain a written record of the conference and shall make a copy of this record available to all parties participating in the conference.

**Sec. 37. 38 MRSA §480-B, sub-§10, ¶A**, as enacted by PL 2005, c. 116, §2, is amended to read:

A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by

~~the Atlantic Salmon Commission~~ Department of Marine Resources; and

**Sec. 38. 38 MRSA §480-U, sub-§2, ¶A**, as amended by PL 2005, c. 330, §17, is further amended to read:

A. The application must contain written certification by a knowledgeable professional that the cranberry cultivation project will not be located in a wetland that has one or more of the following characteristics:

- (1) Is a coastal wetland or is located within 250 feet of a coastal wetland;
- (2) Is a great pond;
- (3) Contains endangered or threatened plant species as defined in Title 12, section 544;
- (4) Contains any type of palustrine natural community of which there are 20 or fewer occurrences in the State;
- (5) Contains any of the following resources:
  - (a) Habitat for species appearing on the official state or federal lists of endangered or threatened species when there is evidence that the species is present;
  - (b) As defined by rule by the Commissioner of Inland Fisheries and Wildlife, whether or not the resource has been mapped, high-value and moderate-value deer wintering areas; deer travel corridors; high-value and moderate-value waterfowl or wading bird habitats, including nesting and feeding areas; shorebird nesting, feeding or staging areas; or seabird nesting islands; or
  - (c) Critical spawning and nesting areas for Atlantic salmon as defined by rule by ~~the Atlantic Salmon Commission~~ Department of Marine Resources whether or not mapped;
- (6) Is located within 250 feet of the normal high water line and within the same watershed of any lake or pond classified as GPA under section 465-A;
- (7) Is a bog dominated by ericaceous shrubs, sedges and sphagnum moss and usually having a saturated water regime, except that applications proposing reclamation of previously mined peat bogs may be considered;
- (8) Is land adjacent to the main stem of a major river, as classified in section 467, that is inundated with floodwater during a 100-year flood event and that under normal circumstances supports a prevalence of wetland



vegetation, typically adapted for life in saturated soils; or

(9) Contains at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, *Vaccinium macrocarpon* Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

**Sec. 39. 38 MRSA §636, sub-§7, ¶B**, as amended by PL 1999, c. 401, Pt. BB, §19, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife, and the Department of Marine Resources and the Atlantic Salmon Commission;

See title page for effective date.

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## CHAPTER 562

### S.P. 655 - L.D. 1683

#### An Act Regarding the Law Governing Recreational Vehicle Manufacturers, Distributors and Dealers

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

**Sec. 1. 10 MRSA §1171, sub-§11**, as amended by PL 1997, c. 473, §1, is further amended to read:

**11. Motor vehicle.** "Motor vehicle" means any ~~motor-driven vehicle~~ motor-driven vehicle, except motorcycles and recreational vehicles defined under section 1432, subsection 18-A, required to be registered under Title 29-A, chapter 5.

**Sec. 2. 10 MRSA §1361, sub-§8**, as amended by PL 1997, c. 427, §1, is further amended to read:

**8. Goods.** "Goods" means residential, recreational, agricultural, farm, commercial or business equipment, machinery or appliances that use electricity, gas, wood, a petroleum product or a derivative of a petroleum product for operation. "Goods" does not include motor vehicles as defined in section 1171, subsection 11 and recreational vehicles as defined in section 1432, subsection ~~18~~ 18-A.

**Sec. 3. 10 MRSA §1432, sub-§1-A** is enacted to read:

**1-A. Area of sales responsibility.** "Area of sales responsibility" means the geographical area agreed to by the dealer and the manufacturer in the dealer agreement within which the dealer has the exclusive right to display the manufacturer's new recreational vehicles of a particular line make to the retail public.

**Sec. 4. 10 MRSA §1432, sub-§2**, as enacted by PL 1997, c. 427, §2, is amended to read:

**2. Dealer.** "Dealer" means a person, firm, corporation or business entity licensed or required to be licensed under Title 29-A, including a recreational vehicle dealer to whom a dealer agreement is offered or granted.

**Sec. 5. 10 MRSA §1432, sub-§8-A** is enacted to read:

**8-A. Factory campaign.** "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle dealers or owners in order to address a part or equipment issue.

**Sec. 6. 10 MRSA §1432, sub-§10**, as enacted by PL 1997, c. 427, §2, is amended to read:

**10. Fifth-wheel trailer.** "Fifth-wheel trailer" means a ~~trailer~~ vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits and designed to be towed by a motor vehicle that contains a towing mechanism mounted above or forward of the tow vehicle's rear axle.

**Sec. 7. 10 MRSA §1432, sub-§10-A** is enacted to read:

**10-A. Folding camping trailer.** "Folding camping trailer" means a vehicle mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold to provide temporary living quarters for recreational, camping or travel use.

**Sec. 8. 10 MRSA §1432, sub-§12-A** is enacted to read:

**12-A. Line make.** "Line make" means a specific series of recreational vehicles that: