

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

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

Effective July 6, 2011, unless otherwise indicated.

**CHAPTER 421
S.P. 60 - L.D. 210**

**An Act Regarding the
Saltwater Recreational Fishing
Registry**

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

Whereas, for the efficient management of the saltwater recreational fishery, this Act must take effect before the spring fishing season begins; 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Sec. 1. 12 MRSA §6032, as repealed and replaced by PL 2009, c. 559, §1 and affected by §4, is repealed.

Sec. 2. 12 MRSA §6312, as enacted by PL 2009, c. 559, §2 and affected by §4, is amended to read:

§6312. Saltwater recreational fishing registry

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 in the coastal waters of the State. ~~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~~ Unless the registry is suspended by rule under subsection 16, a person may not engage in saltwater recreational fishing in the coastal waters of the State or land or possess fish taken from salt water the coastal waters of the State without registering pursuant to this section except that 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 recreational fishing operator's license pursuant to subsection 5;
- C. A person renting a smelt fishing camp from an operator that possesses a valid commercial recreational fishing 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;
- H. A person who has employed the guiding services of an individual who possesses a current guide license for tidewater fishing as provided by rule pursuant to section 12853 and a valid recreational fishing operator's license pursuant to subsection 5;
- I. A person fishing from a dock, pier or wharf that is owned by an individual who possesses a valid recreational fishing operator's license pursuant to subsection 5;
- J. A person who holds and presents upon demand a current and valid registration or license to engage in saltwater recreational fishing by a state that has been designated as an exempted state under 50 Code of Federal Regulations, Section 600.1415;
- K. A person registered on the National Saltwater Angler Registry through the United States De-

partment of Commerce, National Oceanic and Atmospheric Administration;

L. A member of the Passamaquoddy Tribe, if the Passamaquoddy Tribe certifies to the commissioner that it will collect the registry data required under subsection 2 from tribal members who engage in saltwater recreational fishing and report the data to the commissioner;

M. A member of the Penobscot Nation, if the Penobscot Nation certifies to the commissioner that it will collect the registry data required under subsection 2 from members of the Penobscot Nation who engage in saltwater recreational fishing and report the data to the commissioner;

N. A member of the Houlton Band of Maliseet Indians, if the Houlton Band of Maliseet Indians certifies to the commissioner that it will collect the registry data required under subsection 2 from band members who engage in saltwater recreational fishing and report the data to the commissioner; and

O. A member of the Aroostook Band of Micmacs, if the Aroostook Band of Micmacs certifies to the commissioner that it will collect the registry data required under subsection 2 from band members who engage in saltwater recreational fishing and report the data to the commissioner.

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 whether or not 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 under subsection 4.~~ The Department of Inland Fisheries and Wildlife shall provide registry data from persons exempted under this subsection regarding saltwater recreational fishing by these persons to the federal or state agency responsible for monitoring saltwater recreational fishing department at a time and manner as determined by that agency the department.

A person who has indicated on a valid commercial fishing license issued under this Part whether or not the person engaged in saltwater recreational fishing during the prior year is not required to register under this subsection. The department shall collect data regarding saltwater recreational fishing by these persons exempted under this subsection.

4. Striped bass endorsement. A person required to register under subsection 3 may not engage in salt-

~~water 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. Recreational fishing operator's license. ~~The following persons must possess a valid commercial recreational fishing 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;~~

~~C. A person who owns a private dock, pier or wharf and makes that wharf available to customers for the purpose of recreational fishing as part of a commercial enterprise; and~~

~~D. An individual who possesses a current guide license for tidewater fishing as provided by rule pursuant to section 12853.~~

~~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.~~

A person who holds a recreational fishing operator's license shall collect data from persons who engage in saltwater recreational fishing and report the data to the commissioner as specified by the commissioner by rule.

There is no fee for a recreational fishing operator's license.

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 Miamees on the registry without a charge or fee if the Native American presents a certificate from the respective reservation tribal clerk or the Aroostook Miemac 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.

13. Registration expiration. A registration issued under this section is valid until December 31st of the year in which it was issued. If applicable federal requirements allow, the commissioner may by rule extend the period for which a registration is valid.

14. Registry procedures. A person may register pursuant to this section through an agent appointed by the Department of Inland Fisheries and Wildlife to issue licenses under section 12501, through a publicly accessible online electronic system for registration operated by the department or at the department through a department employee.

15. Agent fees. A fee may not be charged for registering under this section. A person registering

through an agent under section 12501 may be charged an agent fee of \$2 if the only transaction conducted by that person is registering on the registry. A person registering on a publicly accessible online electronic system for registration may be charged an agent fee of \$1. A person registering at the department with a department employee may be charged an agent fee of \$1.

16. Termination of registry requirement. If the Marine Recreational Information Program administered by the United States Department of Commerce, National Oceanic and Atmospheric Administration does not receive funding to conduct surveys and perform data analysis, the department by rule shall suspend the registry. If the department suspends the registry, a person is not required to register under this section in order to engage in saltwater recreational fishing.

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

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Licensing Services - Inland Fisheries and Wildlife 0531

Initiative: Provides funding for computer programming and database storage costs.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	\$0	\$0	\$6,365
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GENERAL FUND TOTAL	\$0	\$0	\$6,365

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

DEPARTMENT TOTALS

DEPARTMENT	2010-11	2011-12	2012-13
GENERAL FUND	\$0	\$0	\$6,365
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0	\$6,365

MARINE RESOURCES, DEPARTMENT OF

Bureau of Resource Management 0027

Initiative: Reduces allocations as a result of repealing the provisions of Public Law 2009, chapter 559, An Act to Create a Saltwater Recreational Fishing Registry.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	(\$76,882)	\$0	\$0
All Other	(\$85,434)	(\$55,433)	(\$55,433)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$162,316)	(\$55,433)	(\$55,433)

Office of the Commissioner 0258

Initiative: Provides an allocation for supplies related to printing registrations received by the department.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	\$400	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$400	\$500	\$500

MARINE RESOURCES, DEPARTMENT OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	(\$161,916)	(\$54,933)	(\$54,933)
DEPARTMENT TOTAL - ALL FUNDS	(\$161,916)	(\$54,933)	(\$54,933)

SECTION TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	\$0	\$0	\$6,365
OTHER SPECIAL REVENUE FUNDS	(\$161,916)	(\$54,933)	(\$54,933)
SECTION TOTAL - ALL FUNDS	(\$161,916)	(\$54,933)	(\$48,568)

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

Effective July 6, 2011.

**CHAPTER 422
H.P. 510 - L.D. 683**

An Act To Enhance Long-term Care Services for Maine Citizens

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

Sec. 1. 22 MRSA c. 1622-A is enacted to read:

CHAPTER 1622-A

CONSOLIDATION OF LONG-TERM CARE SERVICES

§7316. Consolidation of long-term care services

Beginning July 1, 2012, all long-term care services provided directly or indirectly under the MaineCare program or other state-funded programs by the department under this Title must be combined into one program, referred to in this chapter as "the program," with a single set of rules, coordinated criteria for assessment and qualifications and a single budget.

§7317. In-home and community support services; nursing facility services

In-home and community support services and nursing facility services must be provided under the program, giving priority to expenditures that serve first those consumers with the greatest needs and the lowest service costs in accordance with the provisions of this section.

1. Intake and eligibility assessment. The department shall develop for the program a single system for intake and eligibility determination for all consumers, regardless of diagnosis, type of disability or age or other demographic factors, using the multidisciplinary teams designated by the commissioner pursuant to section 7323. The intake process, application and forms must be standardized despite differences in the criteria for eligibility for services under different provisions of the MaineCare program state plan or federally approved waiver under Medicaid or under state-funded services.

2. Needs assessment. The department shall assess a consumer for benefits determination periodically, as appropriate to the consumer, based on assessments of functional, health care and financial needs performed by an agency that is available to the consumer for case management services but that does not directly or indirectly provide in-home and community support services or nursing facility services. The assessment of the consumer's functional, health care and financial needs for in-home and community support services and nursing facility services must