

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2013

**CHAPTER 230
S.P. 324 - L.D. 946**

**An Act To Allow
Municipalities To Petition the
Department of Marine
Resources To Establish
Dive-only Areas for Scallops in
Mooring Fields**

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

Sec. 1. 12 MRSA §6728-C is enacted to read:

§6728-C. Dive-only areas

1. Dragging in dive-only areas prohibited. A person may not take scallops by dragging in a dive-only area, as established in subsection 2.

2. Dive-only areas established. At the written request of a municipality, the commissioner may establish in harbors where there are 5 or more moorings within that municipality dive-only areas where a person may fish for or take scallops by hand.

3. Violation. A person who violates subsection 1 commits a civil violation for which the following penalties apply:

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

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

C. For a 3rd or subsequent offense, 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.

4. Rules. The commissioner may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 231
H.P. 320 - L.D. 470**

**An Act Regarding Working
Waterfront Projects**

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

Sec. 1. 38 MRSA §439-A, sub-§6, as amended by PL 2007, c. 292, §22, is further amended to read:

6. Clearing of vegetation. Within the shoreland area, municipal ordinances ~~shall~~ **must** provide for effective vegetative screening between buildings and shorelines. Notwithstanding any provision in a local ordinance to the contrary, vegetative screening requirements ~~shall~~ **must** be no less restrictive than the following:

A. Within a strip extending 100 feet inland from the normal high-water line of a great pond classified as GPA under section 465-A or a river that flows to a great pond classified as GPA under section 465-A or within a strip extending 75 feet inland from the normal high-water line of other water bodies or the upland edge of a wetland, there shall may be no cleared opening or openings, ~~except for approved construction, greater than 250 square feet and a well-distributed stand of vegetation shall must be retained.~~ The restrictions in this paragraph do not apply to the construction of a structure or the establishment of a land use within 75 feet of the normal high-water line of a water body or upland edge of a wetland that is specifically allowed by municipal ordinance in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the commissioner;

B. Within a shoreland area zoned for resource protection abutting a great pond there shall may be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards; and

C. ~~Selective~~ Except as otherwise provided in this paragraph, selective cutting of no more than 40% of the total volume of trees 4.5 4 inches or more in diameter, measured at 4 1/2 feet above ground level, is allowed in any 10-year period, ~~as long as a well-distributed stand of trees and other natural vegetation remains.~~ Rules adopted by the board may allow for 70% of a lot to be nonvegetated in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the commissioner.

The board may adopt more restrictive guidelines consistent with the purposes of this subchapter, which ~~shall~~ **must** then be incorporated into local ordinances.

Sec. 2. 38 MRSA §439-A, sub-§6-A is enacted to read:

6-A. Clearing of vegetation; exception. The following exceptions to the standards governing the clearing of vegetation apply.

A. The standards in subsection 6, paragraphs A and C do not apply to properties that are located within areas designated as commercial fisheries and maritime activities districts or other equivalent zoning districts.

lent zoning districts approved by the commissioner that support commercial fisheries and maritime activities if:

- (1) The commissioner determines that special local conditions exist and a local municipal ordinance is approved in accordance with section 438-A, subsection 3; and
- (2) The districts are in existence at the time this subsection becomes effective.

B. The standards in subsection 6, paragraphs A and C and any standards related to the clearing of vegetation contained in a municipal ordinance enacted in accordance with section 438-A, subsection 3 do not apply to remediation activities that are necessary to clean up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the commissioner that is part of a state or federal brownfields program or a voluntary response action program under section 343-E and that is located along:

- (1) A coastal wetland; or
- (2) A river that does not flow to a great pond classified as GPA under section 465-A.

Sec. 3. 38 MRSA §480-B, sub-§§11 and 12 are enacted to read:

11. Working waterfront activity. "Working waterfront activity" means an activity that qualifies a parcel of land as working waterfront land. "Working waterfront activity" includes commercial fishing activities; commercial boat building and repair; commercial hauling, launching, storage and berthing of boats; marine construction; marine freight and passenger transportation; and other similar commercial activities that are dependent on the waterfront. As used in this subsection, "commercial fishing activities" has the same meaning as in Title 36, section 1132, subsection 3.

12. Working waterfront land. "Working waterfront land" means a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity.

Sec. 4. 38 MRSA §480-BB, sub-§2, ¶B, as enacted by PL 2011, c. 362, §1, is amended to read:

B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property, only that portion of the vernal pool depression located on property owned or controlled by that landowner may be considered in determining whether the vernal pool is signifi-

cant. A written department determination that a vernal pool is not significant pursuant to this paragraph remains valid regardless of timeframe.

Sec. 5. 38 MRSA §480-BB, sub-§2, ¶C is enacted to read:

C. Rules adopted under this section may not require an applicant for a license for a working waterfront activity on working waterfront land that is part of a state or federal brownfields program or a voluntary response action program under section 343-E to compensate for lost habitat function with a function of equal or greater value or to provide a compensation fee pursuant to section 480-Z.

See title page for effective date.

CHAPTER 232

S.P. 153 - L.D. 373

An Act To Provide Clarity to Priority Chemical Reporting Requirements

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

Sec. 1. 38 MRSA §1695, sub-§1, as amended by PL 2011, c. 319, §6, is further amended to read:

1. Reporting of chemical use. ~~Not later than 180 days after a priority chemical is identified pursuant to section 1694, a~~ A person who is a manufacturer or distributor of a children's product for sale in the State that contains a priority chemical, as identified pursuant to section 1694, in an amount greater than a de minimis level shall notify the department in writing unless waived by the commissioner pursuant to this section or exempt from this chapter pursuant to section 1697. ~~This written notice must be made within 180 days after a priority chemical is identified. If the sale of the children's product does not commence until after the 180-day reporting period ends, this written notice must be made within 30 days of sale of the children's product in the State.~~ This written notice must identify the children's product, the number of units sold or distributed for sale in the State or nationally, the priority chemical or chemicals contained in the children's product, the amount of such chemicals in each unit of children's product and the intended purpose of the chemicals in the children's product.

See title page for effective date.
