

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

PART E

Sec. E-1. 24-A MRSA §421, sub-§7, as enacted by PL 1999, c. 113, §18, is amended to read:

7. Any person or entity required by Title 24 or this Title to appoint an agent for service of process who does not have a valid appointment on file with the superintendent or required by applicable law to appoint the superintendent as agent for service of process is deemed to have appointed the superintendent as agent for service of process, and process may be served within this State in the same manner as provided in section 2105. This subsection does not relieve that person or entity from ~~the any~~ requirement to appoint an agent for service of process or from the applicable penalties for failure to comply with that requirement.

Sec. E-2. 24-A MRSA §4435, sub-§6, as amended by PL 1989, c. 67, §2, is further amended to read:

6. Member insurer. "Member insurer" means any authorized insurer ~~which that~~ writes any kind of insurance to which this subchapter applies and that is not a risk retention group as defined in section 6093, subsection 13. If an insurer is authorized at the time of an insolvency and subsequently is approved to withdraw its license authority for the kinds of insurance covered by any account to which claims relating to the insolvency are allocated, the withdrawn insurer shall continue to be a member of each account solely for purposes of assessments relating to claims resulting from the insolvency until these claims are paid or otherwise extinguished.

Sec. E-3. 24-A MRSA §6095, sub-§1, ¶C, as amended by PL 1997, c. 592, §73, is further amended to read:

C. A designation of an agent for the purpose of receiving service of legal documents or process. That designation is subject to the provisions of section 421, except that the appointment of a private agent is optional. A risk retention group that does not elect to designate an agent in accordance with section 421, subsection 1 shall appoint the superintendent as its agent.

Sec. E-4. 24-A MRSA §6098, sub-§2, as amended by PL 1997, c. 592, §74, is further amended to read:

2. Registration. The purchasing group shall register with the superintendent and designate ~~an~~ the superintendent as its agent solely for the purpose of receiving service of legal documents or process, except that the requirements do not apply in the case of a purchasing group:

- A. That in any state of the United States:
- (1) Was domiciled before April 2, 1986; and

- (2) Is domiciled on and after October 27, 1986;

B. That:

- (1) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state; and

- (2) Since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state;

C. That was a purchasing group under the requirements of the Product Liability Retention Act of 1981 before October 27, 1986; and

D. That does not purchase insurance that was not authorized for purposes of an exemption under that Act, as in effect before October 27, 1986. That designation shall be subject to section 421.

Sec. E-5. 24-A MRSA §6718, as amended by PL 2011, c. 90, Pt. I, §7, is repealed and the following enacted in its place:

§6718. Rules

1. Authority. The superintendent may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Risk retention groups. Notwithstanding section 6719, the superintendent shall adopt rules establishing financial standards and corporate governance standards for captive insurance companies that are risk retention groups as defined in section 6093, subsection 13. Such rules may include, but are not limited to, rules making specified provisions of this Title applicable to captive insurance companies that are risk retention groups, subject to any modifications that the superintendent determines to be appropriate to the nature of a risk retention group's business. 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 239**H.P. 1113 - L.D. 1544**

**An Act To Expand the
Authority of Lobster
Management Policy Councils
To Address Entry into Lobster
Management Zones and To
Create a Temporary Medical
Allowance**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

Whereas, immediate enactment of this legislation is necessary in order for it to be effective in time to assist lobster and crab fishing licensees who require the temporary medical allowance for this coming fishing season; 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 §6447, sub-§5-D, as amended by PL 2007, c. 615, §10, is further amended to read:

5-D. Council authority; under 18 waiting list. Notwithstanding any other provision in this subchapter and upon approval in a referendum under subsection 6, a lobster management policy council in a limited-entry zone may propose to the commissioner that the limitation described in this subsection be placed on entry by individuals into that zone in accordance with rules adopted by the department.

This limitation would require that the number of individuals who are authorized to be issued a lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements of section 6448, subsection 4, in accordance with section 6448, subsection 8, paragraph A, be limited to the number of new zone entrants who enter that zone in accordance with section 6448, subsection 7 ~~7-A~~. This limitation may not be applied to a person who is under 18 years of age and lives on a year-round basis on an island within the coastal waters that is not connected to the mainland by any artificial structure.

The commissioner shall maintain a waiting list of individuals who have identified the limited-entry zone as their declared lobster zone in accordance with section 6448, subsection 8, paragraph A. For the purposes of this subsection, an individual on a waiting list maintained by the commissioner does not need to meet the eligibility requirements of section 6421, subsection 5-A in order to purchase a student license.

The commissioner may establish by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 12 MRSA §6448, sub-§2, as amended by PL 2007, c. 204, §§4 to 6, is further amended to read:

2. Rules for limited-entry zones. The commissioner may adopt rules establishing limits on new zone entrants to a lobster management zone. These rules must be adopted in accordance with this subsection.

A. After conducting a written survey in the zone, a lobster management policy council may propose to the commissioner an exit ratio to limit new zone entrants to the zone. The lobster management policy council is not required to submit the proposal to referendum and the proposed exit ratio does not need to receive approval through the survey in order to be forwarded to the commissioner.

A-1. A lobster management policy council may recommend to the commissioner whether the exit ratio adopted for a lobster management zone should be applied to the number of licenses that are not renewed or to the number of trap tags associated with the licenses that are not renewed. The lobster management policy council is not required to submit the recommendation to referendum.

B. The commissioner may initiate rulemaking under this subsection only upon receipt of a proposal under paragraph A or a recommendation under paragraph A-1. The commissioner shall hold a public hearing on the proposed rules pursuant to Title 5, section 8052. The public hearing must be held in the zone in which the rules would apply and the results of the written survey regarding the exit ratio must be entered into the record.

C. In accordance with subsection 7 ~~7-A~~, the commissioner shall adopt rules that establish an exit ratio between ~~the number of trap tags retired by individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of trap tags issued to new zone entrants authorized under subsection 7~~. An exit ratio established by rule under this subsection is not required to be the same as the exit ratio proposed by the lobster management policy council; either:

(1) The number of trap tags retired by individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of trap tags issued to new zone entrants authorized under subsection 7-A; or

(2) The number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their de-

clared lobster zone in the previous calendar year, and the number of new zone entrants authorized under subsection 7-A.

An exit ratio established by rule under this subsection is not required to be the same as the exit ratio proposed by the lobster management policy council.

D. Upon written notification from the lobster management policy council that a majority of the council has voted to conduct a survey in a zone regarding a proposal for an exit ratio to limit new zone entrants to the zone, the commissioner shall close the zone to new zone entrants until the commissioner either adopts rules under this subsection or declares that the commissioner will not initiate rulemaking under this subsection. In no event may the zone remain closed for longer than one year unless the commissioner has adopted rules establishing limits on new zone entrants to the zone. ~~This paragraph does not apply to surveys conducted in accordance with subsection 10.~~

E. When a lobster management policy council proposes to the commissioner a change in the exit ratio established under paragraph C and a new exit ratio is adopted by rule under this subsection, the commissioner shall allow individuals who meet the following conditions to enter the zone in accordance with the previously existing exit ratio:

- (1) The individual has completed the requirements of the apprenticeship program established under section 6422 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D; and
- (2) The individual's name is listed on the waiting list maintained under subsection 6 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D.

This paragraph does not apply when the methodology by which new entrants are calculated is changed from trap tags to licenses or when an exit ratio based on the number of trap tags retired is adopted, in accordance with paragraph C, for the first time in a lobster management zone.

F. When a lobster management policy council proposes to the commissioner to establish an exit ratio for the first time to limit new zone entrants under paragraph A, it may also propose to the commissioner a provision to exempt from the exit ratio, upon completion of the apprentice program, an individual who has completed at least 92% of

the hours required and at least 92% of the days required by the apprentice program established under section 6422 by the date the commissioner receives written notification from the lobster management policy council pursuant to paragraph D.

Sec. 3. 12 MRSA §6448, sub-§4, ¶B, as enacted by PL 1999, c. 508, §3, is amended to read:

B. Is authorized as a new zone entrant by the commissioner pursuant to subsection ~~7~~ 7-A to declare that zone as the person's declared lobster zone.

Sec. 4. 12 MRSA §6448, sub-§7, as amended by PL 2007, c. 204, §7, is repealed.

Sec. 5. 12 MRSA §6448, sub-§7-A is enacted to read:

7-A. Authorization of new zone entrants. The commissioner shall determine by February 1st of each licensing year the number of new zone entrants that may be authorized for each limited-entry zone. The number of new zone entrants authorized in a licensing year must be in accordance with the exit ratio established under subsection 2 for that zone. The commissioner may adopt rules consistent with subsection 2, paragraph B to implement this subsection. Upon adoption of rules, the exit ratio must be used to establish the number of new zone entrants in accordance with subsection 2, paragraph C by:

A. Dividing the number of trap tags that may be issued to new zone entrants by the zone trap limit under section 6431-A. The number of new zone entrants must be rounded down to the nearest whole number and the remaining trap tags carried over to the following year's allocation; or

B. Applying the exit ratio to the number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year.

The commissioner shall authorize new zone entrants in chronological order of requests received under subsection 5. The commissioner shall notify the authorized new zone entrants by certified mail. If a person does not declare a zone within 30 days after receiving the notification by certified mail, that person must be taken off the waiting list and the next person on the list must be authorized as a new zone entrant. If a person has indicated a request for more than one zone pursuant to subsection 5, that person must be taken off the waiting list for the 2nd zone when the person declares one of the zones as that person's declared lobster zone after being authorized to do so. If a person who holds a current Class I, Class II or Class III lobster and crab fishing license is authorized as a new zone entrant and

declares the zone as that person's declared lobster zone, the commissioner shall change the zone identified on that person's license to the limited-entry zone for which the person is authorized.

Sec. 6. 12 MRSA §6448, sub-§8, as amended by PL 2011, c. 486, §§3 and 4, is further amended to read:

8. Exceptions. Notwithstanding subsection 4, the following persons may be issued a Class I, Class II or Class III lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements in subsection 4.

A. A person who is under 18 years of age who successfully completed the requirements of the apprentice program under section 6422 and who submitted documentation of completion of the apprentice program to the department before attaining 18 years of age may declare any zone as that person's declared lobster zone as long as the individual has met all apprentice program rules that may have been adopted in that zone.

B. A person who is issued a Class I, Class II or Class III lobster and crab fishing license on appeal pursuant to section 6310, subsection 2, paragraph A, subparagraph (1) or (2) may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license.

C. A person who is issued a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, paragraph D may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license.

D. A person who is issued a Class I, Class II or Class III lobster and crab fishing license and is 70 years of age or older may declare any zone as that person's declared lobster zone.

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program.

The trap tags or license issued to a person who declares a limited-entry zone as that person's declared lobster zone pursuant to this subsection may not be counted for the purposes of the exit ratio or the num-

ber of new zone entrants that may be authorized for that zone.

Sec. 7. 12 MRSA §6448, sub-§10, as enacted by PL 2007, c. 204, §9, is repealed.

Sec. 8. 12 MRSA §6449, sub-§1, as enacted by PL 2009, c. 294, §2, is amended to read:

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7 ~~7-A~~, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by 2/3 of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

Sec. 9. 12 MRSA §6450 is enacted to read:

§6450. Temporary medical allowance

1. Temporary medical allowance. Notwithstanding section 6421, upon request the commissioner may issue a temporary medical allowance that permits an individual to fish under the authority of the license of a Class I, Class II or Class III lobster and crab fishing license holder but not under the license holder's direct supervision if the following criteria are met:

A. The individual who will be fishing has successfully completed an apprentice program under section 6422;

B. The individual who will be fishing is the child or spouse of the individual who holds the Class I, Class II or Class III lobster and crab fishing license;

C. The holder of the Class I, Class II or Class III lobster and crab fishing license is unable to use that license due to a substantial illness or medical condition. The holder of the Class I, Class II or Class III lobster and crab fishing license shall

provide the commissioner with documentation from a physician describing the illness or other medical condition; and

D. The holder of the Class I, Class II or Class III lobster and crab fishing license documents to the commissioner that the license holder harvested a minimum of 1,000 pounds of lobsters within one year prior to the request for the temporary medical allowance.

A temporary medical allowance may not exceed one year. A request for a temporary medical allowance must be in writing and must specify the dates for which the temporary medical allowance is requested. The holder of the Class I, Class II or Class III lobster and crab fishing license on which the temporary medical allowance is based must maintain a valid license during the duration of the temporary medical allowance. The holder of the Class I, Class II or Class III lobster and crab fishing license is liable for the activities of the individual fishing under the temporary medical allowance.

Sec. 10. Authority. The Joint Standing Committee on Marine Resources may report out a bill to the Second Regular Session of the 126th Legislature regarding lobster licenses and methods for expanding opportunity in the limited-entry lobster fishery.

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

Effective June 12, 2013.

**CHAPTER 240
H.P. 19 - L.D. 15**

**An Act To Amend the
Authorized Hours during
Which Liquor May Be Sold
and Purchased**

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

Sec. 1. 28-A MRSA §4, sub-§1, as amended by PL 2013, c. 2, §1, is further amended to read:

1. Hours for sale of liquor. Except as provided in paragraphs A to D, licensees may sell or deliver liquor from 6 5 a.m. on any day until 1 a.m. of the following day.

A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 9 a.m., except on March 17th.

B. Licensees may sell liquor on January 1st of any year from 12 midnight to 2 a.m.

(1) In areas in which liquor may be sold except on Sundays, if January 1st falls on a Monday, licensees may sell or deliver liquor between 9 p.m. Sunday, December 31st and 2 a.m. January 1st, notwithstanding any local option decisions to the contrary.

D. Wholesale licensees may sell or deliver liquor to licensed establishments from 4 a.m. on any day until 1 a.m. the following day.

See title page for effective date.

**CHAPTER 241
H.P. 1045 - L.D. 1460**

**An Act To Update and Clarify
the Laws Governing the
Operation of Bicycles on Public
Roadways**

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

Sec. 1. 29-A MRSA §101, sub-§83, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

83. Traffic. "Traffic" means pedestrians, ridden or herded animals, vehicles, bicycles and other conveyances either singly or together using public way for travel.

Sec. 2. 29-A MRSA §2060, sub-§1-A, as amended by PL 2009, c. 484, §3, is further amended to read:

1-A. Right turns near bicyclists or roller skiers. A person operating a motor vehicle that passes near a person operating a bicycle or roller skis and proceeding in the same direction may not make a right turn at any intersection or into any road or way unless the turn can be made with reasonable safety and without interfering with the safe and legal operation of the bicycle or roller skis.

Sec. 3. 29-A MRSA §2060, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Left turns on 2-way roadways. At an intersection where traffic is permitted to move in both directions on each way entering the intersection, an approach for a left turn must be made in that portion of the right half of the way nearest the center line and by passing to the right of the center line where it enters the intersection. After entering the intersection, an operator must make the left turn so as to leave the intersection to the right of the center line of the roadway being entered.