

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST SPECIAL SESSION
August 29, 2013

SECOND REGULAR SESSION
January 8, 2014 to May 2, 2014

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
EMERGENCY LAW IS
SEPTEMBER 6, 2013

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2014

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

Augusta, Maine
2014

B. If the population of the region is less than 300,000, based on the 1990 U.S. Census, conducted racing on more than 25 days in each of the previous 2 calendar years, except that if a race-track that qualifies as a commercial track under this paragraph ceases operation, a separate race-track operated by the owner or operator of the racetrack that ceased operation qualifies as a commercial track, and for all purposes is considered the same commercial track as the track that ceased operation, if the population of the region of that separate racetrack is less than 300,000, based on the 1990 U.S. Census, and the sum of the number of days on which racing was conducted at the track that ceased operation and the number of days on which racing was conducted at the separate racetrack equals at least 26 days in each of the 2 preceding calendar years;

C. Began operation after January 1, 2014 in a region with a population of 300,000 or more, based on the 1990 U.S. Census, to replace a commercial track as defined by paragraph A that ceased operation after January 1, 2014 and for which no separate racetrack has been opened by the owner or operator of that commercial track that ceased operation. For purposes of this paragraph, a race-track is not required to have conducted racing during the 2 preceding calendar years but is required to conduct racing on at least 100 days during each calendar year after the track is initially licensed as a commercial track. If a commercial track under this paragraph has not been granted 100 race days by the commission for the initial calendar year of operation, race days conducted during that year by the commercial track that ceased operation after January 1, 2014 are credited to the replacement commercial track; or

D. Began operation after January 1, 2014 in a region with a population of less than 300,000, based on the 1990 U.S. Census, to replace a commercial track as defined by paragraph B that ceased operation after January 1, 2014 and for which no separate racetrack has been opened by the owner or operator of that commercial track that ceased operation. For purposes of this paragraph, a race-track is not required to have conducted racing during the 2 preceding calendar years but is required to conduct racing on at least 25 days during each calendar year after the track is initially licensed as a commercial track. If a commercial track under this paragraph has not been granted 25 race days by the commission for the initial calendar year of operation, race days conducted during that year by the commercial track that ceased operation after January 1, 2014 are credited to the replacement commercial track.

For the purposes of this subsection, "region" is determined by measuring a distance of 50 miles from the

center of the racing track along the most commonly used roadway, as determined by the Department of Transportation, drawing a circle around the center of the racing track using that 50-mile measurement and excluding those municipalities or unorganized territories that do not have boundaries contained entirely by that circle.

Sec. 4. 8 MRSA §276-B is enacted to read:

§276-B. Commercial track ceases operation; entitled to funds

Other than funds used exclusively to pay harness racing purses, a commercial track that ceases operation is entitled to distribution of all funds maintained by the State under this chapter based on the number of race days conducted by that commercial track.

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

Effective March 22, 2014.

CHAPTER 491

H.P. 1188 - L.D. 1616

**An Act Regarding
Appointments of Certain
Positions in the Department of
Corrections**

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

Sec. 1. 2 MRSA §6, sub-§2, as amended by PL 2011, c. 655, Pt. I, §1 and affected by §11, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

- Superintendent of Financial Institutions;
- Superintendent of Consumer Credit Protection;
- State Tax Assessor;
- Associate Commissioner for Tax Policy, Department of Administrative and Financial Services;
- Superintendent of Insurance;
- Executive Director of the Maine Consumer Choice Health Plan;
- Deputy Commissioner, Department of Administrative and Financial Services;
- ~~Associate Deputy Commissioner for Adult Services, Department of Corrections;~~
- ~~Associate Commissioner for Juvenile Services, Department of Corrections;~~

Public Advocate;
 Deputy Commissioner, Department of Health and Human Services;
 Chief Information Officer;
 Associate Commissioner for ~~Legislative and Program Services~~, Department of Corrections; and
 Chief of the State Police.

Sec. 2. 5 MRSA §936, sub-§1, as amended by PL 1999, c. 731, Pt. G, §1, is repealed and the following enacted in its place:

1. Major policy-influencing positions. The positions of deputy commissioner and 2 associate commissioners are major policy-influencing positions within the Department of Corrections. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter.

Sec. 3. 34-A MRSA §1403, sub-§2, as amended by PL 2001, c. 386, §11, is further amended to read:

2. Appointments. The commissioner's appointment powers are as follows.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary, including those intermittent employees as defined in Title 5, section 7053 needed to offset the overtime costs related to unscheduled, unanticipated overtime. ~~These intermittent positions in the institutional services unit must be identified through a separate agreement with labor and may be used only at preidentified posts and work sites. Use of intermittent employees for the purposes of overtime must be governed by an agreement between the parties.~~

B. The commissioner may appoint and set the salary for ~~3 one deputy commissioner and 2~~ associate commissioners to assist in carrying out the responsibilities of the department.

(1) An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(2) To be eligible for appointment as the deputy commissioner or an associate commissioner, a person must have training and experience in general management.~~(3) The deputy commissioner has the powers, duties, obligations and liabilities of the commissioner when the commissioner is unable to perform the duties of the office.~~

~~C. The commissioner shall appoint the following officials to serve at the pleasure of the commissioner:~~

~~(1) Associate Commissioner for Adult Services;~~

~~(1 A) Associate Commissioner for Juvenile Services; and~~

~~(3) Associate Commissioner for Legislative and Program Services.~~

D. The commissioner may appoint and set the salary for a director of operations, a policy development coordinator and a media and public information officer to assist in carrying out the responsibilities of the department. An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

Sec. 4. 34-A MRSA §1403, sub-§3, as amended by PL 1995, c. 502, Pt. F, §19, is further amended to read:

3. Delegation. The commissioner's delegation powers are as follows.

A. Unless a specific statute otherwise directs, the commissioner may delegate powers and duties given under this Title to the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators.

B. The commissioner may empower the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators to further delegate powers and duties delegated to them by the commissioner.

B-1. Unless a specific statute otherwise directs, the commissioner may empower chief administrative officers to delegate powers and duties given to them by chapter 3 and may empower regional correctional administrators to delegate powers and duties given to them by chapter 5.

C. ~~A~~ The deputy commissioner, an associate commissioner or associate commissioners may be designated to assist in the development of community correctional programs at the county level and to coordinate activities of the department with each county and any county correctional advisory groups. The deputy commissioner, associate commissioner or associate commissioners may appoint staff to assist in carrying out this paragraph.

Sec. 5. 34-A MRSA §3001, sub-§1, as amended by PL 1999, c. 583, §5, is further amended to read:

1. Appointment. The commissioner may appoint chief administrative officers as necessary for the proper performance of the functions of the department, subject to the Civil Service Law. An appointment is for an indeterminate term and until a successor is ap-

pointed and qualified or during the pleasure of the commissioner.

A. To be eligible for appointment as a chief administrative officer, a person must be experienced in ~~the correctional management of the particular type of facility to which that person is assigned.~~

B. Chief administrative officers shall report directly to the commissioner or to the deputy commissioner or ~~to~~ an associate commissioner if so directed by the commissioner.

Sec. 6. 34-A MRSA §5402, sub-§2, ¶B, as amended by PL 2013, c. 133, §28, is further amended to read:

B. Appoint, subject to the Civil Service Law, ~~regional correctional administrators~~, field probation and parole officers, juvenile community corrections officers and such other employees as may be required to carry out adequate supervision of all probationers, parolees from the correctional facilities and other persons placed under the supervision of an employee listed in this paragraph;

Sec. 7. 34-A MRSA §5402, sub-§3, ¶A-1 is enacted to read:

A-1. Appoint regional correctional administrators as necessary for the proper performance of the functions of the department. An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(1) To be eligible for appointment as a regional correctional administrator, a person must be experienced in correctional management.

(2) A regional correctional administrator shall report directly to the commissioner or to the deputy commissioner or an associate commissioner if so directed by the commissioner.

Sec. 8. Vacancies. Notwithstanding any other provision of law, the Commissioner of Corrections may not appoint a person to the position of director of operations, policy coordinator, media and public information officer, chief administrative officer or regional correctional administrator for the Department of Corrections until the person in that respective position on the effective date of this Act no longer serves in that position.

See title page for effective date.

CHAPTER 492

H.P. 1176 - L.D. 1604

An Act To Make Technical Changes to Marine Resources Laws

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

Whereas, the 2014 elver fishing season begins at noon on March 22, 2014, and this legislation makes changes to the elver fishing licensing laws that need to take effect in time for the 2014 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 §6301, sub-§2, ¶U, as corrected by RR 2009, c. 2, §24, is amended to read:

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

Sec. 2. 12 MRSA §6301, sub-§2, ¶V, as reallocated by RR 2009, c. 2, §22, is amended to read:

V. A lobster processor license issued under section 6851-B expires on March 31st of each year; and

Sec. 3. 12 MRSA §6301, sub-§2, ¶W is enacted to read:

W. A commercial green crab only license issued under section 6808 expires on April 30th of each year.

Sec. 4. 12 MRSA §6407, as enacted by PL 1977, c. 661, §5, is amended to read:

§6407. Conviction or adjudication; juvenile offense; failure to appear

Under this chapter:

1. Conviction or adjudication. ~~A judgment of guilt shall be considered a~~ A conviction of a crime is considered a conviction and an adjudication of a civil violation is considered an adjudication during the pendency of appeal;

2. Juvenile offense. A conviction ~~as of~~ as of a juvenile offense ~~shall be~~ is considered a conviction; and