

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

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

Augusta, Maine
2017

3-A. Farm product. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products, fish and fish products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

Sec. 3. 7 MRSA c. 209 is enacted to read:

CHAPTER 209

LAND-BASED AQUACULTURE

§1501. Land-based aquaculture license

1. License required. The commissioner may require a license for aquaculture of marine or freshwater organisms in facilities that are not located in the coastal waters of the State but are located in the State.

2. Licensed activities. The holder of a license under this section may possess marine or freshwater organisms that the holder has raised by means of aquaculture. The holder of such a license is exempt from any requirement regarding the time of taking or possessing, minimum or maximum length or other minimum or maximum size requirement for any marine or freshwater organism the holder has raised by means of aquaculture.

3. License denial. The commissioner shall refuse to issue a license under this section if the commissioner receives information from the Commissioner of Marine Resources or the Commissioner of Inland Fisheries and Wildlife that the aquaculture activity presents an unreasonable risk to indigenous marine or freshwater life or its environment. The Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife shall consider factors, including, but not limited to:

A. Risk of accidental or intentional introduction of marine or freshwater organisms or organism products into the waters of the State;

B. Risk of the introduction or spread of disease within the State; and

C. Interference with the enforcement of possession, size or season limits for wild marine or freshwater organisms.

4. Monitoring and revocation. The commissioner shall monitor licensed facilities under this section on an annual basis. The commissioner shall provide the findings to the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife. If the commissioner determines following an annual review or at any other time that the licensed aquaculture activity presents an unreasonable risk to indigenous marine or freshwater life or its environment, the commissioner may revoke the license after

the licensee has been given an opportunity for a hearing before the department.

5. Fee. The commissioner may charge a fee for a license under this section not to exceed \$1,000, the amount to be established in rules adopted by the commissioner depending on the type and amount of aquaculture. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA §6073-D, last ¶, as enacted by PL 2009, c. 229, §8, is amended to read:

This section does not exempt the possessor of the marine organism from any requirement to hold a lease or license pursuant to section 6072, 6072-A, 6072-B, or 6072-C or ~~6085~~ Title 7, section 1501 to engage in the culture of marine organisms.

Sec. 5. 12 MRSA §6085, as enacted by PL 2009, c. 229, §12, is repealed.

Sec. 6. 12 MRSA §6085-A is enacted to read:

§6085-A. Land-based aquaculture; reporting

The commissioner may require the holder of a license under Title 7, chapter 209 for the land-based aquaculture of marine organisms to file periodic reports regarding the aquaculture practices and production of the facility. Information obtained pursuant to this section is considered fisheries statistics for the purposes of section 6173, except that information about marine organism health reported pursuant to section 6071 may not be considered fisheries statistics.

See title page for effective date.

CHAPTER 95

S.P. 528 - L.D. 1503

An Act To Amend Criteria for Issuing a Certificate of Approval for Certain Projects under the Finance Authority of Maine Act

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

Whereas, it is likely that applicants will seek financing for projects using the Revenue Obligation Securities Program before this Act takes effect if it is not enacted on an emergency basis; and

Whereas, if this Act is not enacted on an emergency basis, applicants could obtain financing without sufficient credit safeguards to protect against the calling upon the moral obligation of the State, leading to undue losses to the State; 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 §1043, sub-§2, ¶O, as amended by PL 2015, c. 504, §3, is further amended to read:

O. In the case of an energy distribution system project or an energy generating system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

(1) The energy distribution system project or the energy generating system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's Energy Office and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a ~~reasonable~~ strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project

and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

(a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;

(b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(g) Whether the proposed project enhances the opportunities for economic development;

(h) The effect that the proposed project financing has on the authority's financial resources;

(i) The financial performance of similar projects;

(j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Energy Office, other public officials and members of the public;

(k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes, transmits or generates;

(l) The cost advantages to end users of the fuel or energy to be distributed, transmitted or generated by the project, to the extent those advantages may affect market penetration by the project; and

(m) The nature and extent of the applicant's equity contribution to payment of the costs of the project; such a contribution may not be less than 25% of the expected cost of the project.

This paragraph is repealed January 1, 2020.

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

Effective May 26, 2017.

CHAPTER 96

H.P. 400 - L.D. 558

An Act To Improve Moose Hunting

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

Whereas, this legislation must take effect before the 2017 moose lottery permit deadline; 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 §11154, sub-§5, as amended by PL 2011, c. 370, §5, is further amended to read:

5. Eligibility. Except as provided in this subsection, a resident, nonresident or alien who is eligible to obtain a Maine hunting license or who will be eligible to obtain a Maine hunting license by the opening day of the open moose season is eligible to apply for a moose hunting permit. Beginning in 2011, a person who has obtained a moose hunting permit is ineligible to obtain another permit until 3 years have elapsed after the issuance of the last permit. This limitation does not apply to subpermittees under subsection 7. A person under 10 years of age on the opening day of the

open moose season is eligible to apply for a moose hunting permit and may accrue points under subsection 8 but is ineligible to receive a moose hunting permit.

Sec. 2. 12 MRSA §11154, sub-§7, as amended by PL 2011, c. 370, §7, is further amended to read:

7. Subpermittees. An applicant for a moose permit may indicate on the application filed pursuant to subsection 6 the name of a subpermittee-designate and the name of an alternate subpermittee-designate. A person under 10 years of age on the opening day of the open moose season may not be a subpermittee-designate or alternate subpermittee-designate. If the applicant is issued a moose permit under subsection 9 and upon application to the commissioner, the permittee may change that person's subpermittee-designate or alternate subpermittee-designate until 30 days prior to the start of the moose hunting season for which the permit was issued. Thirty days prior to the start of the applicable moose hunting season, the subpermittee-designate becomes a subpermittee. The permittee may authorize the subpermittee to participate in the moose hunt with the permittee. The permittee may authorize the alternate subpermittee-designate to participate in the hunt in place of the subpermittee-designate if the permittee notifies the department of the authorization at least 5 business days prior to the first day of the moose season, in which case the alternate subpermittee-designate becomes the subpermittee. The permittee may choose not to authorize a subpermittee to participate in the hunt.

A. A person may not sell a subpermittee or an alternate subpermittee designation.

B. A person who violates paragraph A commits a Class E crime.

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

Effective May 28, 2017.

CHAPTER 97

H.P. 147 - L.D. 191

An Act To Allow Open Snowmobile and All-terrain Vehicle Weekends and Events

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

Sec. 1. 12 MRSA §13104, sub-§7, ¶E is enacted to read:

E. The commissioner may annually establish one 3-consecutive-day period, 2 days of which are weekend days, during which a nonresident may