

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

§5-205. Court appointment of guardian of minor; venue

The venue for guardianship proceedings for a minor is in the ~~place~~ county or division where the minor resides or is present, where the petitioner or a parent or guardian of the child resides or where another proceeding concerning custody or other parental rights with respect to the child is pending.

Sec. 5. 18-A MRSA §9-104, as amended by PL 1997, c. 239, §1 and affected by §6, is further amended to read:

§9-104. Venue; transfer

(a). If the adoptee is placed by a licensed child-placing agency or the department, the petition for adoption must be filed in the court in the county or division where:

- (1). The petitioner resides;
- (2). The adoptee resides or was born; ~~or~~
- (3). An office of the agency that placed the adoptee for adoption is located; ~~or~~
- (4). The parental rights of the minor adoptee's parents were terminated.

(b). If the adoptee is not placed by a licensed child-placing agency or the department, the petition for adoption must be filed in the county or division where the adoptee resides or where the petitioners reside.

(c). If, in the interests of justice or for the convenience of the parties, the court finds that the matter should be heard in another ~~probate~~ court, the court may transfer, stay or dismiss the proceeding, subject to any further conditions imposed by the court.

See title page for effective date.

CHAPTER 224**H.P. 461 - L.D. 647**

**An Act Regarding Certain
Shellfish Certificates and
Permits Issued by the
Department of Marine
Resources**

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

Sec. 1. 12 MRSA §6852, sub-§4, as amended by PL 2013, c. 282, §11 and affected by §12, is further amended to read:

4. Fee. The fee for a retail seafood license under subsection 1 is \$100. The fee for an enhanced retail

certificate under subsection 2-A is ~~\$28~~ \$100 and must be deposited in the Shellfish Fund under section 6651.

Sec. 2. 12 MRSA §6856, as amended by PL 2015, c. 68, §§10 and 11, is further amended to read:

§6856. Shellfish sanitation; depuration certificate and permits

1. Shellfish sanitation certificate. A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate unless authorized under section 6701 or 6702. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses. A shellfish sanitation certificate does not authorize a person to undertake any of the activities for which a permit is required pursuant to subsection 2-A. Beginning June 1, 2018, the fee for a shellfish sanitation certificate is \$50.

2. Express authorizations. The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation operations, except that the operations may be limited to the extent required to protect the public health.

2-A. Additional permits. A person may not engage in an activity for which a permit is required pursuant to this subsection unless the person holds a shellfish sanitation certificate and the applicable permit as provided in this subsection.

A. A person may not store shellfish in containers or tanks containing recirculating water without a recirculating wet storage permit. Beginning August 1, 2018, the fee for a recirculating wet storage permit is \$200, except that the fee for a recirculating wet storage permit is \$100 if the holder of the permit accepts as a permit condition the duty to provide and provides the department weekly test results showing the recirculating wet storage facility's compliance with the most recently adopted federal sanitation standards.

B. A person may not store shellfish in containers or tanks where nonrecirculating water flows through the containers or tanks or in or on floats in a natural body of water without a flow-through wet storage permit. Beginning August 1, 2018, the fee for a flow-through wet storage permit is \$100.

C. A person may not handle, ship, transport or process shellfish in bulk, as defined by the department by rule, without:

(1) Attaching a tag to the shellfish in accordance with rules adopted by the department; and

(2) A bulk tagging permit. Beginning June 1, 2018, the fee for a bulk tagging permit is \$50.

D. A person may not use a vehicle to transport soft-shelled clam shell stock purchased at a location other than the establishment or vehicle authorized under the license without a shellfish buying station permit. Beginning June 1, 2018, the fee for a shellfish buying station permit is \$100.

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning. Beginning May 1, 2018, the fee for a depuration certificate is \$200.

3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs. Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area pursuant to section 6172 for municipal pollution abatement activities.

(1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.

(2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.

(3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph.

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient municipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State.

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives.

D. A depuration certificate holder shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4.

4. Rules. The commissioner may adopt or amend rules concerning:

A. The procedures for issuing certificates and the required qualifications for each type of certificate;

B. The minimum sanitation standards for establishments and vehicles;

C. The sanitation and quality control standards for shellfish and whole scallops and their products;

D. The methods for taking, handling, shipping, transporting and processing of shellfish and whole scallops taken from closed areas;

E. The records and reports of takings, purchases, processing, sales, shipping and transporting of shellfish and whole scallops;

F. The labeling or marking of shipments of shellfish and whole scallops; and

G. Other rules necessary to the public health.

The rules must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most re-

cent generally accepted research data, in a manner so as to protect the public health and safety while allowing reasonable use of the State's shellfish and whole scallops.

5. Right of entry. Whenever a certificate has been issued under this section, the commissioner, or the commissioner's agent, must have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access is grounds for suspension or revocation of any certificate or license under the provisions of section 6372.

6. Products embargoed and condemned. The commissioner, or the commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any shellfish, shellfish product or whole scallop in any establishment whenever it is determined that the product is of unsound quality, contains any filthy, decomposed or putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The commissioner and the commissioner's agent shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

In the event that any shellfish, shellfish product or whole scallop in any establishment is embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

9. Disposition of fees. The commissioner shall deposit fees collected under this section in the Shellfish Fund under section 6651.

Sec. 3. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 12, section 6852, subsection 4 takes effect April 1, 2018.

See title page for effective date, unless otherwise indicated.

CHAPTER 225
H.P. 547 - L.D. 767

An Act To Prohibit Feeding or Baiting Deer During Certain Parts of the Year

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

Sec. 1. 12 MRSA §10659 is enacted to read:

§10659. Feeding or baiting of deer

1. Prohibition. A person may not place salt or any other bait or food in a place to entice deer to that place from June 1st to the start of an open hunting

season on deer and, if all open hunting seasons on deer are closed before December 15th for that year, from the close of the last open hunting season on deer to December 15th.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

See title page for effective date.

CHAPTER 226
H.P. 618 - L.D. 869

An Act To Amend the Laws Governing Tagging of Harvested Animals

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

Sec. 1. 12 MRSA §12303-A, sub-§1-A, ¶¶B and C, as enacted by PL 2003, c. 655, Pt. B, §230 and affected by §422, are amended to read:

B. A person may leave an unregistered animal harvested by that person in the woods if that person notifies a game warden within 18 hours as to the location of that animal and the circumstances necessitating leaving that animal in the woods; ~~and~~

C. A person on a hunting trip in an unorganized township and staying at a temporary place of lodging may keep an unregistered harvested animal at the temporary place of lodging for no more than 7 days or until that person leaves the woods, whichever comes first; ~~and~~

Sec. 2. 12 MRSA §12303-A, sub-§1-A, ¶D is enacted to read:

D. A person may keep an unregistered animal harvested by that person if that person notifies a game warden within 18 hours as to the location of that animal and the circumstances preventing the person from registering the animal in accordance with subsection 1.

See title page for effective date.

CHAPTER 227
H.P. 926 - L.D. 1332

An Act To Prohibit Possession of Black Powder and Muzzle-loading Firearms by Certain Persons

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