

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

X. An aquaculture license issued under section 6810-B expires on April 30th of each year.

Sec. 6. 12 MRSA §6601, sub-§2-A, as amended by PL 2013, c. 509, §9, is repealed.

Sec. 7. 12 MRSA §6745, sub-§2-A, as enacted by PL 2007, c. 522, §4, is repealed.

Sec. 8. 12 MRSA §6746, sub-§2-A, as enacted by PL 2007, c. 522, §5, is repealed.

Sec. 9. 12 MRSA §6810-B is enacted to read:

§6810-B. Aquaculture license

1. Definition. For the purposes of this section, "shellfish" means shellstock clams, quahogs other than mahogany quahogs, mussels and oyster shellstock.

2. License required. Beginning May 1, 2018, a person may not engage in the activities authorized under this section without a current aquaculture license.

3. Licensed activities; all aquacultured organisms except shellfish. The holder of an aquaculture license or authorized representative of the holder of an aquaculture license may remove, possess, transport within the state limits or sell cultured organisms, except shellfish, the holder has removed from the leased area described in the holder's lease issued under section 6072, 6072-A or 6072-B or cultured organisms, except shellfish, the holder has cultured pursuant to a license issued under section 6072-C. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Licensed activities; shellfish. The holder of an aquaculture license or authorized representative of the holder of an aquaculture license may remove, possess, transport within the state limits or sell to a wholesale seafood license holder certified under section 6856 cultured shellfish the holder has removed from the leased area described in the holder's lease issued under section 6072, 6072-A or 6072-B or cultured shellfish the holder has cultured pursuant to a license issued under section 6072-C. Such a holder of an aquaculture license may also sell such shellstock from that license holder's home in the retail trade. A holder of an aquaculture license who is also the holder of a lease issued under section 6072 or 6072-A or that holder's authorized representative may sell such shellstock from the holder's lease site in the retail trade. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Exemption; limited-purpose aquaculture license for personal use. Notwithstanding subsections 2, 3 and 4, the holder of a limited-purpose aquaculture license issued under section 6072-C may remove, possess or transport within the state limits organisms cultured under that license, subject to all other applicable requirements of this Part.

6. Eligibility. An aquaculture license may be issued only to an individual who holds a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C.

7. Fee. The fee for an aquaculture license is \$133, of which \$74.75 must be deposited in the Aquaculture Management Fund established in section 6072-D.

8. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

Sec. 10. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, sections 6073-B and 6073-C and repeal Title 12, section 6601, subsection 2-A, Title 12, section 6745, subsection 2-A and Title 12, section 6746, subsection 2-A take effect May 1, 2018.

See title page for effective date, unless otherwise indicated.

CHAPTER 297

S.P. 591 - L.D. 1639

**An Act To Promote Major
Business Headquarters
Expansions in Maine, Promote
the Commercialization of
Research and Development in
Maine and Create Jobs**

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

Sec. 1. 36 MRSA §191, sub-§2, ¶DDD is enacted to read:

DDD. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-QQ, subsection 4, paragraph B of the revenue loss, including the loss due to refundable credits, attributable to each taxpayer claiming the tax credit for major business headquarters expansions provided under that section, regardless of the number of persons eligible for the credit.

Sec. 2. 36 MRSA §5219-QQ is enacted to read:

§5219-QQ. Credit for major business headquarters expansions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified applicant" means a qualified applicant that has received a certificate of approval from the commissioner pursuant to this section.

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Employees based in the State" means employees that perform more than 50% of employee-related activities for the employer at the headquarters in the State.

D. "Facility" means one or more buildings and includes the real and personal property located in those buildings.

E. "Full-time" means an average of 36 hours weekly during the period of measurement.

F. "Headquarters" means the principal facility from which the applicant directs its national or global business activities, as determined by the commissioner at the time of application.

G. "Qualified applicant" means an applicant that, at the time an application for a certificate of approval is submitted, satisfies all of the following criteria:

(1) The applicant's headquarters are or will be located in the State;

(2) The applicant employs at least 5,000 full-time employees worldwide of which at least 25% are or will be based in this State;

(3) The applicant has business locations in at least 3 other states or foreign countries; and

(4) The applicant intends to make a qualified investment in the State within 5 years following the date of the application.

H. "Qualified investment" means an investment of at least \$35,000,000 to design, permit, construct, modify, equip or expand the applicant's headquarters in the State. The investments and activities of a qualified applicant and other entities that are members of the qualified applicant's unitary business must be aggregated to determine whether a qualified investment has been made. A qualified investment does not include an investment made prior to the issuance of a certificate of approval or after December 31, 2022.

2. Procedures for application; certificate of approval. The provisions of this subsection govern the procedures for providing for and obtaining a certificate of approval.

A. A qualified applicant may apply to the commissioner for a certificate of approval. An applicant shall submit to the commissioner information demonstrating that the applicant is a qualified applicant. If a certified applicant undertakes to make an additional qualified investment, the certified applicant may apply to the commissioner for an additional certificate of approval.

B. The commissioner, within 30 days of receipt of an application submitted pursuant to paragraph A, shall determine whether the applicant is a qualified applicant and shall issue either a certificate of approval or a written denial indicating why the applicant is not qualified. The certificate issued by the commissioner must describe the qualified investment and specify the total amount of qualified investment approved under the certificate.

C. Upon issuance of a certificate of completion in accordance with paragraph F, the commissioner shall issue, on behalf of the State, a memorandum to the qualified applicant describing the benefits provided by this section at the time the certificate of completion is issued. The memorandum must provide that the certificate of completion does not prohibit the commissioner from revoking a certificate in accordance with paragraph E and does not prohibit the assessor from assessing and collecting an overpaid benefit in accordance with the provisions of this Title.

D. A certified applicant shall obtain approval from the commissioner to transfer the certificate of approval or, if the certified applicant has obtained a certificate of completion, that certificate of completion to another person. A certificate of approval or certificate of completion may be transferred only if all or substantially all of the assets of the certified applicant are, or will be, transferred to that person or if 50% or more of the certified applicant's voting stock is, or will be, acquired by that person. The commissioner shall approve the transfer of the certificate of approval or the certificate of completion only if at least one of the following conditions is satisfied:

(1) The transferee is a member of the applicant's unitary affiliated group at the time of the transfer; or

(2) The commissioner finds that the transferee will, and has the capacity to, maintain operations of the headquarters in the State in a manner that meets the minimum qualifications for continued eligibility of benefits under this section after the transfer occurs.

If the commissioner approves the transfer of the certificate, the transferee, from the date of the transfer, must be treated as the certified applicant

and as eligible to claim any remaining benefit under the certificate of approval or the certificate of completion that has not been previously claimed by the transferor as long as the transferee meets the same eligibility requirements and conditions for the credit as applied to the original certified applicant.

E. The commissioner must revoke a certificate of approval if the certified applicant or a person to whom a certificate of approval has been transferred pursuant to paragraph D fails to make a qualified investment within 5 years of the date of the certificate of approval. The commissioner shall revoke a certificate of approval or a certificate of completion if the applicant ceases operations of the headquarters in the State or the certificate of approval or certificate of completion is transferred to another person without approval from the commissioner pursuant to paragraph D. A certified applicant whose certificate of completion is revoked within 5 years after the date issued shall within 60 days following revocation of the certificate return to the State an amount equal to the total credits claimed under this section. A certified applicant whose certificate of completion is revoked during the period from 6 years after through 10 years after the date the certificate was issued shall within 60 days following revocation of the certificate return to the State an amount equal to the total credits claimed under this section for the period from 6 years after through 10 years after the date the certificate was issued.

F. Upon making the qualified investment and completing the headquarters and employment criteria in subsection 1, paragraph H, a certified applicant shall submit an application to the commissioner for a certificate of completion. If the commissioner determines that a qualified investment has been made, the applicant's headquarters is located in the State and at least 25% of the applicant's full-time employees, as measured at the time of application for the certificate of approval, are based in the State, the commissioner shall issue a certificate of completion to the certified applicant as soon as is practical.

The commissioner may not issue certificates of approval under this subsection that total, in the aggregate, more than \$100,000,000 of qualified investment or any individual certificate of approval for more than \$40,000,000 of qualified investment.

3. Refundable credit allowed. A qualified applicant is allowed a credit as provided in this subsection.

A. Subject to the limitations under paragraph B, beginning with the tax year during which the certificate of completion is issued or the tax year beginning in 2020, whichever is later, and for each

of the following 19 tax years, a certified applicant is allowed a credit against the tax due under this Part for the taxable year in an amount equal to 2% of the certified applicant's qualified investment. The credit allowed under this paragraph is refundable.

B. The credit under this subsection is limited as follows:

(1) A credit is not allowed for any tax year during which the taxpayer does not meet or exceed the following employment targets as measured on the last day of the tax year.

(a) For each of the first 10 tax years for which the credit is claimed, there must be a total of at least 80 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed multiplied by the number of years for which the credit has been claimed.

(b) For each tax year after the 10th tax year for which the credit is claimed, the taxpayer must employ a total of at least 800 additional full-time employees based in the State whose jobs were added since the first day of the first tax year for which the credit was claimed.

Jobs for additional full-time employees that are counted for determining eligibility for the credit under one certificate of completion may not be counted for determining eligibility for the credit under a separate certificate of completion.

(2) Cumulative credits under this subsection may not exceed \$16,000,000 under any one certificate.

4. Reporting required. A certified applicant and the commissioner are required to make reports pursuant to this subsection.

A. On or before March 1st of each year, a certified applicant shall file a report with the commissioner for the tax year ending during the immediately preceding calendar year, referred to in this paragraph as "the report year," containing the following information:

(1) The number of full-time employees based in this State of the certified applicant on the last day of the tax year ending during the calendar year immediately preceding the report year; and

(2) The incremental amount of qualified investment made in the report year.

The commissioner may prescribe forms for the annual report described in this paragraph. The

commissioner shall provide copies of the report to the State Tax Assessor and to the joint standing committee of the Legislature having jurisdiction over taxation matters at the time the report is received.

B. By April 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters aggregate data on employment levels and qualified investment amounts of certified applicants for each year, and the State Tax Assessor shall report to the committee the revenue loss during the previous calendar year, including the loss due to refundable credits, as a result of this section for each taxpayer claiming the credit.

Notwithstanding any other provision of law to the contrary, the reports provided under this subsection are public records as defined in Title 1, section 402, subsection 3.

Sec. 3. Credit design evaluation. By February 28, 2018, the Office of Program Evaluation and Government Accountability, referred to in this section as "the office," shall complete and submit to the Joint Standing Committee on Taxation and the Government Oversight Committee a tax expenditure design evaluation review of the credit for major business headquarters expansions established under the Maine Revised Statutes, Title 36, section 5219-QQ, referred to in this section as "the tax expenditure." The review must include an assessment of:

1. The extent to which the design of the tax expenditure supports accomplishment of the tax expenditure's purposes, intent and goals;
2. The extent to which the design of the tax expenditure directs benefits to the intended beneficiaries; and
3. The extent to which the State's current or planned administration of the tax expenditure, including enforcement efforts, is efficient and effective.

The office shall include with the review recommended performance measures appropriate for analyzing the evaluation objectives established for full evaluations under Title 3, section 999, subsection 1, paragraph A and make recommendations regarding data that would be necessary to perform the analyses. The Joint Standing Committee on Taxation may submit a bill to the Second Regular Session of the 128th Legislature regarding the credit for major business headquarters expansions.

Sec. 4. Legislative findings, purpose. The Legislature finds that it is in the best interest of the people of the State of Maine to encourage the location and expansion of major business headquarters in the State and to encourage the recruitment and training of employees for these facilities. The Legislature further

finds that the location and expansion of major business headquarters in Maine will create jobs, benefit small businesses that supply goods and services to the major business headquarters and its employees, increase the tax base and provide many other direct and indirect economic benefits to the State.

The purpose of this credit is to create high-quality jobs in the State by encouraging major businesses to locate their headquarters in this State or to expand their headquarters in the State.

See title page for effective date.

CHAPTER 298

H.P. 1134 - L.D. 1643

An Act To Provide Funding to the Loring Development Authority of Maine for Implementation Grants

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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. Department of Economic and Community Development, Office of Innovation program, Maine Technology Institute; fiscal year 2017-18. Notwithstanding any other provision of law, \$750,000 of funds in the All Other line category in the Department of Economic and Community Development, Office of Innovation program, Maine Technology Institute, General Fund account lapses to the unappropriated surplus of the General Fund no later than June 30, 2018.

Sec. 2. Department of Economic and Community Development, Office of Innovation program, Maine Technology Institute; fiscal year 2018-19. Notwithstanding any other provision of law, \$750,000 of funds in the All Other line category in the Department of Economic and Community Development, Office of Innovation pro-