

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

CHAPTER 222
H.P. 1084 - L.D. 1482

**An Act To Clarify Provisions
of the Blueberry Tax**

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

Sec. 1. 36 MRSA §4303, first ¶, as amended by PL 2013, c. 331, Pt. C, §23, is further amended to read:

There is levied and imposed a tax at the rate of 1 1/2¢ per pound on all wild blueberries processed in ~~this~~ the State and on all unprocessed wild blueberries shipped to a destination outside ~~this~~ the State. All wild blueberries harvested in the State that are to be shipped outside the State for processing must be weighed on a state-certified scale in the State prior to being shipped outside the State. The tax is computed on the gross weight of the wild blueberries as delivered prior to any processing or shipping. The processor that first receives unprocessed wild blueberries in the State, or the shipper that transports unprocessed wild blueberries to a destination outside the State, is responsible for reporting and paying the tax.

Sec. 2. 36 MRSA §4307, as amended by PL 2013, c. 331, Pt. C, §28, is further amended to read:

§4307. Records and reports; payment of tax

Every processor or shipper responsible for reporting and paying the tax imposed by section 4303 shall, on or before November 1st of each year, report to the State Tax Assessor the quantity of unprocessed wild blueberries that are processed in ~~this~~ the State ~~or~~ shipped to a destination outside the State or imported from a destination outside the State during the current season, on forms furnished by the State Tax Assessor. The report must contain the information pertinent to collection of tax under this chapter as the State Tax Assessor prescribes. With the report, each processor or shipper shall forward payment of the full 1 1/2¢ per pound tax upon all wild blueberries reported.

1. Shippers. A shipper shall report the amount of tax due for each load of unprocessed wild blueberries subject to the tax shipped to a destination outside the State, including for each load:

A. The date shipped; and

B. The gross weight of the wild blueberries shipped.

2. Report to commission. The State Tax Assessor annually shall forward a report with a summary of the data collected under this section to the Wild Blueberry Commission of Maine, including the total number of pounds of the following:

A. Wild blueberries grown in the State;

B. Wild blueberries processed in the State;

C. Unprocessed wild blueberries imported into the State; and

D. Unprocessed wild blueberries exported from the State.

Sec. 3. 36 MRSA §4308, as amended PL 1997, c. 511, §17 and PL 2011, c. 657, Pt. W, §6, is further amended to read:

§4308. Inspection

The State Tax Assessor ~~or~~ the assessor's duly authorized agents, the Commissioner of Agriculture, Conservation and Forestry and the commissioner's deputies, agents or employees have authority to enter any place of business of any processor or shipper or any car, boat, truck or other conveyance in which wild blueberries are to be or are being transported, including on a public way, and to inspect any books or records of any processor or shipper, or any premises where wild blueberries are stored, handled, transported or merchandised, for the purpose of determining what wild blueberries are taxable under this chapter or for the purpose of determining the truth or falsity of any statement or return made by any processor or shipper; ~~and the State Tax Assessor may delegate that power to the~~ The Commissioner of Agriculture, Conservation and Forestry, or the commissioner's deputies, agents or employees, shall conduct periodic random inspections of processors and shippers under this section and section 4316, subsection 4.

Sec. 4. 36 MRSA §4316, sub-§1, as amended by PL 2007, c. 694, §10, is further amended to read:

1. Record keeping required. A shipper or processor who transports or receives wild blueberries shall keep a permanent record of each lot or load of wild blueberries. The record must include the name of the driver of the vehicle used to deliver the wild blueberries, the date of delivery, the delivery point, a copy of the transportation permit, the driver's license number ~~and~~ the total pounds of wild blueberries delivered, the origin of the delivery and, if the origin is a location in the State, the name and address of the grower or seller and the grower's or seller's certificate number if the grower or seller is certified under section 4305.

Sec. 5. 36 MRSA §4316, sub-§2-A is enacted to read:

2-A. Tracking. Wild blueberries must be uniquely identified during transportation to a receiving facility by the field from which they were harvested.

Sec. 6. 36 MRSA §4316, sub-§4, as amended by PL 2007, c. 694, §10 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

4. Audits. The Wild Blueberry Commission of Maine may request the Department of Agriculture, Conservation and Forestry to conduct ~~audits~~, and the

department at its own discretion may conduct, an audit of the records of ~~shippers a shipper or processors a processor~~ for the purpose of ascertaining compliance with this section. The ~~commissioner~~ Commissioner of Agriculture, Conservation and Forestry, or a duly authorized agent, has free access, during normal business hours, to all records required to be kept by shippers or processors pursuant to this section and also to shippers' or processors' accounts payable, accounts receivable, records of inventories, actual inventories, records of shipments and such other business records as are needed to ascertain compliance with this section. Any documents inspected or taken by the department in furtherance of the audit functions or any other information collected by the department pursuant to the audit must be kept confidential notwithstanding any provision to the contrary contained in Title 1, chapter 13, subchapter 1. This confidential status does not apply to any documents, records or information that is needed as evidence in any civil or criminal proceeding to enforce any law under this chapter or any other criminal law.

Sec. 7. Effective date. This Act takes effect January 1, 2020.

Effective January 1, 2020.

CHAPTER 223

H.P. 1110 - L.D. 1517

**An Act To Facilitate the
Deployment of Small Wireless
Facilities in Maine**

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

Sec. 1. 30-A MRSA §4362 is enacted to read:

§4362. Small wireless facilities

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

A. "Small wireless facility" means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet.

B. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and rectifiers; and comparable

equipment, regardless of technological configuration. "Wireless facility" includes a small wireless facility. "Wireless facility" does not include the structure or improvements on, under, within or adjacent to which the equipment is colocated or coaxial or fiber-optic cable that is between wireless support structures or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

2. Small wireless facilities. Notwithstanding any zoning or land use ordinance to the contrary, a small wireless facility must be a permitted use within the public right-of-way, subject to permitting requirements and duly adopted, nondiscriminatory conditions otherwise applicable to permitted uses within the municipality and consistent with state and federal law, including, without limitation, any permitting requirements in Title 35-A, chapter 25. This section does not affect or alter the rights and responsibilities of a cable television company under the franchise agreement executed pursuant to section 3008, subsection 5.

See title page for effective date.

CHAPTER 224

H.P. 1126 - L.D. 1551

**An Act To Clarify Fishing
Laws between the Department
of Inland Fisheries and
Wildlife and the Department of
Marine Resources as They
Relate to Striped Bass in
Inland Waters**

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

Sec. 1. 12 MRSA §12602, sub-§2, as amended by PL 2017, c. 150, §5, is further amended to read:

2. Possess fish in violation of certain rules. Possess fish in violation of the number, amount, weight or size limits established by rules adopted by the commissioner; ~~or~~

Sec. 2. 12 MRSA §12602, sub-§3, as enacted by PL 2017, c. 150, §5, is amended to read:

3. Alter fish from their natural state prior to measuring for bag limit. When rules adopted by the commissioner limit the volume of fish that may be taken, alter those fish from or possess fish altered from their natural state prior to their being measured for compliance with the volume limit; ~~or~~

Sec. 3. 12 MRSA §12602, sub-§4 is enacted to read: