

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

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:

4. Violation of certain Department of Marine Resources rules; striped bass. Fish for striped bass in inland waters or possess striped bass taken from inland waters in a number, amount or size that exceeds the number, amount or size limits for striped bass established by rules adopted by the Commissioner of Marine Resources under section 6171. Notwithstanding section 6002 or any provision of law to the contrary, for purposes of this subsection only, the number, amount and size limits for striped bass established by rules adopted by the Commissioner of Marine Resources under section 6171 apply to the inland waters of the State.

Sec. 4. 12 MRSA §12602, as amended by PL 2017, c. 150, §5, is further amended by adding at the end a new paragraph to read:

A person who fishes for striped bass in or possesses striped bass taken from the coastal waters of the State in violation of rules adopted by the Commissioner of Marine Resources under section 6171 is subject to the provisions of section 6174.

See title page for effective date.

CHAPTER 225

H.P. 1127 - L.D. 1552

An Act To Make Technical Changes to Maine's Marine Resources Laws

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

Sec. 1. 5 MRSA §12004-I, sub-§57-C, as reenacted by PL 2011, c. 598, §1, is amended to read:

57-C.

Marine Resources	Aquaculture Advisory Council	Not Authorized <u>Expenses Only</u>	12 MRSA §6080
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Sec. 2. 12 MRSA §6001, sub-§13-I, as enacted by PL 2005, c. 26, §1, is amended to read:

13-I. Established base of operations. "Established base of operations" means the location where a vessel has its primary relationship. Among the factors identifying a primary relationship are the locations at which the vessel is primarily moored or docked, where it prepares for expeditions and hires a crew and to which it regularly returns for repairs, supplies and activities relating to its business or trade. The fact that a vessel carries on one or more of these activities at more than one location within this State or at a location or locations outside this State does not prevent the

vessel from being considered to have an established base of operations within the State if a substantial portion of these activities are carried on at a location or locations within this State. For purposes of this subsection, "substantial portion" means a period exceeding ~~60~~ 30 days in any calendar year.

Sec. 3. 12 MRSA §6024, sub-§1-A, as amended by PL 2009, c. 369, Pt. A, §23, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of ~~16~~ 15 members. The chair of the Lobster Advisory Council, ~~the chair of the Sea Run Fisheries and Habitat Advisory Council,~~ the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster harvesters. The remaining 7 members must include one public member, 4 persons who hold a nonharvesting-related license under this Part, one person representing recreational saltwater anglers and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, ~~the chair of the Sea Run Fisheries and Habitat Advisory Council,~~ the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster Advisory Council, ~~a new chair of the Sea Run Fisheries and Habitat Advisory Council,~~ a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

Sec. 4. 12 MRSA §6139, as enacted by PL 2007, c. 240, Pt. QQ, §6, is repealed.

Sec. 5. 12 MRSA §6140-A, first ¶, as enacted by PL 2007, c. 240, Pt. QQ, §8, is amended to read: