

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

S.P. 436 - L.D. 1407

An Act To Establish the Maine Wild Mushroom Harvesting Certification Program

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

Sec. 1. 5 MRSA §12004-I, sub-§47-H is enacted to read:

**47-H.**

<u>Human Services:</u>	<u>Maine Wild</u>	<u>Expenses Only</u>	<u>22 MRSA §2175</u>
<u>Public Health</u>	<u>Mushroom</u>		
	<u>Harvesting Advisory</u>		
	<u>Committee</u>		

Sec. 2. 22 MRSA §2175 is enacted to read:

**§2175. Maine Wild Mushroom Harvesting Certification Program**

**1. Program established.** The Maine Wild Mushroom Harvesting Certification Program is established to ensure that properly trained persons harvest, broker and sell wild mushrooms in order to protect public health and the safety of the food supply. The program is administered by the Department of Health and Human Services for the purpose of establishing educational, training and certification requirements for persons who commercially harvest, broker and sell wild mushrooms in this State. The Commissioner of Health and Human Services shall certify persons duly qualified in the field of wild mushroom harvesting, brokering and selling in accordance with the recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.

**2. Certification of wild mushroom harvesters.** The Commissioner of Health and Human Services, upon consultation with the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5, shall certify persons, in accordance with the certification requirements developed by the committee pursuant to subsection 5, paragraph B, with appropriate mushroom harvesting, brokering and selling experience to sell, transfer or otherwise deliver wild mushrooms within the State. Certification is valid for a period not

to exceed 5 years, unless the Department of Health and Human Services, by rule, establishes another certification period.

**3. Refusal to certify; revocation of certification.** The Department of Health and Human Services may decline to certify any person determined to lack appropriate experience or ability to safely harvest, broker or sell wild mushrooms, in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5 and rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee and rules adopted by the Department of Health and Human Services pursuant to this section.

**4. Registry.** The Department of Health and Human Services shall maintain a registry of all applicants for certification and of all certificates issued by the Department of Health and Human Services under this section.

**5. Maine Wild Mushroom Harvesting Advisory Committee.** The Maine Wild Mushroom Harvesting Advisory Committee, as established in Title 5, section 12004-I, subsection 47-H, and referred to in this subsection as "the committee," is governed by the following provisions:

A. The committee consists of the following 12 members:

(1) The director of the division of environmental health within the Department of Health and Human Services, or the director's designee, who shall serve as a cochair of the committee;

(2) The director of the division of quality assurance and regulation within the Department of Agriculture, Food and Rural Resources, or the director's designee, who shall serve as a cochair of the committee;

(3) The president of a statewide mycological association, or the president's designee, appointed by the Governor;

(4) A representative of a statewide mycological association, appointed by the Governor;

(5) The Dean of the College of Natural Sciences, Forestry, and Agriculture at the University of Maine, or the dean's designee;

(6) The director of a northern New England poison control center, or the director's designee, appointed by the Governor;

(7) A health inspector from the Department of Health and Human Services appointed by the Commissioner of Health and Human Services;

(8) A representative of a statewide restaurant association, appointed by the Governor;

(9) One representative of the wild mushroom foragers community, appointed by the Governor;

(10) One representative of the wild mushroom brokers community, appointed by the Governor;

(11) A chef or other individual with experience in the commercial preparation of food, appointed by the Governor; and

(12) A person experienced in the wholesale sale and distribution of food products, appointed by the Governor;

B. The committee has the following duties:

(1) To advise the Commissioner of Health and Human Services with respect to the certification of individuals duly qualified by reason of training and experience to engage in the harvesting, brokering and selling of wild mushrooms in this State;

(2) To identify persons to serve as technical and educational advisors in the development and implementation of training programs for individuals seeking certification as wild mushroom harvesters;

(3) To design and establish wild mushroom harvesting training programs for certification pursuant to subsection 2 for the review and approval of the Commissioner of Health and Human Services;

(4) To advise the Commissioner of Health and Human Services with respect to wild mushroom harvesting training programs conducted at least annually; and

(5) To advise the Commissioner of Health and Human Services with respect to examinations conducted at least annually for those individuals seeking certification pursuant to subsection 2;

C. Each member of the committee serves for a period of 3 years or until the member's successor is appointed. If a member is unable to complete the term, the respective appointing authority shall appoint a person to serve out the remaining portion of the unexpired term;

D. The committee shall meet at least annually and more frequently if needed to carry out its duties. Meetings may be called by the committee's cochairs or any other 2 members as is necessary to carry out the committee's duties;

E. A quorum is a majority of the members of the committee. An affirmative vote of a majority of the members present for a meeting is required for any action;

F. The Department of Health and Human Services shall provide staff assistance to the committee; and

G. The Department of Health and Human Services shall reimburse travel expenses of committee members from the Wild Mushroom Harvesting Fund established in subsection 6, if funds are available.

**6. Wild Mushroom Harvesting Fund.** The Wild Mushroom Harvesting Fund, referred to in this subsection as "the fund," is established within the Department of Health and Human Services as a separate nonlapsing account. The Commissioner of Health and Human Services shall administer the fund on behalf of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.

A. All fees assessed pursuant to subsection 7 by the Department of Health and Human Services for training courses, materials and examinations must be deposited into the fund.

B. The Department of Health and Human Services may seek and accept gifts, donations and grants from public or private sources for deposit into the fund to carry out the purposes of this section.

C. The Department of Health and Human Services may use the fund to defray the reasonable costs incurred by the Maine Wild Mushroom Harvesting Advisory Committee in carrying out its duties.

D. The Department of Health and Human Services may use the fund to compensate trainers for providing education and outreach associated with the Maine Wild Mushroom Harvesting Certification Program established in subsection 1.

7. Fees. The training, examination and certification fees may not exceed \$20, may be imposed no more than once every 5 years and must be established by the Department of Health and Human Services by rule. Revenues from applicants for certification pursuant to subsection 2 failing the examination must be retained in the Wild Mushroom Harvesting Fund established in subsection 6.

8. Rules. The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Wild Mushroom Harvesting Fund N121**

Initiative: Provides a base allocation in the event that fee revenue and other revenues are received from public and private sources.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$500	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$500</u>	<u>\$500</u>

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor