

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of: H. P. 73, L. D. 134)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1644

H. P. 1532

House of Representatives, May 21, 1981

Reported by Representative Connors from the Committee on Marine Resources. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Clarify Certain Provisions of the Marine Resources Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and confusion be resolved in order to prevent any injustice or hardship on the citizens of Maine; 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. 12 MRSA § 6001, sub-§ 19, as enacted by PL 1977, c. 661, § 5, is amended to read:

19. Hermetically sealed. "Hermetically sealed" means a container which

has been made airtight by ~~or as by~~ fusion so that no air, gas or spirits can either enter or escape, whether or not the container is sterilized by heat. It does not include friction cover containers or containers requiring refrigeration.

Sec. 2. 12 MRSA § 6025, sub-§ 4, as last amended by PL 1979, c. 541, Part B, § 14, is further amended to read:

4. Search powers. Any marine patrol officer, in uniform, may search without a warrant and examine any watercraft, aircraft, conveyance, vehicle, box, bag, locker, trap, crate or other receptacle or container for any marine organism when he has probable cause to believe that any marine organism taken, **possessed or transported** contrary to law is concealed therein or thereon.

Sec. 3. 12 MRSA § 6131, sub-§ 3, as enacted by PL 1977, c. 661, § 5, is repealed and the following enacted in its place:

3. Closed period in rivers and streams not under lease agreement. In any river or stream not managed under a lease agreement, there is a 24-hour closed period on the taking of alewives and obstruction of the watercourse to allow the free passage of fish from 6 a.m. on Saturday to 6 a.m. the following Sunday.

Sec. 4. 12 MRSA § 6207, sub-§ 2, ¶ B, as enacted by PL 1977, c. 661, § 5, is amended to read:

B. All marine organisms of illegal size, shellfish taken from polluted areas, ~~shellfish or shellfish products embargoed, condemned or ordered destroyed by the commissioner~~, female egg-bearing lobsters, V-notched female lobsters, lobsters which have been ~~mutilated~~ ~~mutilated~~ so that their size cannot be determined, female lobsters which have been ~~mutilated~~ ~~mutilated~~ so as to obliterate a V-notch, female lobsters which have had the eggs removed by other means than natural hatching, and any other marine organism, the possession of which is unlawful throughout the State.

Sec. 5. 12 MRSA § 6251, sub-§ 1, paragraph A, as enacted by PL 1977, c. 661, § 5, is amended to read:

A. The Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife or their respective designees; and

Sec. 6. 12 MRSA § 6353, sub-§ 2, as enacted by PL 1977, c. 661, § 5, is amended by adding at the end a new sentence to read:

Such commission regulations are valid only if approved by 2 or all of the following: The Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the 3rd member of the commission appointed by the Governor.

Sec. 7. 12 MRSA § 6352, sub-§ 1, last sentence, as enacted by PL 1977, c. 661, § 5, is amended to read:

Notice shall be given within ~~30~~ 60 days of the conviction.

Sec. 8. 12 MRSA § 6435, as enacted by PL 1977, c. 661, § 5, is amended to read:
§ 6435. Setting near weirs

It shall be unlawful to set any lobster trap within 300 feet of the mouth of any fish weir when the weir owner or operator is licensed under section 6501 and when the weir is licensed under Title 38, chapter 9.

Sec. 9. 12 MRSA § 6436, sub-§ 5 is enacted to read:

5. Penalty. Possession of lobsters in violation of this section is a Class D crime, except that in addition to any punishment which may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$25 for each violation and, in addition, a fine of \$30 for each lobster involved.

Sec. 10. 12 MRSA § 6439, sub-§ 3, as enacted by PL 1977, c. 661, § 5, is repealed and the following enacted in its place:

3. Off Hancock County. Within the following radio direction-finder LORAN C bearings: Beginning at Schoodic Point, Hancock County; thence running a True compass course of 159° for approximately 17 miles to LORAN C bearing of 9960-W-1234.9 and 9960-X-25693.0; thence running along a True compass course of 236° for approximately 11 1/4 miles, to and through Mt. Desert Rock to LORAN C bearing of 9960-W-12456.0 and 9960-X-25695; thence running in a True compass course of 336° for approximately 4 1/2 miles to LORAN C bearing of 9960-W-12440 and 9960-X-25718.0; thence running in a westerly direction to a point where that line intersects with the line described in subsection 2, paragraph B, if it is extended to that line.

Sec. 11. 12 MRSA § 6858, sub-§ 5-A is enacted to read:

5-A. Exception for hermetically sealed containers. This section shall not apply to hermetically sealed containers.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This new draft deletes the bill section granting powers of marine patrol officers to National Marine Fisheries Service agents. It also makes minor technical changes, including clarifications of the provisions related to hermetically sealed containers.

The new draft also changes the notice requirement for license suspensions from 30 days, and changes statutory references from obsolete LORAN A bearings to current LORAN C bearings.