

# MAINE STATE LEGISLATURE

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# Corrected Copy

(New Draft of H.P. 1443, L.D. 1585)

(New Title)

SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 2117**

H. P. 2270 House of Representatives, March 31, 1982  
Reported by The Majority from the Committee on Marine Resources and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

**AN ACT to Promote the Maine Groundfish  
Industry.**

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

**Sec. 1. 12 MRSA c. 621, sub-c. III is enacted to read:**

**SUBCHAPTER III**

**MAINE GROUND FISH ASSOCIATION**

**§6581. Findings and purpose**

**The Legislature finds that the Gulf of Maine supports a large industry engaged in harvesting and processing groundfish within the State. This groundfish industry is a significant part of the economy and way of life of the State. Due to the fragmentation of the industry and the inability to privately fund meaningful comprehensive devel-**

1 opment programs, the full economic potential of groundfish  
2 harvesting, processing and sale is not being fully realized.

3 The purpose of this subchapter is to promote and  
4 enhance the development of the groundfish industry as a sig-  
5 nificant component of the Maine economy. To this end, the  
6 Legislature finds that the creation of the Maine Groundfish  
7 Association will greatly expand the potential for harvest-  
8 ing, processing and marketing groundfish to the benefit of  
9 the fishing industry and the entire State. To provide  
10 increased economic benefits to the State, the Maine  
11 Groundfish Association shall identify and pursue programs  
12 and initiatives which will advance the development of the  
13 groundfish industry through promotion and marketing of Maine  
14 groundfish products.

15 §6582. Definitions

16 As used in this subchapter, unless the context other-  
17 wise indicates, the following terms have the following mean-  
18 ings.

19 1. Association. "Association" means the Maine  
20 Groundfish Association established under section 6583.

21 2. Board. "Board" means the Board of Directors of the  
22 Maine Groundfish Association.

23 3. Dealer. "Dealer" means any person who holds a  
24 state wholesale seafood license and who is engaged in the  
25 business of purchasing wholesale quantities of groundfish.

26 4. Groundfish. "Groundfish" means all bottom-dwelling  
27 finfish, including, but not limited to, cod, haddock,  
28 pollock, flounder, hake and cusk.

29 5. Groundfish industry. "Groundfish industry" means  
30 harvesters, processors, dealers and other wholesalers of  
31 groundfish or groundfish products.

32 6. Harvester. "Harvester" means any person who holds  
33 a state resident commercial fishing license and who is  
34 engaged in the business of commercial fishing for  
35 groundfish.

36 7. Logo. "Logo" means a service mark adopted by the  
37 Maine Groundfish Association under section 6584, subsection  
38 2.

1           8. Processor. "Processor" means any person who holds  
2 a state wholesale seafood license and who is engaged in the  
3 business of processing groundfish.

4 §6583. Maine Groundfish Association

5           1. Establishment. The Maine Groundfish Association is  
6 established as a nonprofit corporation subject to the provi-  
7 sions of Title 13-B for the purposes of promoting groundfish  
8 and enhancing the development of the groundfish industry.

9           2. Membership. Membership of the association shall  
10 include all harvesters, processors and dealers who affirma-  
11 tively apply for membership in the association by September  
12 1st of each year on forms supplied by the commissioner.  
13 Each member shall indicate on his application whether he is  
14 to be enrolled as a harvester, processor or dealer member.  
15 No person may enroll in more than one category.

16           3. Benefits of membership. Only those persons who are  
17 members of the association may be eligible, consistent with  
18 bylaws established by the association, to participate in the  
19 programs or benefits obtained, established or funded by the  
20 association. All such members shall have equal access to  
21 any nonproprietary information and benefits resulting from  
22 activities undertaken or funded by the association.

23           4. Meetings. There shall be at least one meeting of  
24 the full membership of the association each calendar year to  
25 elect the board of directors and for any other business the  
26 membership wishes to conduct.

27 §6584. Powers and duties of the association

28           1. Groundfish logo. The association shall adopt an  
29 official logo which may include the name of the State. The  
30 association may adopt bylaws that restrict the use of the  
31 logo to members who comply with quality standards which have  
32 been adopted by the commissioner under section 6101.

33           2. Promotion. The association may advertise and pro-  
34 mote groundfish and groundfish products and may designate,  
35 in addition to the groundfish logo, other labels or distinc-  
36 tive marks which may be utilized with Maine groundfish sold  
37 or processed by its members. The association may not pro-  
38 mote or advertise the specific brands or products of any of  
39 its members.

40           3. Marketing. The association may support, develop  
41 and promote marketing operations subject to the limitations  
42 in section 6585.

1        4. Funds. The association may receive and expend  
2 funds from grants, donations, gifts or other private, local,  
3 state or federal sources. The Department of Marine  
4 Resources shall provide assistance to the association in ad-  
5 ministering these funds.

6        §6585. Limitation

7        The association or its board may not negotiate or set  
8 groundfish or groundfish products prices, supplies or  
9 markets; may not unreasonably exclude members from its ac-  
10 tivities; and may not engage in any activity in violation of  
11 the antitrust laws of this State or of the United States.

12        §6586. Board of directors

13        1. Establishment. There is established a board of  
14 directors of the association which shall consist of 11 mem-  
15 bers and 2 alternates as follows.

16        A. One director shall be the Commissioner of Marine  
17 Resources or his designee who shall serve ex officio.  
18 This director shall be referred to as the commissioner.

19        B. Three directors shall be appointed by the  
20 Fishermen's Cooperative Association of Maine. Two mem-  
21 bers and one alternate shall be elected by the members  
22 enrolled as harvester members. These 5 members and one  
23 alternate shall be considered the harvester directors.

24        C. Three directors shall be appointed by the Associ-  
25 ated Fisheries of Maine. Two members and one alternate  
26 shall be elected by the members enrolled as processor  
27 or dealer members. These 5 members and one alternate  
28 shall be considered the wholesaler directors.

29        2. All directors shall be elected or appointed for  
30 2-year terms, except that, in the initial year, one  
31 harvester and one wholesaler director shall be appointed for  
32 a one-year term, and one harvester and one wholesaler direc-  
33 tor shall be elected for a one-year term to create a  
34 staggering of terms. Alternates shall be elected for one-  
35 year terms.

36        3. Vacancies. If, for any reason, appointments to the  
37 board are not transmitted to the secretary of the associa-  
38 tion at least 30 days prior to the annual meeting of the  
39 membership, those positions shall be filled by election of  
40 the harvester members for harvester directors, or wholesaler  
41 members for wholesaler directors. In the event of other

1 vacancies, an election shall be held in accordance with sub-  
2 section 1 to fill unexpired terms or for other such terms as  
3 will maintain a staggered board as defined in subsection 2.

4 4. Officers. The board shall elect a chairman, secre-  
5 tary and other officers as it may consider necessary from  
6 among their number.

7 5. Voting. Three harvester members and 3 wholesaler  
8 members shall be necessary to constitute a quorum. A major-  
9 ity of both the harvester members and the wholesaler members  
10 present and voting shall be necessary to pass any motion or  
11 otherwise approve any board action. An alternate may vote  
12 only when a sitting member of his respective group is ab-  
13 sent. The commissioner shall be a nonvoting director.

14 6. Powers. The board may exercise any of the powers  
15 and duties of the association, including:

16 A. Adoption of bylaws for the association;

17 B. Employment of necessary personnel to carry out the  
18 programs of the association;

19 C. Authorization and supervision of the expenditure of  
20 funds; and

21 D. Taking other actions necessary to administer the  
22 programs of the association and to carry out the pur-  
23 poses of this subchapter.

24 7. Meetings. The board shall meet at least once a  
25 year and at other times as it deems appropriate. In addi-  
26 tion, the board shall meet whenever a majority of the direc-  
27 tors request that a meeting be held.

28 §6587. Repeal

29 This subchapter is repealed on January 1, 1985.

30 Sec. 2. Initial meeting. The Commissioner of Marine  
31 Resources shall call the initial meeting of the membership  
32 of the Maine Groundfish Association. This meeting shall be  
33 held not later than October 15, 1982.

34 STATEMENT OF FACT

35 This new draft establishes the Maine Groundfish Associ-  
36 ation as a private, nonprofit corporation. The association

1 provides a mechanism for the various elements of the  
2 groundfish industry to coordinate expansion of in-state pro-  
3 cessing of Maine landed groundfish, increasing the value  
4 added to the Maine landed product, with the express purpose  
5 of improving the economic base for the State as a whole and  
6 the fishermen and processors in particular.

7 The Maine Groundfish Association is to be a voluntary  
8 organization open to groundfish harvesters, processors and  
9 dealers. The underlying concept of the association is that  
10 promotion and marketing of Maine groundfish, based on a  
11 sound quality assurance program, has clear potential for  
12 establishing "market advantage," thus increasing benefit to  
13 the industry from increased volume and price. The quality  
14 control and assurance program is to be achieved through the  
15 Department of Marine Resources' groundfish inspection and  
16 certification rules, developed with the advice of the asso-  
17 ciation. These rules provide a basis for the important  
18 "3rd-party certification of quality," recognizing that "self  
19 certification" bears minimal weight in the marketplace to  
20 either sellers or consumers of fish, consistent with depart-  
21 ment inspection and certification rules, the association may  
22 adopt a groundfish association logo. Groundfish products  
23 processed in accordance with the department's inspection and  
24 certification rules would qualify for the official state  
25 groundfish logo.

26 A major role of the association is to develop a pro-  
27 motional program based on assured quality. This promotion  
28 may be in the form of material or active campaigns in the  
29 marketplace.

30 The association is authorized to create opportunities  
31 for its members through market development programs. These  
32 opportunities would be made available to association members  
33 according to bylaws developed by the association. Members  
34 of the association may create their own opportunities  
35 through individual market development efforts. Members of  
36 the association may avail themselves of association pro-  
37 motion efforts in individual market development efforts.

38 It is not intended that the association become the  
39 owner of groundfish products under any conditions. The  
40 association may not engage in any activity that violates any  
41 of the state or federal antitrust provisions.

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