

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1758

H.P. 1280

House of Representatives, December 22, 2003

An Act To Correct Certain Errors and Inconsistencies in Marine Resources Laws

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BULL of Freeport.

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

2
4 **Sec. 1. 12 MRSA §6030**, as enacted by PL 1995, c. 507, §1, is amended to read:

6 **§6030. Department of Marine Resources Educational Fund**

8 **1. Fund.** There is established the ~~Aquarium-and-Resource~~
10 ~~Center-at-West-Boothbay-Harbor~~ Department of Marine Resources
12 Educational Fund, referred to in this section as the "fund." The
14 department is authorized to set and receive fees to be deposited
16 in the fund. The fund receives all funds collected by the
18 department from the operation of the Aquarium and Resource Center
20 at West Boothbay Harbor and the Burnt Island Living Lighthouse,
22 including admission fees, the proceeds of sales at the Aquarium
24 and Resource Center at West Boothbay Harbor and the Burnt Island
26 Living Lighthouse and donations, grants or other funds presented
28 to the department for the benefit of the Aquarium and Resource
30 Center at West Boothbay Harbor and the Burnt Island Living
32 Lighthouse and ~~its~~ their educational programs. All money
34 deposited in the fund and the earnings on the money remain in the
36 fund to be used for the management and maintenance of the
38 Aquarium and Resource Center at West Boothbay Harbor and the
40 Burnt Island Living Lighthouse and ~~its~~ their programs that
42 educate the State's children, teachers and visitors about the
44 State's marine resources. Unexpended balances in the fund at the
46 end of the fiscal year do not lapse but must be carried forward
48 to the next fiscal year to be used for the same purpose.

30 **2. Annual report.** By February 1st of each year, the
32 commissioner shall submit an annual report to the joint standing
34 committee of the Legislature having jurisdiction over fisheries
36 matters and the joint standing committee of the Legislature
38 having jurisdiction over appropriations and financial affairs.
40 The report must detail the amount of money collected in the fund
42 over the course of the prior year and the expense of managing and
44 maintaining the Aquarium and Resource Center at West Boothbay
46 Harbor and the Burnt Island Living Lighthouse and ~~its~~ their
48 programs. The commissioner shall make recommendations concerning
how the fund may be increased or expenses reduced or both so that
the Aquarium and Resource Center at West Boothbay Harbor and the
Burnt Island Living Lighthouse and ~~its~~ their programs become
increasingly financially self-sustaining.

44 **Sec. 2. 12 MRSA §6036** is enacted to read:

46 **§6036. Marine Fisheries Research and Development Fund**

48 **1. Fund established.** The Marine Fisheries Research and
50 Development Fund, referred to in this section as the "fund," is

2 established as a dedicated, nonlapsing fund within the
3 department. Unexpended balances in the fund at the end of the
4 fiscal year may not lapse and must be carried forward to the next
5 fiscal year and used for the purposes of this section.

6 2. Sources and uses of fund. Revenues from the total
7 gasoline tax revenues credited to the fund under Title 36,
8 section 2903-D may be used for research, development, propagation
9 and management activities of the department. The commissioner
10 may select activities and projects that will be most beneficial
11 to the commercial fisheries of the State as well as the
12 development of sport fisheries in the State. In addition to the
13 revenues derived from the total gasoline tax revenues, the fund
14 may receive money from any source for the purposes of this
15 subsection.

16 3. Allocations from fund. Expenditures from the fund are
17 subject to legislative approval in the same manner as
18 appropriations from the General Fund. The joint standing
19 committee of the Legislature having jurisdiction over
20 appropriations must approve the allocations.

21 **Sec. 3. 12 MRSA §6410** is enacted to read:

22
23 **§6410. Suspension of license for failure to comply with court**
24 **order of support**

25 If a license or registration is suspended pursuant to Title
26 19-A, section 2201, the suspension remains in effect until the
27 person is in compliance with a court order of support. On
28 condition of payment of a \$25 reinstatement fee to the
29 department, the suspension is rescinded and the license
30 reinstated.

31
32 **Sec. 4. 12 MRSA §6432, sub-§1**, as enacted by PL 1977, c. 661,
33 §5, is amended to read:

34 1. Conventional traps. ~~It shall be unlawful to~~ A person may
35 not fish for or take lobster by any method other than
36 conventional lobster traps, as defined in rule, or from any
37 platform other than a vessel. A vessel does not include a dock.

38
39 **Sec. 5. 12 MRSA §6434**, as amended by PL 1993, c. 543, §2, is
40 further amended to read:

41 **§6434. Molesting lobster gear**

42 ~~No person~~ A person may not raise, lift, transfer, possess or
43 in any manner molest any lobster trap, warp, buoy or car except
44 as provided in this section.

2 **1. Permitted activities.** Lobster traps, warps, buoys and
cars may be raised, lifted, transferred, possessed or otherwise
4 molested by the following:

6 A. A marine patrol officer;

8 B. The licensed owner;

10 C. Any person having written permission from the ~~licensed~~
~~owner~~ commissioner;

12 D. Any person authorized by rule pursuant to subsection 2.

14 **2. Adoption of rules required.** The commissioner shall
16 ~~promulgate~~ adopt rules, no later than January 1, 1990,
authorizing the removal of traps, warps, buoys or cars that are
18 washed up above the mean low tide mark or are otherwise abandoned
or lost.

20 **3. Prohibition.** Traps, warps, buoys or cars may not be
22 used for fishing by any person other than the licensed owner
unless with written permission from the ~~licensed--owner~~
24 commissioner.

26 **4. Additional penalty.** If the holder of a lobster and crab
fishing license violates this section by cutting a lobster trap
28 line, the court shall:

30 A. Order that person to pay to the owner of the trap line
that was cut an amount equal to twice the replacement value
32 of all traps lost as a result of that cutting; and

34 B. Direct that person to provide proof of payment of that
restitution to the ~~Commissioner--of--Marine--Resources~~
36 commissioner as required by section 6402, subsection 1.

38 A penalty imposed under this subsection is in addition to any
penalty imposed under section 6204.

40 **Sec. 6. 12 MRSA §6451, sub-§1,** as amended by PL 2003, c. 20,
42 Pt. WW, §5, is further amended to read:

44 **1. Allocation of license fees.** Ten dollars of each \$113.75
fee, \$10 of each \$114 fee, \$20 of each \$228.50 fee, \$30 of each
46 \$341.25 fee and \$5 of each \$56 fee for each lobster and crab
fishing license must be allocated to the Lobster Fund, which
48 must be used for the purposes of lobster biology research, of
propagation of lobsters by liberating seed lobsters and female

lobsters in Maine coastal waters and of establishing and supporting lobster hatcheries.

Sec. 7. 12 MRSA §6556, as amended by PL 2001, c. 272, §10, is further amended to read:

§6556. Striped bass; limits; personal use

~~It is unlawful for any~~ A person ~~to~~ may not fish for or take or possess striped bass, except for personal use.

Sec. 8. 12 MRSA §6621, sub-§3, ¶B, as amended by PL 1995, c. 323, §1, is repealed.

Sec. 9. 12 MRSA §6728-A, as reallocated by RR 2003, c. 1, §7, is reallocated to §6721-A.

Sec. 10. 12 MRSA §6804, sub-§4, as repealed by 2003, c. 170, §2 and amended by c. 248, §10, is repealed.

Sec. 11. Transfers from Aquarium and Resource Center at West Boothbay Harbor Fund. The Department of Marine Resources may transfer the existing balance and encumbrances from the Aquarium and Resource Center at West Boothbay Harbor Fund, at any time prior to its lapsing, to the Department of Marine Resources Educational Fund, in order to fund any of the activities outlined in the Maine Revised Statutes, Title 12, section 6030.

Sec. 12. Transfers from gas tax fund. The Department of Marine Resources may transfer the existing balance and encumbrances from the gas tax fund that was authorized by the Maine Revised Statutes, Title 36, section 2903-A, and was repealed by Public Law 2001, chapter 693, at any time prior to its lapsing, to the Marine Fisheries Research and Development Fund, in order to fund any of the activities outlined in Title 12, section 6036.

SUMMARY

This bill does the following.

1. It changes the name of the Aquarium and Resource Center at West Boothbay Harbor Fund to the Department of Marine Resources Educational Fund.

2. It creates the Marine Fisheries Research and Development Fund.

2 3. It creates a reinstatement fee of \$25 in order for the
Department of Marine Resources to rescind a license suspension
4 that is the result of failing to comply with a court order of
support.

6 4. It clarifies that it is unlawful to fish for or take
lobster from any platform other than a vessel.

8
10 5. It states that lobster traps, warps, buoys or cars may
not be used for fishing by any person other than the licensed
12 owner unless with written permission from the Commissioner of
Marine Resources.

14 6. It corrects the inadvertent omission of the allocation
of one type of lobster license fee.

16
18 7. It clarifies that it is unlawful for a person to
possess, as well as to fish for or take, striped bass except for
20 personal use.

22 8. It strikes an exemption on the prohibition of washing or
holding shellfish in closed areas.

24 9. It reallocates section 6728-A to section 6721-A.

26 10. It strikes language that was repealed during the First
Regular Session of the 121st Legislature, but was inadvertently
28 restored in a subsequent bill.

30 11. The bill also allows the transfer of funds from the
Aquarium and Resource Center at West Boothbay Harbor Fund to the
32 Department of Marine Resources Educational Fund and allows the
transfer of funds from the gas tax fund to the newly created
34 Marine Fisheries Research and Development Fund.