

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

the land of said school situated on the west side of route No. 100. (1957, c. 215, § 2; c. 255, § 1.)

Effect of amendments.—The first 1957 amendment inserted the introductory paragraph and the provisions relative to Bartlett's Island. The second 1957 amendment, which did not refer to or give effect to the first amendment, re-enacted the introductory paragraph and in-

serted the provisions relative to Lake Christopher and Oak Grove. Section 2 of the second amendment repealed P. L. 1957, c. 74, which act had also inserted a new section relative to game management areas. Both amendments have been given effect in the section set out above.

Field Trials for Retrieving Dogs.

Sec. 151. Repealed by Public Laws 1955, c. 290, § 22.

Cross reference.—For present provisions re field trials for retrieving dogs, see § 117-A of this chapter.

Chapter 38.

Department of Sea and Shore Fisheries.

Sections 122-126. Tuna. Seals. Marine Worms. Sea Moss.

Commissioner. Rules and Regulations.

Sec. 5. Rules and regulations.

Whenever the commissioner of agriculture shall certify to the commissioner of sea and shore fisheries that clams, quahogs, oysters or mussels from certain flats or shores are contaminated or polluted and are not in conformity with regulations promulgated by the said commissioner of agriculture and the regulations and standards of purity established by the United States Public Health Service and not acceptable for shipment in interstate commerce, the said commissioner of sea and shore fisheries is authorized to close such flats, without notice or hearing, to all digging of clams, quahogs, oysters and mussels.

(1957, c. 30, § 1.)

Effect of amendment. — The 1957 amendment inserted "oysters" in two places in the seventh paragraph. As only the seventh paragraph was changed by the amendment, the rest of the section is not set out.

Coastal Wardens.

Sec. 8. Power of commissioner as warden; coastal wardens; appointment; powers and duties; tenure; service of processes.

The commissioner shall appoint persons as coastal wardens who shall have qualified under the rules established in the civil service code authorized under the provisions of sections 10 to 15, inclusive, who shall continue to hold office according to the provisions of the civil service code. The compensation of the wardens shall be determined under the provisions of the personnel law.

Except before trial justice and municipal courts, they shall be allowed the same fees as sheriffs and their deputies for like service, all such fees to be paid to the commissioner. Coastal wardens shall have the same right as sheriffs to require aid in executing the duties of their office. Coastal wardens appointed under the provisions of this section shall hold no other state, county or town office from which they receive compensation.

(1957, c. 334, § 6; c. 397, § 28.)

Effect of amendments.—The first 1957 amendment made the former first sentence of the fifth paragraph into two sentences and inserted "except before trial

justice and municipal courts" at the beginning of the present first sentence of such paragraph. The second 1957 amendment substituted "sections 10 to 15" for "sections 10 or 15" in the first sentence of

the second paragraph.

As the rest of the section was not changed by the amendments, only the second and fifth paragraphs are set out.

Sec. 9. Sheriffs, deputy sheriffs, police officers, constables and inland fish and game wardens to have powers of coastal wardens. — Sheriffs, deputy sheriffs, police officers, constables and inland fish and game wardens, within their respective jurisdiction, are vested with the powers of coastal wardens, except as provided in section 117, and shall receive for similar services the same fees as those of coastal wardens. (R. S. c. 34. 1947, c. 332. 1957, c. 30, § 2.)

Effect of amendment. — The 1957 amendment excepted the provisions of section 117 of this chapter.

Definitions.

Sec. 16. Definitions.

IV.

"Retail dealer," any person not a wholesale dealer who buys, sells or distributes shellfish, lobsters or crabs. (1957, c. 30, § 3.)

Effect of amendment. — The 1957 amendment substituted the words "shellfish, lobster or crabs" for the words "any marine species" in the definition of retail

dealer in subsection IV. As only this paragraph of subsection IV was changed by the amendment, the rest of the section is not set out.

Fish Packing.

Sec. 23. Repealed by Public Laws 1955, c. 23.

Sec. 24. Purchase of herring.

All holds of all boats transporting herring for processing purposes shall be measured and sealed by the state sealer of weights and measures, or his duly authorized agent, and the fees for measuring and sealing shall be paid by the owners of the boats. The measure shall be in 5 hogshead divisions, measured by liquid measure from a calibrated prover, to the top of the hatch coaming with the measurements plainly marked and permanently sealed in the hold of the boat, both forward and aft, while boat is afloat, in the most practical manner as prescribed by the state sealer of weights and measures. Each boat owner shall immediately notify the state sealer of weights and measures of any alterations or the breaking of the seal in the hold of the boat. The state sealer of weights and measures shall forthwith certify to the commissioner the name of the owner of each boat, the name of each boat and the capacity of each boat.

(1957, c. 359, § 1.)

Effect of amendment. — The 1957 amendment rewrote the former second sentence of the second paragraph to appear as the present second and third sentences. As only the second paragraph was changed by the amendment, the rest of the section is not set out.

Editor's note.—P. L. 1957, c. 359, which amended this section, provided in § 2 thereof as follows: "The sum of \$10,000

is appropriated from the general fund to the department of agriculture for carrying out the provisions of this act. Said amount shall be repaid to the general fund before January 1, 1959, from measuring fees; and the amount of such fees for each boat shall be determined by the state sealer of weights and measures on an equitable per hogshead carrying capacity basis."

Sec. 24-A. Size of herring.—Except for use as bait for fishing, it shall be unlawful for any person, firm or corporation to take from the coastal waters of

Maine, or to sell, offer for sale, purchase, transfer in any manner, use, process, dispose of in any way or have in his possession for any purpose whatsoever herring less than 4 inches long, overall length measured from one extreme to another; except that when herring under 4 inches in length are mixed with longer herring and the herring of prohibited size represent less than 25% of the lot taken at any one time, sale or purchase, the foregoing provisions in this paragraph shall not apply. The tolerance of 25% herein set out shall be determined by volume of $\frac{1}{2}$ bushel of herring for each 500 bushels of herring or fraction thereof, taken at random from various parts of said lot. The commissioner of sea and shore fisheries and the commissioner of agriculture shall cooperate in the enforcement of the provisions of this section.

Any person, firm or corporation violating any of the provisions of this section shall be punished by a fine of not less than \$100 nor more than \$500 for each offense. (1955, c. 304. 1957, c. 61.)

Effect of amendment. — The 1957 amendment substituted the word “volume” for the words “numerical count” which formerly appeared in the second sentence of the first paragraph of this section.

Fishing Regulations.

Sec. 32. Smelts; methods of taking; open season in tidal brooks and streams; daily limit; sale.

During the open season in such waters, except as otherwise provided, smelts may be taken only with bare hands or by the ordinary mode of angling with hook and line. Unless otherwise provided, no person shall take, catch, kill or have in possession in or from any or all of the tidal brooks and streams more than 4 quarts of smelts.

(1957, c. 30, § 4.)

Effect of amendment. — The 1957 amendment deleted from the third paragraph of this section the provision that smelts shall not be sold. As only the third paragraph was changed by the amendment, the rest of the section is not set out.

Atlantic Sea Run Salmon Commission.

Sec. 38. Commission; compensation; powers and duties.

Notice of the hearings to be held and the time and place thereof shall be published once a week for 2 successive weeks prior to the hearing in a newspaper published in the county where said hearing is to be held, and if no paper is published there, in the state paper. Except when an emergency has been declared, notice shall be published at least 5 days before the date of the hearing instead of 2 weeks.

After hearing pursuant to the petition or emergency declared, the commission shall make such regulations as may be deemed remedial of any adverse conditions proven to exist at the time of said hearing and shall establish the effective date of such regulations, which shall be at least 10 days after the date of hearing. The commission shall cause the regulations to be reduced to writing and shall publish the same once in a newspaper published in the county where the waters are situated and which are affected thereby, or if no paper is published there, in the state paper. The commission shall file a certified copy of said regulations with the secretary of state and with the clerk of the superior court of the county in which the waters affected thereby are situated.

(1957, c. 397, § 29.)

Effect of amendment. — The 1957 amendment made the former fifth paragraph into two sentences and substituted “state paper” for “Daily Kennebec Jour-

nal, a newspaper printed at Augusta," in both the fifth and sixth paragraphs. As the rest of the section was not changed by the amendment, only the fifth and sixth paragraphs are set out.

Regulation of Shellfish Industry.

Sec. 39-A. Procedure for propagation of quahogs.—A person, firm or corporation, who holds a permit to cultivate shellfish granted by a town, may apply for sub-legal quahogs to the municipal officers of a town or city whose flats are occupied by a sub-legal population of hard-shelled clams or quahogs. Such application shall include a description of the discrete area from which seed quahogs or hard-shelled clams are to be obtained and a further description of the means by which said seed quahogs or hard-shelled clams shall be harvested for transplanting purposes. No municipal permit shall be granted until after a public hearing, due notice of which has been posted in 3 or more public places and published in a newspaper, if there be any, published in the city or town in which the premises are situated, at least 10 days before the time fixed for the hearing, stating the name and residence of the applicant, the date of the filing of the application and the location and description of the area occupied by said seed quahogs or hard-shelled clams. Notice shall also be given of said hearing to the commissioner of sea and shore fisheries. If the municipal officers shall deny applicant's request for sub-legal quahogs, an appeal shall lie with the commissioner of sea and shore fisheries, whose decision shall be final. Following favorable action taken by the municipal officers in granting said transplanting permit to the applicant, the municipal officers shall notify the commissioner of sea and shore fisheries of the action taken. Following the grant of the municipal permit, the applicant shall then apply to the commissioner of sea and shore fisheries for a specific permit which shall include a description of said seed area, a description of means and manner of harvesting and transporting and a description of the area where said seed will be planted. After the commissioner has appraised himself of the conditions under which the transplanting will take place, the commissioner shall grant said permit subject to the following conditions: Seed will be planted only in flats in the state of Maine which are either publicly or privately controlled. Said permit shall contain a specified expiration date and a specified volume of seed stocks which during the permitted time may be transplanted. Said volume of seed quahogs to be transplanted under all private permits shall not exceed 25 per cent of the estimated population within said discrete area nor shall the total volume granted to any one permit holder exceed 5 per cent of said estimated population. Such estimate to be determined by research personnel of the department of sea and shore fisheries utilizing accepted survey methods. (1955, c. 333, § 1.)

Sec. 49-A. Methods of taking clams and marine worms.—Clams and marine worms shall not be taken except by devices or instruments operated solely by hand power. In the taking or for the purpose of taking such clams and marine worms, the flats shall not be dug, raked, loosened or disturbed by the propeller or other part of any boat or hydraulic dredge. The provisions of this section shall not apply to equipment operated by the department of sea and shore fisheries. The provisions of this section shall not apply to any Maryland type dredge operated solely within the limits of Hancock county, provided permission to operate such dredge shall be obtained from the municipal officers of the municipality wherein such dredge is operated and provided no marine worms taken by these machines shall be marketed in any form or manner. (1957, c. 370.)

Sec. 51. Repealed by Public Laws 1955, c. 163.

Sec. 57. License required to dig or take clams, etc., in Kennebunkport.—No person shall, in the town of Kennebunkport in the county of York, dig

or take clams, clamworms or bloodworms for sale unless license has been granted to him by the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued except to a resident of said town. Nothing herein shall prohibit any resident or a riparian owner of shores or flats therein from digging and taking clams for food for himself and family without license. From October 1, 1955 to October 1, 1959, no clams shall be dug or taken from the flats in Batson's river or in any of its branches or tributaries, in said town of Kennebunkport, except that, during said 2-year period, any resident or property owner of said town may dig from said flats not to exceed 2 pecks of clams at one tide. For the purposes of sections 57 to 59, inclusive, the term "a resident" shall mean a person who has resided in this state for the term of at least 6 consecutive months and in the town of Kennebunkport for at least 3 consecutive months prior to receiving a license. (R. S. c. 34. 1947, c. 332. 1955, c. 221. 1957, c. 239.)

Effect of amendments. — The 1955 mentioned in the fourth sentence from amendment inserted the fourth sentence. "to October 1, 1957" to "to October 1, 1959." The 1957 amendment extended the time 1959."

Sec. 69. Taking of shellfish in Falmouth and Cumberland.—No clams, mussels or quahogs shall be taken from any flats within the limits of any of the towns of Falmouth or Cumberland, in Cumberland county, except by such written permit as the municipal officers of said town may issue, provided that without such permit, any inhabitant within said town, or any person temporarily resident therein or the riparian owner of any such flats, may take therefrom for the immediate use of himself or his family not exceeding one bushel of clams at one tide. (R. S. c. 34. 1947, c. 332. 1957, c. 238.)

Effect of amendment.—Prior to the to the towns of Yarmouth and North 1957 amendment this section applied also Yarmouth.

Sec. 70-A. License required to dig or take clams, etc., in town of Harpswell.—No person, firm or corporation shall, within the limits of the town of Harpswell, in the county of Cumberland, dig or take any clams or quahogs without having first obtained a license from the municipal officers of said town of Harpswell, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town of Harpswell. Nothing herein shall prohibit a resident or riparian owner of shores or flats in said town of Harpswell from digging and taking clams and quahogs therefrom for food for himself and family without license. For the purposes of sections 70-A to 70-D, inclusive, the term "a resident" shall mean a person, firm or corporation who has resided in this state for a term of at least 6 consecutive months and in the town of Harpswell for at least 3 consecutive months prior to making application for license. (1955, c. 116.)

Sec. 70-B. Dealers' licenses.—No person shall be a dealer in clams or quahogs in the town of Harpswell without having first obtained a license from the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 70-A to 70-D, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams or quahogs for resale. (1955, c. 116.)

Sec. 70-C. Licenses; revocation; appeals.—The municipal officers may revoke any license issued by them under the provisions of the preceding sections, upon evidence satisfactory to them that the person digging or taking clams or quahogs has violated any of the laws of the state regulating the digging or taking of clams or quahogs. If the municipal officers refuse to issue the license provided for in said sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time

or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts. (1955, c. 116.)

Sec. 70-D. Penalty.—Whoever violates any of the provisions of sections 70-A to 70-D, inclusive, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days. Trial justices within their county shall have jurisdiction concurrent with municipal courts and the superior court of prosecutions for violations hereof. (1955, c. 116.)

Sec. 90-A. License required to dig or take clams in Rockport.—No person, firm or corporation shall, within the limits of the town of Rockport in the county of Knox, dig or take any clams without having first obtained a license from the municipal officers of said town of Rockport, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town of Rockport. Nothing herein shall prohibit a riparian owner of shores or flats in said town of Rockport from digging and taking clams therefrom for food for himself and family without license; provided the amount so taken shall not be in excess of one peck per day per person. For the purposes of sections 90-A to 90-D, inclusive, the term "a resident" shall mean a person, firm or corporation who has resided in this state for a term of at least 6 consecutive months and in the town of Rockport for at least 3 consecutive months prior to making application of license. (1957, c. 360.)

Sec. 90-B. Dealers' licenses.—No person shall be a dealer in clams in the town of Rockport without having first obtained a license from the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 90-A to 90-D, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams for resale. (1957, c. 360.)

Sec. 90-C. Licenses; revocation; appeals.—The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams has violated any of the laws of the state regulating the taking and sale of clams. If the municipal officers refuse to issue the license provided for in said sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts. (1957, c. 360.)

Sec. 90-D. Penalty.—Whoever violates any of the provisions of sections 90-A to 90-D, inclusive, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days. Trial justices within their county shall have jurisdiction concurrent with municipal courts and the superior court of prosecutions for violations hereof. (1957, c. 360.)

Sec. 91. Certificate and license required for interstate transportation of shellfish.—No person, firm or corporation, as principal or by an agent or servant, shall ship or transport in any manner, beyond the limits of this state, any quahogs or mussels in the shell, or any soft-shell clams, quahogs or mussels that have been shucked or removed from the shell, without first having procured therefor a shellfish certificate from the commissioner of agriculture and a license from the commissioner of seal and shore fisheries.

Application for a shellfish certificate shall be made on a form provided by the commissioner of agriculture. Each application for a shellfish certificate must be signed by the applicant and must show the names of persons licensed to dig and

sell clams, quahogs and mussels, from whom quahogs and mussels in the shell are to be procured and the names of persons holding shucking certificates from whom shucked soft-shelled clams, quahogs and mussels are to be procured. If the commissioner of agriculture is satisfied that all such persons named in the application are properly licensed or certified, he may issue the applicant a certificate. Such certificate shall bear a number and shall designate the persons from whom quahogs and mussels in the shell and soft-shell clams, quahogs and mussels that have been shucked or removed from the shell may be procured for interstate transportation.

Shellfish certificates issued under the provisions of this section shall expire at midnight on December 31st of the calendar year in which they were issued, unless sooner revoked or suspended, and shall be renewed annually thereafter.

The commissioner of agriculture shall have the power to revoke or suspend any certificate thus issued by him, whenever it has been determined that the holder of such a certificate has violated any provision of said certificate or any law or rule and regulation pertaining to shellfish.

Application for a license, designated as an interstate shellfish transportation license, shall be made to the commissioner of sea and shore fisheries on a form provided by him for such purpose and it shall contain a description, sufficient to identify it, of the boat, truck, automobile, airplane or other means of transportation to be used, and any other information that may be requested.

Such license may be procured by a legal resident of Maine upon payment of a fee of \$35, provided that an extra fee of \$10 shall be required for each additional boat, truck, automobile or other means of transportation to be used.

Such license may be procured by a nonresident of Maine upon payment of a fee of \$85, provided that an extra fee of \$20 shall be required for each additional boat, truck, automobile or other means of transportation to be used.

An applicant for an interstate shellfish transportation license must present a shellfish certificate issued by the commissioner of agriculture before such license shall be issued.

No person shall ship or transport beyond the limits of this state any clams, quahogs or mussels, except those procured from the persons named in said shellfish certificate.

The foregoing provisions shall not apply to a common carrier, licensed by the interstate commerce commission, transporting clams, quahogs or mussels in accordance with the provisions of section 96, nor by any person who lawfully possesses the same for immediate consumption by himself and his family, nor shall it apply to clams, quahogs or mussels that are being transported through the state under the authority of the laws of the United States.

Whoever violates any provision of this section shall be punished by a fine of not less than \$100 nor more than \$200, or by imprisonment for not more than 90 days, or by both. (R. S. c. 34. 1947, c. 137, § 3; c. 332. 1949, c. 247; c. 415, §§ 10, 11; c. 442. 1951, c. 175, § 8; c. 187. 1953, c. 129, § 11. 1957, c. 237, §§ 1, 2.)

Effect of amendment. — The 1957 amendment repealed the former first and last paragraphs of this section. It also decreased the amount of the fine in the present last paragraph from "not less than \$200 nor more than \$500" to "not less than \$100 nor more than \$200" and deleted the words "such fine and imprisonment" which formerly appeared at the end of such paragraph.

Sec. 92. Taking of clams and quahogs.—Whoever takes or has in his possession quahogs or soft-shell clams less than 2 inches in the longest diameter, hereinafter referred to as seed quahogs or seed clams, to the amount of more than 10% of any batch or lot shall be punished by a fine of not less than \$10, nor more than \$25, for the 1st offense; by a fine of not less than \$20, nor more than \$50, for the 2nd offense; by a fine of not less than \$40, nor more than \$100, for the 3rd offense; and by a fine of \$100 for the 4th and all subsequent offenses. On the 2nd conviction thereof the commissioner may in his discretion suspend

the offender's commercial shellfish and marine worm license issued under the provisions of this chapter for a period not to exceed 1 month; on the 3rd conviction for a period not to exceed 3 months; and on the 4th and subsequent conviction for a period not to exceed 1 year. Provided, however, it shall not be unlawful to take seed quahogs or seed clams or have the same in possession under authority of a permit therefor, which the commissioner is authorized to grant, for replanting in waters or flats within the state or under the provisions of section 39-A. The tolerance of 10% shall be determined by numerical count, or by measure of not less than 1 peck nor more than 4 pecks, taken at random from various parts of said batch or lot; provided, however, that such tolerance shall be determined by numerical count of the entire batch or lot when said batch or lot is less than 1 peck.

(1955, c. 333, § 2.)

Effect of amendment.—The 1955 amendment deleted the words "any other purpose" at the end of the third sentence of the first paragraph and inserted in place

thereof the words "under the provisions of section 39-A." As the second and third paragraphs were not changed, they are not set out.

Sec. 93. Repealed by Public Laws 1957, c. 30, § 5.

Sec. 94. Clam, quahog, oyster and mussel flats closed; signs posted.

—The commissioner of sea and shore fisheries and the commissioner of agriculture shall cooperate in the investigation and inspection of clam, quahog, oyster and mussel flats in this state.

Whenever it is found by examination that any flats and shores are contaminated or polluted and that clams, quahogs, oysters or mussels dug from such contaminated or polluted areas are not in conformity with regulations promulgated by the commissioner of agriculture and the regulations and standards of purity established by the United States public health service and not acceptable for shipment in interstate commerce, the commissioner of agriculture shall file a certified copy of such findings with the commissioner of sea and shore fisheries and at the same time shall recommend that said flats or shores be immediately closed to all digging of clams, quahogs, oysters and mussels, whereupon the commissioner shall immediately promulgate rules and regulations closing said flats to all digging of clams, quahogs, oysters and mussels.

When digging of clams, quahogs, oysters or mussels in any area is prohibited by the commissioner because of contamination or pollution, he shall cause plain and distinct signs to be posted on or adjacent to the area within which said digging is prohibited. (R. S. c. 34. 1947, c. 332. 1949, c. 415, § 13. 1957, c. 30, § 6.)

Effect of amendment. — The 1957 amendment made this section applicable also to oysters and oyster flats.

Sec. 106-A. Legal length of scallops.—No person shall buy, sell, expose for sale, give away, transport or have in possession scallops less than 3 inches in longest diameter, to the amount of more than 10% of any batch or lot. The tolerance of 10% shall be determined by numerical count, or by measure of not less than one peck nor more than 4 pecks, taken at random from various parts of said batch or lot.

Scallops, as used in this section, shall mean scallops in the shell, and a batch or lot, as used in this section, shall mean the total number of scallops in any bulk pile, provided that when scallops are in a box, barrel or other container, the contents of each such box, barrel or other container shall constitute a separate batch or lot. (1957, c. 67.)

Sec. 108. Commercial shellfish and marine worm license.—No person, except the holder of a commercial shellfish and marine worm license, shall

sell any clams, quahogs, oysters, mussels or marine worms that he has dug or taken from the flats, shores or coastal waters of the state.

No nonresident of the state shall dig or take more than $\frac{1}{2}$ bushel of clams, quahogs, oysters or mussels nor more than 30 marine worms during any one day from the flats, shores or coastal waters of the state.

No resident of the state shall dig or take more than $\frac{1}{2}$ bushel of clams, quahogs, oysters or mussels nor more than 30 marine worms during any one day from the flats, shores or coastal waters of the state without first having procured from the commissioner a written license therefor; except that a holder of a lobster and crab fishing license or a holder of a commercial fishing license may dig or take more than $\frac{1}{2}$ bushel of clams, quahogs, oysters or mussels for bait purposes only without obtaining a commercial shellfish and marine worm license.

A license, designated as a commercial shellfish and marine worm license, may be issued to residents of the state who shall make application for the same.

The fee shall be \$3 and it shall entitle the holder to dig or take clams, quahogs, oysters or mussels in quantities greater than $\frac{1}{2}$ bushel during any one day and to transport and sell the same in the shell within the State; and to dig, take, buy or sell marine worms.

No person, except the holder of a commercial shellfish and marine worm license as provided for in this section or a dealer duly licensed under the provisions of this chapter or as provided in the 3rd paragraph of this section, shall have in his possession more than $\frac{1}{2}$ bushel of clams, quahogs, oysters or mussels, nor more than 30 marine worms. (1947, c. 286. 1949, c. 415, § 16. 1953, c. 129, § 16. 1955, c. 155, § 1.)

Effect of amendment.—The 1955 amendment made this section applicable to oysters.

Sec. 109. Disposition of funds from sale of licenses.—The funds received from sale of certain licenses, namely, "commercial shellfish and marine worm licenses," "interstate shellfish transportation licenses" and 10% of the revenue from the sale of licenses under the provisions of section 111 shall constitute a shellfish fund, so called, to be expended under the direction of the commissioner for the sole purpose of restoration, development and conservation of clams, quahogs, oysters, mussels and marine worms in the coastal waters of the state and for establishment and maintenance of facilities therefor.

Said funds shall not lapse, but funds so collected in any one year may be used in that or any succeeding year for said purpose. (1947, c. 286. 1951, c. 175, § 9; c. 266, § 49. 1953, c. 129, § 17. 1955, c. 155, § 2.)

Effect of amendment.—The 1955 amendment inserted the words "oysters" near the end of the first paragraph.

Dealers' Licenses.

Sec. 110. Retail dealer's license required to sell, serve, ship or transport soft-shelled clams, quahogs, crabs or lobsters, or parts thereof.—No person, except as provided in this chapter, shall buy, sell, offer for sale, serve, ship or transport in any manner any soft-shelled clams, quahogs, crabs or lobsters, or parts thereof, without first having procured from the commissioner a written license therefor.

A license, designated as a retail sea food dealer's license, shall entitle the holder, as a retail dealer, to buy, sell, offer for sale, serve, ship and transport soft-shelled clams, quahogs, crabs or lobsters, or parts thereof, within the limits of the state.

(1957, c. 30, § 7.)

Effect of amendment. — The 1957 amendment inserted the words "offer for sale" in the first and second paragraphs of this section. As the third and fourth paragraphs were not changed by the amendment, they are not set out.

Sec. 111. Wholesale sea food dealer's and processor's license.

The fee for a license, designated as a wholesale sea food dealer's and processor's license, shall be \$35 and shall entitle the holder in wholesale trade to buy, sell, serve, process, preserve, pickle, cook, freeze, smoke or can for sale all species of fish, shellfish, lobsters and crabs; provided also, that such licensee shall be permitted to transport all fish except shellfish and lobsters in wholesale and retail within and outside the state, and to ship all species of fish, shellfish and lobsters within and outside the state.

Provided that in addition to such license a shellfish certificate issued by the commissioner of agriculture, as provided for in section 91, shall be required for shipment beyond the limits of the state of any clams, quahogs or mussels, either in the shell or shucked.

(1957, c. 236.)

Effect of amendment. — The 1957 amendment deleted the words "with the exceptions of the provisions covering soft shell clams as set forth in section 91" which formerly appeared at the end of the second paragraph, and deleted a pro-

viso relative to shipment of clams by licensed common carriers only which formerly appeared at the end of the third paragraph. As the rest of the section was not changed by the amendment, only the second and third paragraphs are set out.

Regulation of Lobster Industry.

The problems of the lobster industry are of a nature peculiar to itself and the statutes are designed and enacted with reference thereto. State v. Mitchell, 150 Me. 396, 113 A. (2d) 618.

Sec. 112. Lobster and crab fishing license.—No person shall fish for, take or catch lobsters or crabs in any manner without having first procured from the commissioner a written license therefor, which shall be kept upon the person while fishing or transporting such lobsters or crabs and which shall be exhibited to any coastal warden upon request.

No license shall be required of any person, whether resident or nonresident, to catch or take crabs along the shore that may be found under rocks or pools left by the receding tides, or by fishing for same by hook and line. Traps shall not be used for such taking. Crabs so taken shall be for the purpose of home consumption only and not for resale or any commercial use.

Any person, assisting or helping another in lobster fishing or in attending to lobster traps or pots, shall be considered a lobster fisherman and must procure a license therefor.

Such license shall be issued only to persons who have been, for 3 years immediately prior to the date of the application, legal residents of this state; provided, however, that any person who has previously been a legal resident of this state and has re-established a legal residence here for a period of 1 year next preceding his application shall be entitled to have his nonresidence taken as part of said 3 years, and the fee for such license shall be \$5; and provided further, that a veteran of World War II, or the Korean campaign, who is honorably discharged, honorably separated or retired from active service in the armed forces shall be granted such license if he has been a resident of Maine for at least 1 year prior to the date of the application. (R. S. c. 34. 1947, c. 332. 1949, cc. 106. 121, 274. 1951, c. 257. 1953, c. 129, § 22. 1955, c. 333, § 3. 1957, c. 242.)

Effect of amendments. — The 1955 amendment repealed the former last paragraph, which provided that the holder of a lobster fishing license shall be entitled to all the privileges of a commercial fishing license.

The 1957 amendment inserted the second paragraph of this section.

Sec. 114. Legal length of lobsters; double gauge measure; method of measurement.—The commissioner shall provide a measure, designated as the state double gauge lobster measure, for determining the legal length of lobsters.

One gauge shall be $3 \frac{3}{16}$ inches in length, the other shall be $5 \frac{3}{16}$ inches in length, and no evidence shall be admissible in any court in the state in any manner in which the length of a lobster is in question, unless such length has been determined by such a measure. This measure shall be sold by the commissioner at cost.

An illegal lobster is one of less than $3 \frac{3}{16}$ inches in length or more than $5 \frac{3}{16}$ inches in length, alive or dead, cooked or uncooked, when measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell.

Except that in the case of either short or long lobsters aforesaid, where the respondent is not sentenced to pay costs of court, the court may, in its discretion, add to the fines provided a sum not to exceed \$10 on each complaint to be included in any fine imposed to cover said costs without taxing such costs and without reference to such costs. (R. S. c. 34. 1947, c. 332. 1951, c. 175, § 11. 1957, c. 334, § 7; c. 361, § 1.)

Effect of amendments.—The first 1957 amendment added the last paragraph appearing above as the last paragraph of this section. The second 1957 amendment substituted " $3 \frac{3}{16}$ " where " $3 \frac{1}{8}$ " formerly appeared and substituted " $5 \frac{3}{16}$ " where " 5 " formerly appeared in both the first and third paragraphs.

As the rest of the section was not changed by the amendments, only the first, third and seventh paragraphs are set out.

Editor's note.—P. L. 1957, c. 361, which amended the first and second paragraphs of this section, provided in section 2 thereof as follows: "The provisions of this act shall become effective on January 1, 1958, except that the provisions of this act which relate to the maximum length of lobsters shall be effective only until January 1, 1960, at which time the maximum legal length shall revert back to 5 inches."

Sec. 115. Lobster pots, traps and cars to be marked.—No person shall set any pot or trap for any lobster or crab without having the pot or trap and buoy attached thereto plainly carved or branded with his lobster fishing license number; and he shall forfeit to the state any pot or trap not so marked and any lobsters or crabs found therein.

No person, firm or corporation shall use or set in tidal waters, any car or other contrivance for holding or keeping lobsters without having the car or other contrivance plainly carved or branded with the proper lobster license number. (R. S. c. 34. 1947, c. 332. 1957, c. 30, § 8.)

Effect of amendment.—The 1957 amendment repealed the former last paragraph of this section which contained a penalty.

Sec. 116. Sale of lobster meat.

It shall be lawful for holders of a wholesale sea food dealer's and processor's license to receive meat from other states and countries providing such meat is processed by canning or freezing, for resale as processed stews, newburgs, chowders or pies, in the retail trade. Such meat shall not be resold unless so processed and it must conform to the provisions of this section. The purchaser of such meat is required to file a monthly statement of such shipments received with the commissioner on forms furnished by the commissioner and the shipping containers cannot be opened until immediately prior to processing of the meat.

(1957, c. 234.)

Effect of amendment.—The 1957 amendment rewrote the first two sentences of the fifth paragraph. As the rest of the section was not changed by the amendment, only the fifth paragraph is set out.

Sec. 117. Only owner or coastal warden may examine or tend traps, pots or cars set for catching or holding lobsters or crabs.—No person, except the rightful owner or a Maine coastal warden, shall raise, lift, transfer or in any manner molest any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs, nor take, remove or carry away from the

beach or shore, or have in possession, any pot, trap, car or other contrivance or warp or buoy without the written permission of the rightful owner thereof. (1955, c. 333, § 6. 1957, c. 30, § 9.)

Effect of amendments.—The 1955 and 1957 amendments rewrote the first paragraph of this section. As the second and third paragraphs were not changed by the amendments, they are not set out.

Before the passage of the 1955 amend-

ment it was held that the word "owner" in this section included a finder of a lost lobster trap with possession and control good against all the world, except the rightful owner. *State v. Mitchell*, 150 Me. 396, 113 A. (2d) 618.

Sec. 117-A. Lifting lobster pots.—Between June 1st and November 1st no person shall raise, lift or transfer any pot, trap or other contrivance that is set for the taking of lobsters or crabs from ½ hour after sunset until ½ hour before sunrise of the following morning. For the purpose of this section, the time shall be that which is recognized as legal in the state of Maine. (1957, c. 232.)

Sec. 121. Traps not to be set near fish weir.—No person shall set any lobster trap within 300 feet of the mouth of any fish weir under a penalty of \$10 for each offense. (R. S. c. 34. 1947, c. 332. 1957, c. 30, § 10.)

Effect of amendment. — The 1957 amendment deleted the language "outer end of the leaders" formerly appearing in this section.

Tuna. Seals. Marine Worms. Sea Moss.

Sec. 122. Fishing for tuna regulated. — It shall be unlawful to take, catch, kill or have in possession any tuna or horse mackerel, so called, taken by any method other than harpoon or hook and line within the territorial waters of this state.

(1957, c. 235.)

Effect of amendment. — The 1957 amendment deleted the word "single" which preceded the word "hook" in the first paragraph. As the rest of the section was not changed by the amendment, only the first paragraph is set out.

Sec. 123. Shooting seals in Casco bay regulated.—No person shall, during the months of June, July and August, destroy seals in Casco bay, and in the water between Branch river, in the town of Kennebunk, and the easterly end of Goose Rock beach, in the town of Kennebunkport, by shooting with rifle or other long-range weapon which might endanger human life, under a penalty of \$50 for each offense. (R. S. c. 34. 1947, c. 332. 1951, c. 26. 1957, c. 30, § 11.)

Effect of amendment. — The 1957 amendment deleted the words "the water" of" which formerly appeared preceding the words "Casco bay."

Sec. 125-A. Marine worms, taking.—It shall be lawful for any person, firm or corporation, who legally possesses a commercial shellfish and marine worm license, to dig, take, buy or sell marine worms, clamworms, bloodworms and sandworms in any tidewater area of the state, except those areas which are closed to all digging for conservation purposes by the department.

No area shall be closed for the purpose of conservation to the digging or taking of marine worms, clamworms, bloodworms and sandworms except as provided in section 5. (1955, c. 110, § 1. 1957, c. 30, § 12.)

Effect of amendment. — The 1957 amendment substituted "conservation purposes" for "the conservation of marine worms" in the first paragraph of this section.

Revocation and Suspension of Licenses. Court Procedure.

Sec. 127. Licenses, revocation and suspension.

When an appeal has been taken by any person from the decision or sentence imposed for an alleged violation of the provisions of this chapter, or of any

rules and regulations adopted by the commissioner pursuant thereto, the commissioner may suspend, until final disposition by the court, the license or right thereto of such person to conduct the particular activity in which he was engaged at the time of the alleged violation, and may suspend for the same period all licenses held by him that have been issued under authority of this chapter.

If, at the time of committing a violation of any of the provisions of this chapter or of any rules and regulations of the commissioner, the offender shall not be the holder of a license to conduct the particular activity in which he was engaged at the time of such violation, the commissioner may issue such a license to said person at any time after the date of final determination of any complaint or legal proceedings instituted as a result of the violation.

On conviction of a 3rd or subsequent violation of any provisions of this chapter, excepting sections 92 and 117, or of any rule and regulation of the commissioner, the commissioner may revoke or suspend any such license or licenses or right thereto, for a period of one year from the date of the final conviction.

When a minor has been convicted of or found guilty of juvenile delinquency as the result of a violation of the provisions of this chapter, the commissioner may suspend or revoke the license or licenses or right thereto in the same manner and for the same period as set forth in the preceding paragraphs of this section.

(1955, c. 333, § 4. 1957, c. 30, §§ 13, 14.)

Effect of amendments. — The 1955 amendment deleted "a" in line one of the third paragraph and inserted in place thereof the words "the decision or." It also inserted after the word "license" in line four of such paragraph the words "or right thereto." The amendment substituted "may" for "shall not" in the fourth line of the fourth paragraph and in the fifth line it substituted the words "at any time after" for the words "until fifteen

days have elapsed from."

The 1957 amendment substituted "may" for "shall" in the fourth line of the third paragraph, substituted "may" for "shall" in the fifth paragraph, and inserted the last paragraph appearing above as the sixth paragraph of the section.

As the first two and the last two paragraphs of this section were not changed by the amendments, they are not set out.

Sec. 128. Certificate of commissioner, deputy commissioner or chief coastal warden admissible in evidence.—Any certificate of the commissioner, deputy commissioner or chief coastal warden in regard to the records of his office shall be admissible in evidence in all prosecutions under the provisions of this chapter. (R. S. c. 34. 1947, c. 332. 1957, c. 30, § 15.)

Effect of amendment. — The 1957 amendment made this section applicable

to certificates of the deputy commissioner or chief coastal warden.

Jurisdiction of Offenses. Search and Seizure. Stopping of Vehicles.

Sec. 138. Vehicles required to stop on signal.—It shall be unlawful for the operator of a boat, motor vehicle or other vehicle or conveyance of any kind to fail or refuse to stop any such boat, motor vehicle or other vehicle or conveyance of any kind and stand by for inspection upon request or signal of a coastal warden in uniform.

(1955, c. 333, § 5.)

Effect of amendment.—The 1955 amendment substituted "or" for "to" between the words "fail" and "refuse" in line three of

the first paragraph. As the second paragraph was not changed, it is not set out.