

MAINE STATE LEGISLATURE

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STATE OF MAINE

12 MRSA § 2401

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Inter-Departmental Memorandum Date September 17, 1976

To Ralph C. Will, Business Manager

Dept. Inland Fisheries & Wildlife

From Cabanne Howard, Assistant

Dept. Attorney General

Subject Exchange of a Nonresident 15-Day Fishing License for a Resident Season Fishing License

You have asked whether a holder of a nonresident 15-day fishing license may exchange such license for a resident fishing license upon payment of a 50¢ fee, or whether such license exchanges are not permitted by law, requiring the holder of the former to pay the full \$7.50 fee for the latter.

The answer to your question is that, taking into consideration the entire scheme of licenses and license fees set forth in 12 M.R.S. §2401-B, the nonresident 15-day license may be exchanged for the resident license upon payment of the 50¢ fee only. That scheme, in relevant part, is as follows:

"B. Resident Fishing \$7.50

C. Resident or nonresident 3-day fishing. \$7.50

Any resident of the State who procures a 3-day license may exchange the same for an annual resident fishing license in the town in which he resides upon the payment of 50¢ to the clerk or issuing agent.

* * *

E. Nonresident 15-day fishing \$15.50

F. Nonresident season fishing \$25.50

G. A 15-day license may be exchanged for an annual license upon the additional payment of \$10.50."

In the situation which give rise to your question, a resident of the State, being away from home and wishing to fish for more than three but less than fifteen days, purchased a nonresident license for \$15.50. He then sought to convert this into a resident season license upon his return home, but has run afoul of the fact that the statute appears to make no provision for the exchange of a nonresident license for a resident license, sections C and G thereof concerning themselves with resident-resident and nonresident-nonresident exchange respectively.

In our view, however, the statute should be construed liberally so as to give effect to the obvious Legislative intention. It is clear from the scheme that the Legislature intended to make it possible for persons to convert whatever temporary license they may hold to a

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permanent license upon payment of the difference in price between the two, plus a 50¢ clerk's fee. Thus, a holder of a 3-day resident temporary license may convert it into a permanent license upon payment of 50¢ only since the price of the two licenses are the same (\$7.50). Similarly, the holder of a nonresident fifteen day license may convert it into a permanent license upon payment of \$10.50, \$10 being the difference in price between the two, plus the usual 50¢ fee. There would appear to be no reason why this same approach should not be followed in the odd situation of a Maine fisherman who has already paid for a temporary license twice what a resident license costs. In fact, though you do not ask the question, it is even conceivable that in a state as large as Maine (where people may travel several hundreds of miles from their residences for a fishing trip of longer than three days), it may be unconstitutional for the Legislature to accord temporary permits to nonresidents for up to fifteen days, while restricting similar permits to residents to only three days. Accordingly, we cannot interpret the statute in such a way as might compound discrimination of such doubtful constitutionality.



CABANNE HOWARD

Assistant Attorney General