

# MAINE STATE LEGISLATURE

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# ONE - HUNDREDTH LEGISLATURE

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## Legislative Document

No. 302

H. P. 207

House of Representatives, January 12, 1961.

Referred to Committee on Sea and Shore Fisheries. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Pike of Lubec.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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### AN ACT to Correct Errors and Omissions in Sea and Shore Fisheries Public Laws.

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

**Sec. 1. R. S., c. 37-A, § 16, amended.** Section 16 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**'Sec. 16. Closing of contaminated flats; regulations.** The following provisions apply to contaminated or polluted shores, **waters** or flats:

**I. Commissioner of Sea and Shore Fisheries to close flats on certificate of Commissioner of Agriculture.** The Commissioner of Sea and Shore Fisheries shall close contaminated or polluted shores, **waters** or flats in accordance with the provisions of this section when the Commissioner of Agriculture certifies to him in writing the following:

**A.** That the Commissioner of Agriculture has examined certain shores, **waters** or flats, or has caused them to be examined.

**B.** That pursuant to that examination clams, quahogs, oysters, mussels or other marine mollusks have been found to be contaminated or polluted and are not in conformity with regulations promulgated by the Commissioner of Agriculture or are not in conformity with the standards recommended by the United States Public Health Service.

**II. Commissioner to pass regulation; procedure.** The Commissioner of Sea and Shore Fisheries shall close the shores, **waters** or flats specified in the certificate to all digging or taking of clams, quahogs, oysters, mussels and other

marine mollusks by immediately passing a regulation to that effect without a hearing and subject to the following provisions:

**A.** The Commissioner of Sea and Shore Fisheries shall state in the regulation the reason why the flats, **waters** or shores are closed, and the area which is closed.

**B.** The Commissioner of Sea and Shore Fisheries shall file a copy of the regulation, certified by him, with the Secretary of State and with the clerk of Superior Court in each county where the closed shores, **waters** or flats are located.

**C.** After the Commissioner of Sea and Shore Fisheries has complied with ~~the provisions of~~ paragraph B, he shall cause the regulation to be published once in a newspaper published in the county where the shores, **waters** or flats to be closed are located, or

1. If the shores, **waters** or flats to be closed are located in more than one county, the regulation may be published once in a newspaper or combination of newspapers having general circulation in each county where the shores, **waters** or flats are situated.

**D.** The regulation is effective and has the force of law on the day following the newspaper publication.

**III. Possession unlawful.** It is unlawful to possess any clams, quahogs, mussels or other marine mollusks which were taken or dug from any shores, **waters** or flats which are closed by a regulation of the commissioner.

**IV. Digging unlawful.** It is unlawful to dig or take any clams, quahogs, mussels or other marine mollusks from any shores, **waters** or flats which are closed by a regulation of the commissioner.'

**Sec. 2. R. S., c. 37-A, § 20, sub-§ I, ¶ B, amended.** Paragraph B of subsection 1 of chapter 20 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'**B.** A regulation may only limit the ~~takings~~ **taking** of Atlantic salmon in one or more of the following methods:

1. The time when taken;
2. The method by which taken;
3. The number taken;
4. The weight taken.'

**Sec. 3. R. S., c. 37-A, § 31, sub-§ V, amended.** Subsection V of section 31 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

'**V. Unlawful to buy, sell or transport herring from unsealed hold.** It is unlawful for any person, firm or corporation to **buy, sell or transport** any herring for processing purposes from **or in** the hold of any boat which has not been measured and sealed as provided in this section.'

**Sec. 4. R. S., c. 37-A, § 38, repealed.** Section 38 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959 and which relates to making drags illegal in part of Bluehill Bay, is repealed.

**Sec. 5. R. S., c. 37-A, § 43, sub-§ II, amended.** Subsection II of section 43 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**‘II. General scope of license.** The licensee is entitled to take all species of fish from the tidal waters of the State when and where it is otherwise lawful to take them, except shellfish, lobsters, **crabs** or scallops.’

**Sec. 6. R. S., c. 37-A, § 44, sub-§ II, amended.** Subsection II of section 44 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**‘II. General scope of license.** The licensee is entitled to take all species of fish from the tidal waters of the State when and where it is otherwise lawful to take them, except shellfish, lobsters, **crabs** or scallops.’

**Sec. 7. R. S., c. 37-A, § 53, amended.** The first sentence of section 53 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

‘It is unlawful for any person, firm or corporation to ship or transport, **or attempt to ship or transport**, beyond the limits of this State any soft-shell clams, quahogs or mussels, whether removed from the shell or not, or to cause the same to be done, without having a current license from the commissioner as provided in this section.’

**Sec. 8. R. S., c. 37-A, § 56, sub-§ II, amended.** Subsection II of section 56 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**‘II. Illegal to ship or transport unlabelled containers or attempt to do so.** It is unlawful for any person, firm or corporation to ship or transport, **or attempt to ship or transport**, clams, quahogs and mussels from a place within the State to a place outside the State, or cause the same to be done, unless the containers are marked as provided in this section, or the shellfish are being transported in hermetically sealed containers.’

**Sec. 9. R. S., c. 37-A, § 66, sub-§ IV, ¶ B, amended.** Paragraph B of subsection IV of section 66 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**‘B.** A veteran of World War II or the Korean War who is honorably discharged, honorably separated or retired from active service in the armed forces may apply for a license if he has been a legal resident of this State for at least one year at any time prior to the date of his application, **and is a legal resident of this State at the time of his application.**’

**Sec. 10. R. S., c. 37-A, § 68, amended.** Section 68 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**'Sec. 68. Legal length of lobsters; double gauge measure.** The commissioner shall provide a measure, designated as the state double gauge lobster measure, for determining the legal length of lobsters. The commissioner shall cause one gauge on the measure to be  $3 \frac{3}{16}$  inches in length and the other  $5 \frac{3}{16}$  inches in length. No evidence concerning the legal length of any lobster is admissible in any court in the State in any manner unless the legal length of the lobster has been determined by such a measure. The commissioner shall sell the measures at cost on request of any person who is the holder of a lobster and crab fishing license or who is licensed to handle or process lobsters in any manner.

**I. Short lobsters illegal; method of measurement; penalty.** It is unlawful for any person to buy, sell, expose for sale, give away, transport or have in possession any lobster, alive or dead, cooked or uncooked, which is less than  $3 \frac{3}{16}$  inches in length as determined by the state double gauge lobster measure by measuring 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.

**A.** And whoever does so shall be punished by a fine of \$10 and in addition by a fine of \$5 for each such lobster involved, or by imprisonment for not more than 90 days, or by both.

**II. Long lobsters illegal; method of measurement; penalty.** It is unlawful for any person to buy, sell, expose for sale, give away, transport or possess any lobster, alive or dead, cooked or uncooked, which is more than  $5 \frac{3}{16}$  inches in length as determined by the state double gauge lobster measure by measuring 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.

**A.** And whoever does so shall be punished by a fine of \$10 and in addition by a fine of \$25 for each such lobster involved, or by imprisonment for not more than 90 days, or by both.

**III. Exception if lobster immediately liberated alive when caught.** If any lobster which is shorter than  $3 \frac{3}{16}$  inches in length, or longer than  $5 \frac{3}{16}$  inches in length, as determined by the method of measuring provided in subsections I and II, or is mutilated in such a manner as to make accurate measurement impossible, is immediately liberated when caught, the person who so liberates the lobster is excused from the unlawful possession of that lobster.

**IV. Mutilated lobsters illegal; penalty.** It is unlawful to possess any lobster, or part thereof, alive or dead, cooked or uncooked, which is mutilated in such a manner as to make accurate measurement impossible.

**A.** And whoever does so shall be punished by a fine of \$25 for each such lobster involved, or by a fine of not more than \$100 if the number of lobsters cannot be determined, or by imprisonment for 90 days, or by both.

**V. Maximum length to change January 1, 1960.** The maximum legal length of lobsters as provided in this section is effective only until Janu-

~~ary 1, 1960, at which time the maximum legal length becomes 5 inches instead of 5  $\frac{3}{16}$  inches.'~~

**Sec. 11. R. S., c. 37-A, § 73, amended.** The first sentence of section 73 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended to read as follows:

**'It is unlawful for any person, except a Maine coastal warden, the rightful owner, or a person having written permission from the rightful owner, to raise, lift, transfer or in any manner to molest any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs, regardless who set the pot, trap, car or other contrivance.'**

**Sec. 12. R. S., c. 37-A, § 82, sub-§ IV, amended.** Subsection IV of section 82 of chapter 37-A of the Revised Statutes, as enacted by section 1 of chapter 331 of the public laws of 1959, is amended by adding at the end, a new sentence, as follows:

**'Certificates for the proof of those regulations are provided in section 22.'**