

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 601

H. P. 420

House of Representatives, February 2, 1967

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Lowery of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Include Oysters in Shellfish Shipping and Shucking Laws.

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

Sec. 1. R. S., T. 12, § 4306, amended. The first paragraph of section 4306 of Title 12 of the Revised Statutes 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, **oysters** 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. 2. R. S., T. 12, § 4306, sub-§ 3, amended. The first paragraph of subsection 3 of section 4306 of Title 12 of the Revised Statutes is amended to read as follows :

It is unlawful for any person, firm or corporation to transport or cause to be transported beyond the limits of this State, any clams, quahogs, **oysters** or mussels, except those which have been procured from the holder of a current shellfish certificate.

Sec. 3. R. S., T. 12, § 4306, sub-§ 4, amended. The first paragraph of subsection 4 of section 4306 of Title 12 of the Revised Statutes is amended to read as follows :

The holder of a current wholesale seafood dealer's and processor's license may ship, but not transport, clams, quahogs, **oysters** and mussels beyond the limits of the State without having an interstate shellfish transportation license, but not without having a shellfish certificate as provided by section 4309.

Sec. 4. R. S., T. 12, § 4306, sub-§ 5, amended. Subsection 5 of section 4306 of Title 12 of the Revised Statutes is amended to read as follows:

5. Common carrier and other exceptions. This section does not apply to a common carrier licensed by the Interstate Commerce Commission who is transporting clams, quahogs, **oysters** or mussels in containers labelled in accordance with section 4353, nor to any person who lawfully possesses them for immediate consumption by himself and his family, nor does this section apply to clams, quahogs, **oysters** or mussels that are being transported through this State under authority of the laws of the United States.

Sec. 5. R. S., T. 12, § 4307, amended. The first two paragraphs of section 4307 of Title 12 of the Revised Statutes are amended to read as follows:

It is unlawful for any person, firm or corporation to shuck any clams, quahogs, **oysters** or mussels for sale to stores, restaurants or other dealer in the intrastate trade, or cause the same to be done, without having a current permit for that purpose from the commissioner.

It is unlawful for any person, firm or corporation to buy or take from any person any clams, quahogs, **oysters** or mussels, removed from the shell for the purpose of serving them in any restaurant or selling them in any store, or to any other dealer in this State, unless the shellfish are in containers marked with the intrastate shellfish permit number under which they were shucked.

Sec. 6. R. S., T. 12, § 4307, sub-§ 1, amended. Subsection 1 of section 4307 of Title 12 of the Revised Statutes is amended to read as follows:

1. Application. Any person, firm or corporation may make application on blanks furnished by the commissioner for a shellfish shucker's permit giving authority to shuck and remove clams, quahogs, **oysters** and mussels from the shell for sale to stores, restaurants or other dealer in the intrastate trade. Each application must contain the following:

A. It must be signed by the applicant.

B. It must show the exact location of the flats, **or waters if the shellfish are oysters**, from which the clams, quahogs, **oysters** and mussels are to be dug **or taken**.

C. It must show the exact location within the State of the shucking house where the shellfish will be removed from the shell.

D. It must bear all the names of all the persons who will dig **or take** the clams, quahogs, **oysters** and mussels that are to be shucked by the applicant.

Sec. 7. R. S., T. 12, § 4307, sub-§ 4, amended. Subsection 4 of section 4307 of Title 12 of the Revised Statutes is amended to read as follows:

4. Authorization of holder. The permit entitles the holder to shuck clams, quahogs, **oysters** and mussels for intrastate trade at the shucking house specified in the permit which are dug in the flats **or taken from the waters** specified in the permit and are dug **or taken** by the persons specified in the permit.

Sec. 8. R. S., T. 12, § 4307, sub-§ 6, amended. The first paragraph of sub-

section 6 of section 4307 of Title 12 of the Revised Statutes is amended to read as follows:

The commissioner may suspend for any period of time any permits issued by him, or the right to obtain a permit whenever he determines that any of the provisions of law or regulations governing the shipment or transportation of clams, quahogs, **oysters** or mussels, or the provisions of law or regulations governing establishments where the clams, quahogs, **oysters** or mussels are shucked have been violated.

Sec. 9. R. S., T. 12, § 4307, sub-§ 7, ¶ A, amended. Paragraph A of subsection 7 of section 4307 of Title 12 of the Revised Statutes is amended to read as follows:

A. The location of the flats, or waters if the shellfish are oysters, where the shellfish are dug or taken and the amounts dug or taken in each location.

Sec. 10. R. S., T. 12, § 4309, amended. The first paragraph of section 4309 of Title 12 of the Revised Statutes is amended to read as follows:

It is unlawful for any person, firm or corporation to ship beyond the limits of this State and soft-shell clams, quahogs, **oysters** or mussels, whether the same have been removed from the shell or not, or to sell such shellfish to another for shipment or transportation beyond the limits of the State, or to cause the same to be done, without having a current shellfish certificate from the commissioner as provided in this section.

Sec. 11. R. S., T. 12, § 4309, sub-§ 1, ¶¶ B and C, amended. Paragraphs B and C of subsection 1 of section 4309 of Title 12 of the Revised Statutes are amended to read as follows:

B. It must show the names of persons licensed to fish, dig or take and sell clams, quahogs, **oysters** and mussels, if any, from whom such shellfish in the shell are to be procured by the applicant.

C. It must show the name of the persons holding shucking certificates, if any, from whom shucked soft-shell clams, quahogs, **oysters** or mussels are to be procured by the applicant.

Sec. 12. R. S., T. 12, § 4309, sub-§ 2, ¶¶ B and C, amended. Paragraphs B and C of subsection 2 of section 4309 of Title 12 of the Revised Statutes are amended to read as follows:

B. The certificate must designate the persons from whom clams, quahogs, **oysters** and mussels in the shell may be procured for interstate shipment or transportation.

C. The certificate must show from whom soft-shell clams, quahogs, **oysters** and mussels that have been shucked or removed from the shell may be procured for interstate shipment.

Sec. 13. R. S., T. 12, § 4309, sub-§ 3, ¶ A, amended. Paragraph A of subsection 3 of section 4309 of Title 12 of the Revised Statutes is amended to read as follows:

A. The location of the flats, or waters if the shellfish are oysters, where the shellfish were dug or taken and the amounts dug or taken in each location.

Sec. 14. R. S., T. 12, § 4309, sub-§ 6, amended. Subsection 6 of section 4309 of Title 12 of the Revised Statutes is amended to read as follows:

6. Unlawful to ship shellfish not procured from persons named in certificate. It is unlawful for the holder of a shellfish certificate to ship any clams, quahogs, oysters or mussels beyond the limits of the State unless they are procured from a person named in the shellfish certificate for that purpose.

Sec. 15. R. S., T. 12 § 4310, amended. The first 3 paragraphs of section 4310 of Title 12 of the Revised Statutes are amended to read as follows:

It is unlawful for any person, firm or corporation to pack any clams, quahogs, oysters or mussels, whether or not removed from the shell or to shuck or remove from the shell any clams, quahogs, oysters or mussels for shipment or transportation beyond the limits of the State, or to cause the same to be done, without first having a current certificate for that purpose from the commissioner as provided in this section.

It is unlawful for any person, firm or corporation to buy or take from any person any clams, quahogs, oysters or mussels which have been packed, whether or not they have been removed from the shell, for shipment or transportation beyond the limits of the State, or cause the same to be done, unless the clams, quahogs, oysters and mussels were packed in a packing house or shucking house certified by the commissioner at the time they were packed.

It is unlawful for any person, firm or corporation to buy, or take from any person any shucked clams, quahogs, oysters or mussels for shipment or transportation beyond the limits of the State, or to cause the same to be done, unless the clams, quahogs, oysters and mussels were shucked in a shucking house certified by the commissioner at the time of the shucking.

Sec. 16. R. S., T. 12, § 4310, sub-§ 1, amended. Subsection 1 of section 4310 of Title 12 of the Revised Statutes is amended to read as follows:

1. Application. Any person, firm or corporation may make application on blanks furnished by the commissioner for a shellfish packer's or shucker's certificate giving authority to pack or to shuck and remove clams, quahogs, oysters and mussels from the shell for shipment or transportation beyond the limits of the State. Each application must contain the following:

A. It must be signed by the applicant.

B. It must show the exact location of the flats, or waters if the shellfish are oysters, from which the clams, quahogs, oysters and mussels are to be dug or taken.

C. It must show the exact location within the State of the packing house where the shellfish will be packed or the shucking house where the shellfish will be removed from the shell.

D. It must bear all the names of all the persons who will dig or take the

clams, quahogs, **oysters** and mussels that are to be packed or shucked, and shipped by the applicant beyond the limits of the State.

Sec. 17. R. S., T. 12, § 4310, sub-§§ 3, 4 and 6, amended. Subsections 3, 4 and 6 of section 4310 of Title 12 of the Revised Statutes are amended to read as follows:

3. Contents of certificate. The certificate must bear a number and designate by local name the areas from which clams, quahogs, **oysters** and mussels may be taken, packed or shucked, transported, shipped or sold by the applicant.

It must bear the names of all persons who will dig **or take** the shellfish that are to be packed or shucked.

4. Authorization of holder. The certificate entitles the holder to either pack or shuck or both as specified in the certificate, clams, quahogs, **oysters** and mussels for interstate trade at the packing or shucking house specified in the certificate which are dug in the flats specified in the certificate, **or taken from the waters specified in the certificate if the shellfish are oysters**, and are dug **or taken** by the person specified in the certificate.

6. Suspension of certificate. The commissioner may suspend for any period of time any certificates issued by him, or the right to obtain a certificate, whenever he determines that any of the provisions of law or of regulations governing the shipment or transportation of clams, quahogs, **oysters** or mussels, or the provisions of law or regulations governing establishments where the clams, quahogs, **oysters** or mussels are shucked or packed, have been violated.

Sec. 18. R. S., T. 12, § 4310, sub-§ 7, ¶ A, amended. Paragraph A of subsection 7 of section 4310 of Title 12 of the Revised Statutes is amended to read as follows:

A. The location of the flats, **or waters if the shellfish are oysters**, where the shellfish are dug **or taken** and the amounts dug **or taken** in each location;

Sec. 19. R. S., T. 12, § 4353, amended. The first paragraph of section 4353 of Title 12 of the Revised Statutes is amended to read as follows:

All containers, except hermetically sealed containers, used in the shipment or transportation of clams, quahogs, **oysters** or mussels from a place within the State to a place outside the State must bear a label as provided in this section:

Sec. 20. R. S., T. 12, § 4353, sub-§ 1, ¶¶ C and E, amended. Paragraphs C and E of subsection 1 of section 4353 of Title 12 of the Revised Statutes are amended to read as follows:

C. The words "Clams," "Quahogs," "**Oysters**" or "Mussels," whichever the the containers hold;

E. The name of the municipality in which the clams, quahogs, **oysters** or mussels were dug **or taken**.

Sec. 21. R. S., T. 12, § 4353, sub-§ 2, amended. Subsection 2 of section 4353 of Title 12 of the Revised Statutes is amended to read as follows:

2. **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, oysters 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.