

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 202

H. P. 147

House of Representatives, January 19, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Lewis of Bristol.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Clarify the Sea and Shore Fisheries Laws.

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

Sec. 1. R. S., T. 12, § 3752, sub-§ 6, amended. Subsection 6 of section 3752 of Title 12 of the Revised Statutes, as amended by section 1 of chapter 535 of the public laws of 1969, is further amended to read as follows:

6. **Suspension when judgment of guilt appealed.** When an appeal has been taken from any judgment of guilt of any violation of any provisions of chapters 401 to 417, or of any regulation adopted under authority of chapters 401 to 417, the commissioner may **after hearing** suspend, until final court disposition, the license, permit or right thereto of the respondent to conduct the particular activity in which he was engaged at the time of the alleged violation, and the commissioner may suspend for the same period any and all licenses and permits held by the respondent, and any and all rights he has to obtain such licenses or permits.

A. ~~A person, whose license, permit or right is suspended under this section, is entitled to a hearing upon written request to the commissioner. The commissioner shall set a time and place for said hearing which is to be held within 20 days after receipt by him of the request.~~

~~(1) At the hearing the person applying for reinstatement of his license, permit or right may present any relevant facts concerning the alleged violation.~~

~~(2) The commissioner may reinstate the license, permit or right if he is satisfied to do so would be in the interest of justice.~~

A. At the hearing the respondent may present any relevant facts concerning the alleged violation.

B. Should the respondent after notice fail to appear at the hearing, the commissioner may immediately suspend the respondent's license or permit to conduct the particular activity and may suspend for the same period any and all licenses and permits held by the respondent and any and all rights he has to obtain such licenses or permits.

Sec. 2, R. S., T. 12, § 4454, sub-§ 6, amended. Subsection 6 of section 4454 of Title 12 of the Revised Statutes, is amended to read as follows:

6. Exception for holder of wholesale seafood dealer's and processor's license. The holder of a wholesale seafood dealer's and processor's license may possess lobster meat from other states and countries in containers which have not been marked as provided in this section if he meets all the requirements of section ~~4456~~, ~~subsection 2~~ 4455.

STATEMENT OF FACT

Section 1, section 3752, sub-§ 6 - we have been advised by Judges and the Attorney General's Department that the Maine Constitution implies that a hearing should be held on a license suspension prior to the suspension. The intent of this amendment is to reverse our present section and allow the Commissioner of Sea and Shore Fisheries to hold a hearing with the respondent before suspension.

Section 2, section 4454, sub-§ 6 - section 4454, subsection 6 makes reference to section 4456. Section 4456 was repealed by public law 1969, chapter 408, section 6. The intent is to clarify section 4454 and make reference of it to the appropriate section 4455.