

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 1239**

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H. P. 901

House of Representatives, March 2, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Simpson of Standish.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT Relating to Fish and Fisheries Product Inspection.

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

Sec. 1. R. S., T. 12, § 4302, sub-§ 2, §§ C and D, repealed. Paragraphs C and D of subsection 2 of section 4302 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 513 of the public laws of 1969, are repealed.

Sec. 2. R. S., T. 12, § 4032-B, additional. Title 12 of the Revised Statutes is amended by adding a new section 4302-B to read as follows:

§ 4302-B. Fishery inspection regulated

1. Definitions. As used in this section, except if otherwise specified, the following terms shall have the meanings stated below:

A. Agent. "Agent" shall mean the person designated by the commissioner to represent him in carrying out this section.

B. Commissioner. "Commissioner" shall mean the Commissioner of Sea and Shore Fisheries.

C. Fish. "Fish" means any marine animal or marine species, or part thereof, capable of use as human food, including any species of oyster, clam, mussel or quahog, either shucked or in the shell, fresh, frozen or processed.

D. Fishery product. "Fishery product" shall mean any product capable of use as human food which is made wholly or in part from any fish or part thereof.

E. Establishment. "Establishment" shall mean the premises, buildings, structures, facilities and equipment, including vehicles, used in the processing of fish and fishery products.

F. Process. "Process, processed and processing" shall mean harvesting, handling, storing, preparing, producing, manufacturing, preserving, packing, transporting, holding or selling thereof.

2. Duties of commissioner. The commissioner, at his discretion, shall by regulation prescribe minimum standards for establishments and for sanitation and quality control of the processing of fish and fishery products. Each set of regulations shall be based upon the particular operational requirements of that species or phase of the industry being regulated and shall conform to the latest state or federal standards available.

The commissioner shall adopt such regulations after public hearing. Notice of the public hearing must be published, once at least, 7 days before the hearing, in the state paper. The regulations adopted after the hearing must be published in the state paper 7 days before they become effective. They may be amended or repealed at any time by the commissioner after like notice, hearing and publication.

The commissioner shall, in accordance with the most modern public health and food protection practices, establish and maintain effective surveillance and inspection of all segments of the industry for which there is any regulation adopted under authority of this section.

The commissioner shall cooperate with other state or federal department heads or agencies to develop memorandums of understanding detailing duties and obligations of each, so that duplication, confusion and waste will not occur. He may enter into cooperative agreement with any state or federal agency and accept funds whenever he determines that it would effectuate the purpose of this section.

The commissioner or his agent shall have the right to temporarily suspend or revoke the right to process fish or fishery products at any establishment or to detain any fish or fishery products at any establishment for a period not to exceed 24 hours, whenever it is determined that any provision of this section or any regulation adopted under authority of this section is being or has been violated.

3. Certificates, permits, authorizations. After the effective date of any regulation adopted under authority of this section, no person, firm or corporation shall process in or for either interstate or intrastate commerce any fish or fishery product in any establishment, governed by that regulation, unless there is in effect for such establishment an annual, valid, current, certificate, permit or authorization issued by the commissioner.

4. Application. The application for such certificate, permit or authorization shall bear such information as may be required by regulation.

Any person, firm or corporation may make application on blanks furnished by the commissioner in accordance with the regulations governing that fish or fishery product which the applicant desires to process.

5. Issuance of certificates, permits, authorizations. The commissioner may issue any certificate, permit or authorization if he is satisfied that the

applicant has complied with the requirements of the law as set forth in this section, and all regulations adopted under authority of this section. The certificate, permit or authorization shall bear such information as set forth in the regulations governing the processing of the fish or fishery product for which said certificate, permit or authorization was issued.

6. Authorization of holder. The certificate, permit or authorization entitles the holder to engage in the processing of any fish or fishery product for which that specific certificate, permit or authorization was issued and at the exact location or address of the establishment listed on the certificate, permit or authorization.

7. Expiration of certificates, permits, authorizations. All certificates, permits or authorizations issued under this section expire at midnight on December 31st of the calendar year in which they were issued, unless sooner revoked or suspended.

8. Suspension, revocation, denial of certificates, permits, authorizations. The commissioner may suspend, revoke or deny for any period of time any certificate, permit or authorization issued by him, or the right to obtain one, whenever he determines that any of the provisions of law or regulation governing the processing of fish or fishery products and establishments or laws of the State of Maine have been violated.

9. Right of hearing. Any person, firm or corporation denied a certificate, permit or authorization under this section may request a hearing with the commissioner, to show cause why the particular certificate, permit or authorization should not be denied.

Any person, firm or corporation found to be in violation of any of the provisions of this section or any regulation adopted under authority of this section or who continues to violate any portion shall be requested to appear at a hearing with the commissioner at such time and place as he shall designate, to show cause, if any, why the particular certificate, permit or authorization should not be suspended.

A. At the hearing, the person, firm or corporation may present any relevant facts concerning the alleged violation.

B. After the hearing, the commissioner may suspend or revoke the particular certificate, permit or authorization, if he is satisfied that the facts and conclusions justify such action.

C. Should the person, firm or corporation fail to appear at the hearing, as designated by the commissioner, the commissioner may act immediately to suspend or revoke the particular certificate, permit or authorization or the right to obtain any.

10. Right of entry. The commissioner or his agent, whenever fish or fishery products are being processed at any establishment to which a certificate, permit or authorization has been issued under this section, shall have access to any establishment or part thereof for the purpose of inspection or

collection of samples. Denial of access shall be ground for suspension or revocation of any certificate, permit or authorization.

11. Reports. The holder of any certificate, permit or authorization issued under this section shall make a record of all purchases and sales of fish and fishery products covered by this section and shall file those records with the department as required by the regulations governing the processing of fish or fishery products.

12. Penalty. Whoever violates or continues to violate any provision of this section or regulation thereof after being denied a certificate, permit or authorization to process fish or fishery products, or whoever, after having had such certificate, permit or authorization revoked or suspended, continues to process any fish or fishery product shall be punished in accordance with section 3752, subsection 8. Each set of effective regulations may contain, at the commissioner's discretion, a separate and additional penalty.

Sec. 3. R. S., T. 12, § 4302-A, repealed. Section 4302-A of Title 12 of the Revised Statutes, as enacted by section 2 of chapter 513 of the public laws of 1969, is repealed.

Sec. 4. R. S., T. 12, §§ 4307 and 4310, repealed. Sections 4307 and 4310 of Title 12 of the Revised Statutes, as amended, are repealed.

#### STATEMENT OF FACT

This Act, replacing the above-mentioned paragraphs and sections, gives the Commissioner of Sea and Shore Fisheries the right to regulate the sanitation and quality of fish and fishery products through regulations, which may be revised, amended or drawn up as conditions require. Necessary and timely changes or additions may be made to the advantage of the industry and consumer, thus eliminating the requirement of awaiting a legislative session to correct what may be a serious problem.

The commissioner's authority is further expanded so that the department may enter into various phases of fish and fishery products inspection as may become necessary or requested, and to enter into cooperative agreements or develop memoranda of understanding with other state or federal agencies to avoid duplication of effort or accept assistance of either a physical or financial nature.