

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1449

H. P. 1058 House of Representatives, March 10, 1971
Referred to Committee on Legal Affairs. Sent up for concurrence and
ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Kelley of Southport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Revising the Harbor Master Law.

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

Sec. 1. R. S., T. 38, c. 1, sub-c. I, repealed and replaced. Subchapter I of chapter 1 of Title 38 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

SUBCHAPTER I
HARBOR MASTERS

§ 1. Appointment; compensation

Selectmen of towns may annually appoint a harbor master and deputy harbor masters as may be needed, who shall be subject to all the duties and liabilities of said office as prescribed by law, and in case of the failure or refusal of said harbor master or a deputy to perform said duties, he shall be removed from office. The selectmen may establish their compensation and may for cause by them declared in writing, after due notice to such officer and hearing thereon, if requested, remove him and appoint another in his stead.

A deputy may act only during the absence or disability of the harbor master or upon his order.

§ 2. Rules for channel lines; enforcement

The municipal officers of all towns and plantations having harbor masters shall make rules and regulations, after holding a public hearing thereon, with suitable provision for enforcement by the harbor master and his deputies, for

the keeping open of convenient channels for the passage of vessels in the harbors and waterways of the towns for which they act, and shall establish the boundary lines of such channels and assign suitable portions of their waters for anchorages.

Such rules and regulations as may be made by such municipal officers shall be enforced and carried out by the harbor master of said town or a deputy in his absence or disability or upon his orders, or any other law enforcement officer of the State or the sheriff or any of his deputies.

The harbor master, or a deputy in his absence or disability, or upon his order, shall have the authority to remove or order to be removed, from waters under his jurisdiction, any boat violating such rules and regulations or any laws of this State.

The municipality shall provide a penalty of not more than \$100 plus costs for the violation of each rule and regulation on complaint to the use of the municipality.

Whoever violates the orders of such harbor master or his deputy, or any other law enforcement officer of the State, or sheriff or any of his deputies, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25 nor more than \$1,000, or by imprisonment for not more than 60 days, or by both.

§ 3. Mooring sites

In all waters wherein channel lines have been established by the municipal officers, as provided in section 2, and in all other waters where mooring rights of individuals are claimed to be invaded and protection is sought of the harbor master, he shall assign and indicate to the master or owner of boats and vessels the location which they may occupy with or for mooring purposes, the kind of mooring to be used, and shall change the location of said moorings from time to time when the crowded condition of such waters or other conditions render such change desirable. He shall assign mooring privileges in such waters in all cases where individuals who own the shore rights or have an interest in the same are complainants, and shall locate suitable mooring privileges therefor for boats and vessels, temporarily or permanently as the case may be, fronting their land, if so requested, but not thereby to encroach upon the natural channel or channels established by the municipal officers.

Any person aggrieved by any such assignment of moorings may, within 5 days of notice thereof, appeal to the municipal officers, who shall review the same and make such orders relating to the assignment of moorings in disputes as they deem appropriate.

§ 4. Neglecting to remove or replace moorings

In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the harbor master or a deputy, said harbor master or deputy shall cause said mooring to be removed or shall make such change in the character thereof as required, and shall collect from the master or owner of such boat or vessel the sum of \$20 for either of such services

rendered and the necessary expenses. Said sum shall be given to the treasurer of the municipality for the use of the municipality.

A harbor master shall have the authority to order owners of moorings to remove or relocate, and he may remove or relocate the same. An appeal from any such order may be had as provided in section 3, but shall not stay the enforcement and execution of such order. In order to effect such removal or relocation, he shall have the authority to remove any boat or vessel secured to such mooring. He shall also have the authority to remove, or to order the owner or operator to remove, any boat or vessel secured to any mooring not the property of the owner of such boat or vessel. Before removing any boat or vessel, he shall allow the owner or operator one hour within which to remove the same, and if such boat or vessel requires a crew for its removal, and has no crew on board, he shall allow 2 hours for assembling a sufficient crew. Whoever neglects or refuses to obey the orders of such harbor master shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25 nor more than \$1,000, or by imprisonment for not more than 60 days, or by both.

§ 5. Removal of vessels obstructing anchorage

A harbor master shall, upon complaint to him by the master, owner or agent of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel to remove to a position to be designated by him, and to cause, without any complaint being made to him, any vessels anchoring within the channel lines as established by the municipal authorities as provided in section 2 to remove to such anchorage as he may designate. Whoever neglects or refuses to obey the orders of such harbor master shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$50 or by imprisonment for not more than 60 days, or by both.

If such vessel has no crew aboard, or if the master or other person in charge neglects or refuses to move such vessel as directed by the harbor master, then and in that case such harbor master may, after allowing 2 hours for the master or other person in charge to assemble a crew, put a suitable crew on board and move such vessel to a suitable berth at a wharf or anchorage at the cost and risk of the owners thereof, and shall charge \$20, to be paid by the master or owner of such vessel, which charge together with the cost of the crew for removing such vessel the harbor master may collect by civil action, to be paid to the treasurer of the municipality for the use of the municipality.

§ 6. Power to arrest for assault

Harbor masters and their deputies shall have the powers of constables within their towns in matters criminal or relating to the bylaws, ordinances and rules and regulations of the towns in which they are appointed, and may arrest any person committing an assault upon them or upon another person acting under their authority.

§ 7. Enforcement

If towns having common boundaries on a waterway enter into an interlocal agreement for the administration of their joint waters, and adopt joint rules and regulations and ordinances therefor, the law enforcement officers empowered to enforce this subchapter, or a harbor master or deputy appointed under such agreement in each town, or harbor master or deputy appointed under such agreement, shall have authority to enforce this subchapter in the waters of any of the signatory towns.

STATEMENT OF FACT

The purpose of this bill is to update the provisions of the harbor master law by clarifying the regulatory authority of municipalities, strengthening the powers of harbor masters and their deputies, providing for penalties for violations of municipal regulations and for neglect or refusal to obey the orders of harbor masters, to provide more efficient and safer use of municipal waters by boats and vessels.