

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1124

H. P. 850

House of Representatives, February 23, 1973

Referred to the Committee on Marine Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Lewis of Bristol.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Authorize the Commissioner of Sea and Shore Fisheries to Exercise Additional Authority in the Management of Alewife Fisheries, Shad, Smelt and Eels.

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

Sec. 1. R. S., T. 12, § 3708, amended. The first paragraph of section 3708 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 254 of the public laws of 1969, is repealed and the following enacted in place thereof:

The Commissioner of Sea and Shore Fisheries is authorized to develop, manage or lease alewife fishing rights in accordance with this section.

Sec. 2. R. S., T. 12, § 3708, sub-§ 1, repealed and replaced. Subsection 1 of section 3708 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 254 of the public laws of 1969, is repealed and the following enacted in place thereof:

1. Alewife rights. The commissioner shall grant the right to take alewives, exclusive or otherwise, to any municipality entitled to such rights on January 1, 1973 and may grant the right to take alewives to any municipality, provided:

A. Any municipality that has had the right to the taking of alewives, exclusive or otherwise, or is granted the right by the department, must take action through its legislative body on those rights and file a copy of such action with the Commissioner of Sea and Shore Fisheries prior to April 1st of any calendar year or lose the right to the taking of alewives during that calendar year and for the following calendar year. Rights in existence on January 1, 1973 which are not exercised for 3 consecutive years shall lapse.

B. The municipality, at its annual meeting, may determine by vote whether the alewife fishing in previously designated waters shall be operated by the municipality through its elected officials or a committee appointed for that purpose, or the privilege offered for sale by said officials or committee; and likewise may provide for regulations compatible with good conservation practices, to govern the time when and the manner in which alewives shall be taken therein. There shall be a 24-hour weekly closed season on alewives in all such waters from sunrise on each Saturday morning until sunrise on the following Sunday morning and traps, weirs or other fishing gear used for the taking of alewives will be modified to provide for upstream movement of alewives during that period. Municipalities which make other provisions, approved by the commissioner, for escapement of spawning alewives shall be exempt from the 24-hour closure.

C. Whenever such regulations are thus provided for, they shall be promulgated by the elected officials of the municipality and a copy of the same filed immediately with the clerk of said municipality and the Commissioner of Sea and Shore Fisheries.

D. If in any years a municipality that has had the rights on January 1, 1973 fails to act as provided for, the taking of alewives in said waters shall be in accordance with the provisions of the general laws of the State and any regulations adopted under authority of this section shall be enforced by the municipal officers of the town.

E. If, after thorough investigation, it is the opinion of the Commissioner of Sea and Shore Fisheries that the municipality is not following sound conservation principles in its management of the fishery, said commissioner shall notify the municipal officials of his findings and they shall take immediate corrective measures to prevent destruction of the fishery.

Sec. 3. P. & S. L., 1959, c. 154, c. B, § 1, repealed. Section 1 of chapter B of chapter 154 of the private and special laws of 1959 is repealed.

Sec. 4. P. & S. L., 1959, c. 155, amended. Sections 6, 7, 10, 35, 37, 39, 41, 44, 45, 55, 56, 62, 63, 65-67, 76, 77, 79, 104, 105, 107, 110-112, 115, 124 and 125, all of chapter 155 of the private and special laws of 1959 are repealed.

Sec. 5. P. & S. L., 1959, c. 155, amended. Section 36-A, as enacted by chapter 26 of the private and special laws of 1963 and as amended; the first 4 paragraphs of section 42, as amended; section 44-A, as enacted by chapter 55 of the private and special laws of 1965; section 67-A, as enacted by chapter 43 of the private and special laws of 1961 and as amended by chapter 39 of the private and special laws of 1969; section 76-A, as enacted by chapter 11 of private and special laws of 1967; section 78, as amended by chapter 166 of the private and special laws of 1961; section 103-A, as enacted by chapter 167 of the private and special laws of 1965; section 108, as repealed and replaced by chapter 179 of the private and special laws of 1961; and section 108-A, as enacted by chapter 58 of the private and special laws of 1965, all of chapter 155 of the private and special laws of 1959 are repealed.

Sec. 6. Regulations. The commissioner shall make regulations governing the taking of shad, smelts and eels in accordance with the Revised Statutes.

Title 12, sections 3504 and 3505.

Sec. 7. Effective date. This Act shall take effect on January 1, 1974.

STATEMENT OF FACT

Twenty-seven coastal communities presently have exclusive rights to the taking of alewives within their respective town boundaries. They are governed by 27 separate, private and special laws which are essentially identical in form and intent. This general law will provide for a single flexible law to cover all town-controlled alewife fisheries with provisions to allow the Commissioner of Sea and Shore Fisheries to grant rights to municipalities or others in areas where rights are not presently existent. In areas where municipalities have failed to take action on their fishing privileges for 3 consecutive years, the Commissioner of Sea and Shore Fisheries will have an opportunity to grant unused privileges to others who may have an interest in the fishery.

The intent of repeal of special regulations on alewives, shad, smelt and eels is to provide for more uniform regulation and control of anadromous fish under the general laws of the State and regulation of the commissioner.