

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1740

H. P. 1310

House of Representatives, April 2, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Kelley of Southport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Allow Coastal Wardens to Inspect Licenses.

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

Sec. 1. R. S., T. 12, § 3751, sub-§ 8, additional. Section 3751 of Title 12 of the Revised Statutes, as amended by section 2 of chapter 33 of the public laws of 1965, is further amended by adding a new subsection 8 to read as follows:

8. License holder consents to inspection. Whoever applies for and is issued any license or permit by the commissioner shall be deemed to have given consent to the inspection and search of all his boats, vehicles and buildings, and any box, bag, barrel, car or other container found in his possession and which may be used in connection with the business, act or activity covered by the license or permit, and shall be deemed to have given consent to the seizure of any contraband and evidence therein found. No dwelling house may be searched without a search warrant, and then only in the daytime.

If a person refuses, upon the request of a law enforcement officer, to permit the inspection and search as provided above, then the commissioner, upon the receipt of a written statement under oath of the law enforcement officer stating that such person had refused to permit such inspection and search, shall immediately notify the person, in writing, by registered or certified mail, return receipt requested, that his license or permit have been suspended. Such suspension shall be for a period of the remainder of the license period and one additional year.

If such person desires a hearing, he may notify the commissioner within 10 days of the receipt of notice of his revocation, in writing, of such desire. Any suspension shall remain in effect pending the outcome of such hearing. The scope of such a hearing shall cover whether the individual was the holder of a

license or permit issued by the commissioner and whether he refused to permit inspection and search upon the request of a law enforcement officer. If it is determined after hearing that such person did not refuse to permit inspection and search, any suspension in effect shall be removed immediately. Such person shall have a right of appeal to the Superior Court in the county where he resides to review the order of suspension by the commissioner if such appeal is filed within 10 days of the commissioner's decision. Any suspension shall remain in effect pending the outcome of such appeal.

Sec. 2. R. S., T. 12, § 4551, sub-§ 1, ¶A, additional. Subsection 1 of section 4551 of Title 12 of the Revised Statutes, as last repealed and replaced by chapter 301 of the public laws of 1971, is amended by adding a new paragraph A, to read as follows:

A. Whoever applies for and is issued any license or permit by the commissioner shall be deemed to have given consent to the inspection and search of all his boats, vehicles and buildings, and any box, bag, barrel, car or other container found in his possession and which may be used in connection with the business act or activity covered by the license or permit, and shall be deemed to have given consent to the seizure of any contraband and evidence, as defined in section 4552, therein found. No dwelling house may be searched without a search warrant, and then only in the daytime. If a person refuses, upon the request of a law enforcement officer, to permit the inspection and search as provided above, then the commissioner, upon the receipt of a written statement under oath of the law enforcement officer stating that such person had refused to permit such inspection and search, shall immediately notify the person, in writing, by registered or certified mail, return receipt requested, that his license or permit have been suspended. Such suspension shall be for a period of the remainder of the license period and one additional year.

If such person desires a hearing, he may notify the commissioner within 10 days of the receipt of notice of his revocation, in writing, or such desire. Any suspension shall remain in effect pending the outcome of such hearing. The scope of such a hearing shall cover whether the individual was the holder of a license or permit issued by the commissioner and whether he refused to permit inspection and search upon the request of a law enforcement officer. If it is determined after hearing that such person did not refuse to permit inspection and search, any suspension in effect shall be removed immediately. Such person shall have a right of appeal to the Superior Court in the county where he resides to review the order of suspension by the commissioner if such appeal is filed within 10 days of the commissioner's decision. Any suspension shall remain in effect pending the outcome of such appeal.

STATEMENT OF FACT

This document would provide for a system of inspection for all holders of licenses or permits issued by the Commissioner of Sea and Shore Fisheries, giving the Coastal Warden Service the authority necessary to carry out their duties for the protection of the State's commercial fishing industry.