

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1759

H. P. 1295

House of Representatives, April 2, 1975

On Motion of Mr. Greenlaw of Stonington referred to Committee on Marine Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Post of Owls Head.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Clarify Definitions under the Marine Resources Statutes.

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

12 MRSA § 3401, as last amended by PL 1973, c. 663, § 1, is repealed and the following enacted in place thereof:

§ 3401. Definitions

Each word or term defined in this section has the meaning indicated in this section for the purposes of chapters 401 to 417, unless a different meaning is plainly required by the context.

1. Agent. "Agent" shall mean the person designated by the commissioner to represent him in carrying out his duties.

2. Angling. "Angling" means fishing with handline or rod with a live or artificially baited hook.

3. Atlantic salmon. "Atlantic salmon" means Atlantic sea run salmon.

4. Can, the verb. The verb "to can" means in all its moods and tenses to process or preserve food in hermetically sealed containers.

5. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide and the marine limits of the jurisdiction of the State; but it does not include waters within or above any fishway or dam when that fishway or dam is normally the dividing line between tide-water and fresh water, nor does it include waters above any tidal bound that has been legally established in streams flowing into the sea.

6. Commissioner. "Commissioner" means Commissioner of Marine Resources.

7. Conservation. "Conservation" means providing for the development and wise utilization of Maine's marine resources or protecting the ultimate supply for present and future generations or preventing waste or for implementing sound management programs.

8. Clam. "Clam" means a marine mollusk or shellfish commonly called a soft shell clam.

9. Closed season. "Closed season" means the time during which a particular species may not be caught or taken.

10. Consumer. "Consumer" shall mean an individual who buys any species of marine resources for his own consumption or that of members of his immediate family or invited guests.

11. Crawfish. "Crawfish" means those species of the family Palinuridae, including the representative genera Panulirus, Jasus and Palenurus which have been sometimes called by such terms as rock lobster, spiny lobster, sea crawfish, red lobster, thorny lobster, langoust, crayfish, Sidney crawfish, kreef, Cuban rock lobster or African lobster or African crawfish.

12. Cultivation. "Cultivation" means the artificial control or manipulation by man of any marine species at some stage of its life history for the purpose of increasing yield or improving quality.

13. Dealer. "Dealer" means any person who buys and sells or distributes any marine species.

14. Department. "Department" means Department of Marine Resources.

15. Division. "Division" when by the context it refers to part of chapters 401 to 417, means a part of a subparagraph. It is next in importance to a subparagraph. It is designated by a small letter in parentheses.

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

17. Fish, the noun. "Fish" shall mean 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.

18. Fish, the verb. The verb "to fish" in all of its moods and tenses means to take or attempt to take fish or other marine species by any method or means, whether or not the method or means results in their capture.

19. 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.

20. Fresh fish. "Fresh fish" means any fish which has not been smoked, pickled, cooked, canned or quick frozen.

21. **Hard shell clam.** "Hard shell clam" means that species of shellfish which is sometimes called a quahog.

22. **Held in the State of Maine.** "Held in the State of Maine" shall mean any shellfish processed in the State of Maine.

23. **Hermetically sealed.** "Hermetically sealed" means a container which has been made airtight by or as by fusion so that no air, gas or spirits can either enter or escape, whether or not the can is sterilized by heat, but does not include friction cover containers.

24. **Lobster car.** "Lobster car" means a box or other contrivance used in coastal waters, whether floating or sunken which is used for keeping lobsters which are alive.

25. **Marine and estuarine resources.** "Marine and estuarine resources" or "marine resources" means all renewable marine organisms, including fish, shellfish and marine plants, and the entire ecology and habitat supporting such marine organisms, unless otherwise provided by law.

26. **Marine Species.** "Marine species" includes all fish which usually inhabit salt water, all shellfish, lobsters, crabs, shrimps and marine worms, but is limited to the number and type of those species indicated by the context of the particular section where it is used.

27. **Marine worms.** "Marine worms" mean clam, sand and blood worms.

28. **Open season.** "Open season" means that time during which a particular species may lawfully be taken.

29. **Organism.** "Organism" means all fish, marine plants and other marine life.

30. **Paragraph.** "Paragraph," when by the context it refers to part of chapters 401 to 417, means a part of a subsection as defined in this section. It is next in importance to a subsection. It is designated by a capital letter. It includes all subparagraphs, as defined in this section, which are directly under it.

31. **Person.** "Person" shall mean any person, firm or corporation.

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

33. **Quahog.** "Quahog" means a species of shellfish which is often called a hard shell clam.

34. **Resident and residence.** "Resident and residence" each refer to domicile.

35. **Roadside vendor.** "Roadside vendor" shall mean all persons who sell, offer for sale, hold, buy, transport or serve shellfish from a vehicle.

36. **Salmon commission.** "Salmon commission" means Atlantic Sea Run Salmon Commission.

37. Seed clam. "Seed clam" means a soft shell clam which is less than 2 inches long in its longest diameter.

38. Seed quahog. "Seed quahog" means a hard shell clam which is less than 2 inches long in its longest diameter.

39. Shellfish. "Shellfish" means all marine mollusks except lobsters, crabs and shrimps.

40. Ship, the verb. The verb "to ship" in any of its moods and tenses means to send by a common carrier.

41. Soft shell clam. "Soft shell clam" means that species of shellfish which is often called a clam, and it does not include a quahog.

42. Species. "Species" means, as used in the laws and regulations administered by the Department of Marine Resources, the scientific name used in the classification of marine organisms.

43. Subparagraph. "Subparagraph," when by the context it refers to part of chapters 401 to 417, means a part of a paragraph as defined in this section. It is next in importance to a paragraph. It is designated by an Arabic numeral in parentheses. It includes all divisions, as defined in this section which are directly under it.

44. Subsection. "Subsection," when by the context it refers to part of chapters 401 to 417, means a part of a section. It is next in importance to a section. It is designated by an Arabic numeral. It includes all paragraphs, as defined in this section, which are directly under it.

45. Take, the verb. The verb, "to take" means to fish for, hunt for, pursue, capture or kill, or attempt to do any of those acts. It does not include harvesting of marine species that are cultivated by the commissioner or persons authorized by him to cultivate pursuant to chapters 401 to 417.

46. Territorial waters. "Territorial waters" means coastal waters as defined in this section.

47. Tidal waters. "Tidal waters" means coastal waters as defined in this section.

48. Transport, the verb. The verb "to transport" in all its moods and tenses means to move an object from one place to another by any means other than to ship as defined in this section.

49. Tuna. "Tuna" includes all species of fish known as tuna and includes that fish commonly called a horse mackerel.

50. Vehicle. "Vehicle" shall mean any device used for transportation.

51. Warden service. "Warden service" means coastal warden service which includes all coastal wardens regardless of rank, grade or position.

STATEMENT OF FACT

This bill clarifies certain definitions contained within the statutes relating to marine resources.