

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2192

H. P. 2010

In House of Representatives, February 6, 1976

Approved for Introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635 as amended. Referred to Committee on Marine Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Clarify the Laws Relating to Marine Resources.

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

Sec. 1. 12 MRSA § 3403, as repealed and replaced by PL 1975, c. 275, § 1, is amended to read:

§ 3403. The applicability of the marine resources law generally

All general laws of Maine fixing or regulating the minimum or maximum sizes of fish, shellfish or lobsters, regulating fishing methods, quantity and types of gear, regulating or prohibiting the sale, transportation or possession of fish, shellfish or lobsters, shall apply to all persons conducting the activities so regulated or prohibited where such activities or any portion thereof are conducted within the State of Maine, within the territorial waters of the State of Maine, or the product of such activities are brought into the State or into the territorial waters of the State, and shall apply to all residents of the State of Maine where such activities are conducted within waters adjacent to the territorial waters of Maine and under the jurisdiction of the United States but not another state, except as provided in this section.

1. Exception for wholesale dealer in certain instances; authority for regulations. This section does not apply to lobsters reconsigned intact in the original crates by a holder of a Maine wholesale seafood dealer's and processor's license to another such dealer if the crates are sealed in accordance with regulations adopted by the commissioner with materials furnished by him at cost.

A. The commissioner is authorized to adopt regulations to prescribe the time, manner and method of sealing crates for the effective operation of

this subsection. The regulations may contain provisions for inspection of the crates, contents and seals.

(1) The commissioner shall publish the regulation once in the state paper before it becomes effective.

(2) The commissioner shall furnish a copy of the regulations on request of the holder of a wholesale seafood dealer's and processor's license.

2. Exception for certain marine species passing through State. This section does not apply to fish, shellfish or lobsters passing through the State under the authority of laws of the United States.

Sec. 2. 12 MRSA § 3503, sub-§ 2, ¶ C is amended to read:

C. ~~After the commissioner has complied with paragraph B. he~~ The commissioner shall cause the regulation to be published once in a newspaper or combination of newspapers having general circulation in the county or counties where the shores, waters or flats to be closed are located.

Sec. 3. 12 MRSA § 3652, sub-§ 1, ¶ A is repealed as follows:

A. ~~They shall arrest and prosecute all violators~~

Sec. 4. 12 MRSA § 4001, sub-§ 2 is amended to read:

2. License designation; resident requirements. The license, designated as a scallop fishing license, may be issued by the commissioner to any person who has been a legal resident of the State of Maine for ~~one year~~ 6 months next prior to the date of his application.

Sec. 5. 12 MRSA § 4062, as enacted by PL 1973, c. 468 and as last amended by PL 1973, c. 625, § 78-A, is repealed.

Sec. 6. 12 MRSA § 4301-B, sub-§ 3, as enacted by PL 1965, c. 59, § 1, is amended to read:

3. Residence requirement; supplemental licenses; fees. Any person who has been a resident of the State of Maine for at least ~~one month~~ 6 months next prior to the date of application may make application to the commissioner for a marine worm dealer's license. A partnership may also make application for such a license, provided all members of the partnership have been residents of the State of Maine for at least ~~one~~ 6 months next prior to the date of application. A corporation created and existing under the laws of this State may likewise make application for such a license, provided all the corporate officers and its manager have been residents of this State for at least ~~one~~ 6 months next prior to the date of application.

Sec. 7. 12 MRSA § 4302, sub-§ 2, ¶ B, as amended by PL 1973, c. 663, § 6, is further amended to read:

B. The licensee must have a shellfish ~~shucking~~ certificate as provided by section 4302-B, if he ~~removes~~ buys, sells or processes clams, quahogs, oysters or mussels from the shell for shipment beyond the limits of the State.

Sec. 8. 12 MRSA § 4304, sub-§ 5 is amended to read:

5. Persons qualified for license. A license may be granted only to a person who has resided in the State for at least ~~one year~~ 6 months next preced-

ing the date of his application, or who has been a taxpayer in the municipality for at least ~~one year~~ 6 months next preceding the date of his application.

Sec. 9. 12 MRSA § 4305, sub-§ 1, ¶ B is amended to read:

B. The application must state that the applicant has resided in the State at least ~~one year~~ 6 months next preceding the date of application, or that the applicant has been a taxpayer in the municipality for at least ~~one year~~ 6 months next preceding the date of application.

Sec. 10. 12 MRSA § 4309, 1st ¶, as amended by PL 1967, c. 82, § 10, is further amended to read:

It is unlawful for any person, firm or corporation that holds a wholesale seafood dealer's and processor's license or interstate shellfish transportation license to buy, sell, process, ship or transport ~~to ship beyond the limits of this State any soft shell~~ clams, quahogs, oysters or mussels, whether the same have been removed from the shell or not, or to sell such shellfish to another for shipment or transportation beyond the limits of the State, or to cause the same to be done, without having a current shellfish certificate from the commissioner as provided in this section.

Sec. 11. 12 MRSA § 4309, sub-§ 5, 1st ¶ is amended to read:

5. Suspension of certificate or license. The commissioner may suspend for any period of time any certificate or wholesale seafood dealer's and processor's license or interstate shellfish transportation license issued by him, or the right to obtain a certificate or license, whenever the holder of the certificate or license has violated any provision of the certificate or any law or regulation pertaining to shellfish.

Sec. 12. 12 MRSA § 4309, sub-§ 8 is repealed.

Sec. 13. 12 MRSA § 4311, 1st ¶, as amended by PL 1965, c. 59, § 3, is further amended to read:

~~All~~ Twenty-five percent of the license fees received from commercial shellfish licenses, ~~and from interstate shellfish transportation licenses and 10% of all the license fees received from~~ wholesale seafood dealer's and processor's licenses are allocated to the Shellfish Fund, as heretofore established.

Sec. 14. 12 MRSA § 4404, sub-§ 4, 1st ¶, as repealed and replaced by PL 1975, c. 518, § 1, is amended to read:

Any person domiciled in the State of Maine for a period of 6 months may apply to the commissioner for a lobster and crab fishing license.

Sec. 15. 12 MRSA § 4404, sub-§ 6, 1st ¶ is amended to read:

Five dollars of the license fee received from each ~~\$10 for~~ lobster and crab fishing licenses shall be allocated to the Lobster Fund, as heretofore established.

Sec. 16. 12 MRSA § 4404, sub-§ 7, as last amended by PL 1975, c. 518, § 2, is further amended to read:

7. **Certain persons considered as fishing.** Any person, assisting or helping another in lobster or crab fishing, either by operating the boat or in attending to lobster or crab traps or pots, is considered as fishing and must have a current license under this section ~~or as provided in section 4404-A.~~

Sec. 17. ~~12~~ **MRSA § 4504**, as last amended by PL 1973, c. 318, § 3, is further amended to read:

§ 4504. General penalty

Whoever violates any provision of chapters 401 to 417, or any regulation authorized by chapters 401 to 417, or any rule and regulation authorized by the Revised Statutes of 1954, chapter 38, or any regulation adopted by the commissioner by legislative directive, excepting only those violations for which specific penalties are provided in the section or regulation establishing the violation, shall be punished by a fine of not ~~less than \$25 nor~~ more than \$500, or by imprisonment for not more than ~~90 days~~ one year, or by both.

STATEMENT OF FACT

Sec. 1: This will replace sections of law repealed by the Regular Session of the 107th Legislature due to an error in drafting. This must be replaced into the laws to allow lobster dealers to remain in business.

Sec. 2: Court cases have been lost due to this section of law. It would merely allow the department to publish a regulation and notify the Secretary of State and Superior Courts at the same time.

Sec. 3: This should be repealed because technically we cannot issue a warning or summons.

Secs. 4, 6, 8, 9, and 14: Provide for uniform 6 months' residency requirements for various marine resources licenses which will help protect the industry from over exploitation.

Sec. 5: This law is not necessary because it has been replaced by a regulation of the Atlantic States Marine Fisheries Commission.

Secs. 7, 10, 11 and 12: Will solve the problems relating to enforcement of shellfish sanitation laws and regulations.

Sec. 13: This change is necessary to comply with the intent of the 107th Legislature which increased license fees and to provide for additional personnel to improve services. This will allow for the necessary funds to go into the General Fund to pay for these services.

Sec. 15: This also allows the proper ratio of funds to go into the General Fund.

Sec. 16: Section 4404-A was a Legislative proposal to create a Sternman's license that did not pass. Therefore, reference to this section should be deleted.

Sec. 17. Makes the general penalty for Marine Resources laws comply with the Criminal Code Revision Class D penalty.