

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 259**

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H. P. 198 House of Representatives, February 3, 1977  
Referred to Committee on Labor. Sent up for concurrence and 1,800  
ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington.

Cosponsors: Messrs. Jackson of Yarmouth, Perkins of Blue Hill, Mrs.  
Post of Owls Head.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Extend the Exemption for Certain Individuals Engaged in  
Fishing from Coverage Under the Employment Security and Workmen's  
Compensation Laws.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in late 1976 the U. S. Internal Revenue Code was amended to exempt certain individuals engaged in fishing from the requirement to withhold federal income taxes; and

Whereas, such exemption is automatically adopted by the Maine personal income tax law; and

Whereas, such exemption is not automatically adopted by the Maine Employment Security and Workmen's Compensation Law, both of which will retain the exemption for the much narrower class of fishermen exempted by the Maine Tax Law prior to the recent federal amendments; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 26 MRSA § 1043, sub-§ 11, ¶ F, sub-¶ (32), as enacted by PL 1975, c. 691, § 1, is repealed and the following enacted in its place:**

(32) Services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which:

- (a) Such individual does not receive any cash remuneration, other than as provided in division (b);
- (b) Such individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch; and
- (c) The amount of such individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than 7 individuals.

Sec. 2. 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (1), as repealed and replaced by PL 1975, c. 770, § 215, is repealed and the following enacted in its place:

(1) Persons engaged in maritime employment, or in interstate or foreign commerce, who are within the exclusive jurisdiction of admiralty law or the laws of the United States; and services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which:

- (a) Such individual does not receive any cash remuneration, other than as provided in division (b);
- (b) Such individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch; and
- (c) The amount of such individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than 7 individuals.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### STATEMENT OF FACT

In 1976, the Internal Revenue Code was amended to exempt certain individuals engaged in fishing from the requirement to withhold federal income

taxes. This exemption was automatically adopted by the Maine Tax Law to exempt such fishermen from its withholding requirements. The purpose of this bill is to exempt these same individuals from coverage under the Employment Security and Workmen's Compensation Law.