

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 533

H. P. 473

House of Representatives, January 29, 1981

Submitted by the Department of Marine Resources pursuant to Joint Rule 24.

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

EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

Cosponsors: Representative Fowlie of Rockland and Representative Salsbury of Bar Harbor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Create a Wholesale Shellfish License.

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

Sec. 1. 12 MRSA § 6851, sub-§ 2, ¶A, as enacted by PL 1977, c. 661, § 5, is amended to read:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, **except that this license shall not authorize the buying, selling, processing, shipping or transporting of shellfish as authorized by section 6856-A; or**

Sec. 2. 12 MRSA § 6851, sub-§ 2, ¶B, as enacted by PL 1977, c. 661, § 5, is repealed.

Sec. 3. 12 MRSA § 6851, sub-§ 6, as enacted by PL 1977, c. 661, § 5, is amended by adding at the end a new paragraph to read:

The applicant for this license shall not pay the fee set forth in paragraphs A and B providing he has been issued and paid for a wholesale shellfish license and required supplemental licenses.

Sec. 4. 12 MRSA § 6852, sub-§ 2, ¶ B, as enacted by PL 1977, c. 661, § 5, is amended to read:

B. Shucked shellfish, if they are bought from a wholesale seafood shellfish license holder ~~certified licensed~~ under section ~~6856~~ 6856-A; or

Sec. 5. 12 MRSA § 6856, sub-§ 1, as enacted by PL 1977, c. 661, § 5, is amended to read:

1. Certified activities. A shellfish certificate authorizes a wholesale seafood shellfish license holder or a shellfish transportation license holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish. A wholesale seafood shellfish license or shellfish transportation license shall also be necessary to undertake the activities authorized under those licenses.

Sec. 6. 12 MRSA § 6856, sub-§ 3, first 2 sentences, as enacted by PL 1977, c. 661, § 5, are amended to read:

The commissioner may issue a depuration ~~certificate~~ authorization to a wholesale seafood shellfish license holder which authorizes the holder to take shellfish from closed areas for depuration and to process or transport them. The ~~certificate~~ authorization shall establish the limits on harvesting, depurating and processing methods and any other provisions required to assure the public safety.

Sec. 7. 12 MRSA § 6856, sub-§ 4, ¶ A, as enacted by PL 1977, c. 661, § 5, is amended to read:

A. The procedures for issuing shellfish certificates and depuration authorizations and the required qualifications for ~~each type of certificate these certificates and authorizations;~~

Sec. 8. 12 MRSA § 6856, sub-§ 5, as enacted by PL 1977, c. 661, § 5, is amended to read:

5. Right of entry. Wherever a shellfish certificate or a depuration authorization has been issued under this section, the commissioner, or his agent, shall have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access shall be grounds for suspension or revocation of any shellfish certificate, depuration authorization or license under the provisions of section 6373.

Sec. 9. 12 MRSA § 6856-A is enacted to read:

§ 6856-A. Wholesale shellfish license

1. License required. It shall be unlawful for any person to engage in the activities authorized by this license without a current shellfish certificate issued under section 6856 and a current wholesale shellfish license. An applicant must be certified under section 6856 before a wholesale shellfish license may be issued.

2. License activity. The holder of a wholesale shellfish license may, within or

beyond the state limits, buy, sell, process, ship or within the state limits, transport shellfish to the extent these activities are expressly authorized by a shellfish certificate issued under section 6856.

3. **Exceptions.** Nonresident dealers must be certified in their state of residency and must purchase all shellfish from resident dealers certified and licensed under this section. Proof of certification must be provided prior to licensing.

4. **License limitations.** This license shall authorize activities at one establishment or with one vehicle which is owned, leased, rented or otherwise controlled by the license holder.

5. **Supplemental license.** A supplemental license is required for each additional vehicle. A supplemental certificate shall be obtained prior to issuance of the supplemental license.

6. **Fee.** The fees are as follows:

- A. \$60 for the wholesale shellfish license; and
- B. \$20 for each supplemental license.

The applicant for this license shall not pay the fee set forth in paragraphs A or B providing he has been issued and paid for a wholesale seafood license and required supplemental licenses. All applicable provisions of section 6856 must be satisfied before any license may be issued.

STATEMENT OF FACT

This legislation is intended to strengthen effective enforcement of Maine's shellfish certification program. The creation of a separate license for wholesale shellfish dealers, distinct from the wholesale seafood license, will enable the Department of Marine Resources to suspend the wholesale shellfish license of an individual who has violated a shellfish law without prejudicing that individual's right to continue in the wholesale trade of other seafoods under the wholesale seafood license.

The requirement for dealer certification under the Maine Revised Statutes, Title 12, section 6856 as a prerequisite for obtaining a wholesale shellfish license assures that dealer establishments and shellfish handling procedures will comply with Maine shellfish sanitation requirements immediately upon the opening of the dealer's business. This certification prerequisite is consistent with the recommended licensing requirements for shellfish dealers set forth in the National Shellfish Sanitation Program. The State participates in this National Shellfish Sanitation Program along with 27 other states, 13 Canadian provinces and 6 foreign countries.