

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1357

H. P. 1140

House of Representatives, March 17, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

Cosponsors: Senator Gill of Cumberland, Representative Kane of South Portland.

STATE OF MAINE

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

AN ACT Relating to the Board of Harbor Commissioners for the Harbor of Portland.

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

Sec. 1. P&SL 1917, c. 192, § 1, 2nd sentence is amended to read:

Whenever a vacancy occurs in the board by reason of the expiration of the term of service, the governor ~~with the advice and consent of the council~~ shall fill such vacancy, and the person so appointed shall hold said office for the term of ~~four~~ 4 years; **provided that the governor may appoint the persons for such lesser terms as may be required to stagger terms as required under section 2.**

Sec. 2. P&SL 1917, c. 192, § 2, as amended by P&SL 1957, c. 65, § 1, is further amended by adding at the end a new sentence to read:

The board may retain counsel and employ or retain such other persons as may be necessary in carrying out its responsibilities.

Sec. 3. P&SL 1917, c. 192, § 7, as amended by P&SL 1955, c. 134, is repealed and the following enacted in its place:

Sec. 7. Members of board to receive no compensation; fee for permit and on certain vessels; how expended. No compensation may be paid to the members of the board for their services, except as provided in section 18; provided that

commissioners may be reimbursed for expenses incurred in carrying out their responsibilities. The board may impose a fee for every application filed with it, such fee to be not less than \$75 nor more than \$200. The board may also impose a fee, not to exceed \$.0025 per gross registered ton per vessel, on all vessels over 300 gross registered tons entering the harbor of Portland. The board shall have a lien for any such fee on all vessels liable therefor. The board shall apply all funds received by it in paying expenses of the board in connection with applications for permits and in carrying out the purposes of this Act. For purposes of this section, "vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

Sec. 4. P&SL 1917, c. 192, § 8 is amended to read:

Sec. 8. **Penalty for violation and for pollution of harbor waters.** Whoever shall violate any provisions of this ~~aet Act~~ **Act** or any rules and regulations issued by the board under any provision of this Act, or who shall pollute the waters of said harbor, other than through the ordinary use of sewers and drain pipes, shall be deemed guilty of misdemeanor, and liable to prosecution therefor, in any court of competent jurisdiction; and on conviction, be punished by fine not exceeding ~~five hundred dollars~~ **\$500, such money to be paid to the board for use in carrying out the purpose of this Act**; and may also be sentenced to pay all expenses for the abatement or removal of such erection, obstruction, or deposit, and stand committed until the same shall be paid or satisfactory security given therefor.

Sec. 5. P&SL 1917, c. 192, § 9 is amended to read:

Sec. 9. **Writs of injunction.** Whenever on application of the board it shall be made to appear to the ~~supreme judicial court~~ **Maine Superior Court**, at any term thereof holden in the city of Portland, or to any justice thereof out of term time, that any person, firm or corporation is violating, or has violated any provision of this ~~aet Act~~ **Act**, or of any regulation issued thereunder, such court or justice may forthwith issue a writ of injunction to stay all proceedings adjudged to be in violation of this ~~aet Act~~ **Act** until further order, and may after hearing dissolve, continue, or make such injunction permanent and grant such further relief as justice may require ~~any may adjudge that the~~. The person, firm, or corporation so violating any provision of this ~~aet Act~~ **Act** or regulation issued thereunder, shall pay all costs and ~~expense of expenses~~ **expenses incurred by the board or the harbor master in relation to such proceeding.**

Sec. 6. P&SL 1917, c. 192, § 10, last ¶, as repealed and replaced by P&SL 1973, c. 206, is amended to read:

Said branch may be revoked at any time by said board for negligence or incapacity ~~or for any other reason that said board may deem sufficient~~. The branch, so granted, shall be recorded by the clerk of said board in a book kept for that purpose, entitled "Pilots for the Port of Portland;" and the clerk shall receive from the applicant, for making such record, ~~the sum of \$5 such sum as the board may determine, but not to exceed \$125.~~

Sec. 7. P&SL 1917, c. 192, § 11 is amended to read:

Sec. 11. Board to establish harbor rules to be enforced by harbor master and deputy. Said board shall, from time to time, adopt such rules and regulations as it deems necessary and proper, not inconsistent with law, for keeping open convenient channels for the passage of vessels and in promoting navigational safety in the waters under its control; and it may establish the boundary lines of such channels and assign and provide suitable portions of said harbor for moorings and anchorages and; fix reasonable regulations relating to navigational safety, including without limitation speed and wake regulations, and to the number of vessels that may be moored in designated areas; fix reasonable penalties for anchoring, mooring or abandoning vessels in such channels or for violating such regulations; and fix reasonable fees for registering moorings, not to exceed \$25 per mooring. It may also fix reasonable penalties to be imposed upon any one in charge of any vessel, or upon the owner thereof, which shall not be promptly moved after notice of any violation of this section. It may grant special permits to wrecking plants and others requiring the temporary use of any part of such channels; fix and determine the time when, and the circumstances under which, vessels may lie at the ends of or alongside of wharves, docks or public landing places; and upon what notice they shall move from such location. The rules and regulations so adopted shall be enforced and carried out by a harbor master and deputy appointed by the board in the manner provided in the following section and it shall be the duty of said harbor master, or his deputy, to collect in the name of said board, all penalties incurred for the violation of such rules and regulations as may be advised by said board; and the moneys so received shall be applied by said board in carrying out the purposes of this act Act.

Sec. 8. P&SL 1917, c. 192, § 12, is repealed and the following enacted in its place:

Sec. 12. Harbor master and deputy; appointment, tenure, compensation; Cities of Portland and South Portland to provide for transportation facilities. The board shall appoint some competent person as harbor master and also one or more deputies, but before either shall be qualified to act, their appointment shall be approved by the city council of the City of Portland; and the persons so appointed shall receive such compensation as the board shall, from time to time, fix and allow. The Cities of Portland and South Portland shall each pay the board \$1,000 per year to be applied against the salary of the harbor master and deputies. The deputy or deputies shall have all the powers and authority of the harbor master, subject to the supervision and control of the harbor master and board. The harbor master and deputy shall hold office for the term of one year from the date of the approval of their appointment; but either may be removed by the board at any time for negligence, inefficiency, or for any other reason deemed sufficient by the board; and the board shall fill the vacancy thereby occasioned, in the manner hereinbefore provided. The harbor master shall be provided by the Cities of Portland and South Portland with transportation necessary for the performance of his duties.

Sec. 9. P&SL 1917, c. 192, § 13 is amended to read:

Sec. 13. Harbor master or deputy may cause vessels to change anchorage or mooring; additional powers. Said harbor master, or his deputy, shall cause any vessel or vessels, anchoring or mooring within the channel lines or outside of mooring or anchorage areas established by said board, or otherwise abandoned or sunk or anchoring or mooring in such a manner that any portion of the hull, spars or booms shall extend beyond said lines, due to the tide or wind, or which said harbor master finds in any manner obstructing the free movement or anchorage or mooring of vessels in any part of said harbor, to move to such anchorage or mooring areas or storage area as he may designate for said purpose; and in addition to the powers prescribed by this Act, said harbor master and his deputy shall have all the authority conferred upon harbor masters under the provisions of the general law, including without limitation the provisions of Title 38, chapter 1, subchapter I.

Sec. 10. P&SL 1917, c. 192, § 14 is amended to read:

Sec. 14. Harbor master or deputy may put crew on vessel or may employ tug to enforce orders; lien created. If any vessel violating the provisions of ~~the two preceding sections~~ this Act or of any rule or regulation of the board is without a crew on board, or if the master or person in charge neglects or refuses to move such vessel upon the order of said harbor master, or his deputy, then such harbor master or his deputy, may put a crew on board, or he may employ a steam tug or other tow boat and move anchor, moor or otherwise secure such vessel at the cost and risk of the owner or owners thereof; and the expense occasioned thereby shall constitute a lien upon said vessel, which said harbor master, or his deputy, may enforce in the name of said board in any manner authorized by law.

Sec. 11. P&SL 1917, c. 192, § 16 is amended to read:

Sec. 16. Jurisdiction extended to other offenses. The harbor master, and such of the policemen of the ~~city~~ Cities of Portland or South Portland as may at any time be assigned to the policing of said harbor, shall have the right to pursue and arrest without warrant, any person found violating any of the laws of this ~~state~~ State, or who are violating or may have violated any of the rules and regulations issued by said board under any provisions of this ~~act~~ Act; and said harbor master or such policemen may pursue and arrest such person upon any of the waters of Casco Bay or adjacent waters, or upon any of the islands or in any of the towns where such person may be found.

STATEMENT OF FACT

This bill clarifies the powers of the Board of Harbor Commissioners for the port of Portland, such as its powers with regard to moorings, abandoned vessels and appointment of deputy harbor masters. It also establishes a revenue source for the board by imposing a small fee on larger vessels entering the port of Portland. No appropriation from the General Fund is contemplated.