

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1991

H.P. 1516

House of Representatives, January 24, 1984

Reported by Representative Crowley from the Committee on Marine Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Submitted by the Joint Standing Committee on Marine Resources pursuant to Joint Rule 18, as approved by the Legislative Council on May 25, 1983.

STATE OF MAINE

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

AN ACT to Provide Limitations on Fishing by Weirs, Purse and Stop Seines and to Provide Notice for the Location of Weirs and their Maintenance.

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

Whereas, the First Regular Session of the 111th Legislature established a moratorium on licensing of weirs; and

Whereas, the legislation contained in this bill replaces that action with provisions to alleviate the problems that required the moratorium; and

Whereas, it is necessary to give sufficient time to weir licensees to comply with the provisions of this bill prior to the fishing season; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 12 MRSA §6525, as enacted by PL 1977, c.
10 661, §5, is repealed.

11 Sec. 2. 12 MRSA §6525-A is enacted to read:

12 §6525-A. Setting near weirs or stop seines

13 1. Setting nets or seines near weirs. It is un-
14 lawful for any person, other than the weir owner or
15 his crew members, to set or assist in setting any net
16 or seine within 2,000 feet of the mouth of a weir
17 whose operator is validly licensed under section 6501
18 and when the weir is licensed under Title 38, chapter
19 9.

20 2. Exception. Stop seining is permitted in any
21 cove that does not have a weir even when the seine is
22 less than 2,000 feet from a weir in another cove.

23 3. Cove name and designation. The commissioner
24 shall prepare a map of areas of the State, where
25 weirs are used as a method of fishing, which fixes
26 the location of each weir and designates the bounda-
27 ries of each cove in which those weirs are located.
28 The map shall be provided to municipalities by the
29 commissioner. Owners of licensed weirs and appli-
30 cants for a license shall receive a map at cost.
31 When an applicant for a license finds no designation
32 on the map of cove boundaries for the cove where he
33 wants to construct a weir, the municipal officers
34 from the city or town within which the weir will be
35 located shall notify the commissioner of the intended
36 location of the weir on the map. The commissioner
37 shall designate boundaries for the cove.

38 4. Limitation on location of weirs. Weirs shall
39 be licensed according to the following.

1 A. After the effective date of this Act, no weir
2 may be licensed for construction which is less
3 than 2,000 feet from an existing weir.

4 B. Weirs which were licensed in 1983 and preced-
5 ing years may continue to be licensed even when
6 they are located less than 2,000 feet from an ex-
7 isting weir.

8 C. Any weir licensed in 1983 and preceding years
9 for which the license expired as provided in sec-
10 tion 1023 shall be required to be licensed as a
11 new weir as provided in paragraph A.

12 5. Limitation on purse seining. No person may
13 purse seine within 2,000 feet of a licensed weir.

14 Sec. 3. 38 M RSA §1022, first ¶ is amended to
15 read:

16 Any person intending to build or extend any
17 wharf, fish weir or trap in tidewaters, within the
18 limits of any city or town, may apply in writing to
19 the municipal officers thereof, stating the location
20 of the weir, the boundaries of the cove in which the
21 weir will be constructed as identified on a map pre-
22 pared by the commissioner, limits and boundaries, as
23 nearly as may be, of such intended erection or exten-
24 sion, and asking license therefor. Upon receiving
25 such application, ~~said~~ the officers shall give at
26 least 3 days' public notice thereof in a newspaper,
27 published in the town, or, if there is no newspaper
28 published in the town, in a newspaper published with-
29 in the county, and shall therein designate a day and
30 time on which they will meet on or near the premises
31 described, to examine the same and hear all parties
32 interested. If, upon such examination and hearing of
33 all parties interested, ~~said~~ the officers decide that
34 such erection or extension would not be an obstruc-
35 tion to navigation or injury to the rights of others,
36 and determine to allow the same, they shall issue a
37 license under their hands to the applicant, authoriz-
38 ing him to make such an erection or extension, and to
39 maintain the same within the limits mentioned in such
40 license. The applicant for license to build or extend
41 a fish weir or trap shall first give bond to the
42 town, with sureties, in the sum of ~~\$500~~ \$5,000, con-

1 ditioned that upon the termination of such license he
2 shall remove all stakes and brush from the location
3 therein described. ~~Said~~ The municipal officers shall,
4 within 10 days after the date of hearing, give writ-
5 ten notice by registered mail of their decision to
6 all parties interested. Any person aggrieved by the
7 decision of the municipal officers, in either grant-
8 ing or refusing to grant a license as provided, may
9 appeal to the Superior Court within 10 days after the
10 mailing of such written notice. The court shall set
11 a time and place for hearing and give notice thereof
12 in the same manner as provided for a hearing before
13 the municipal officers. The decision of ~~said~~ the
14 court shall be communicated within 10 days after the
15 date of hearing to the appellant and to the municipal
16 officers of the town in which the proposed wharf,
17 weir or trap is to be located. This decision shall be
18 binding on ~~said~~ the municipal officers, who shall is-
19 sue a license, if so directed by the decision of ~~said~~
20 the court, within 3 days after ~~said~~ the decision has
21 been communicated to them. If ~~said~~ the appeal is sus-
22 tained by ~~said~~ the court in whole or in part, the ap-
23 pellant shall have his costs against the appellee. If
24 the appeal is not so sustained, the appellee shall
25 have his costs against the appellant. If any owner to
26 whom a license has been issued, or his heirs or as-
27 signs, fails to remove all stakes and brush within a
28 period of one year after the termination of the li-
29 cense, as provided in section 1023, any person can
30 remove the same without charge against ~~said~~ the own-
31 er, his heirs or assigns.

32 Sec. 4. 38 MRSA §§1023 and 1025 are amended to
33 read:

34 §1023. Expiration of license

35 The license for the building or extension of a
36 fish weir or trap issued under section 1022 or any
37 right or privilege granted by the Legislature for the
38 building or extension of any such fish weir or trap
39 shall terminate and become void unless such weir or
40 trap shall be built within one year from the date of
41 the license or the granting of such right or privi-
42 lege, and maintained and operated in good faith for
43 ~~some part~~ not less than 90 days from July 15th of
44 ~~each year thereafter. A weir that is not under active~~

1 construction by July 15th in any year shall not be
2 considered a weir for the remainder of the year.
3 Written notice to the municipality and the commis-
4 sioner shall be made by the licensee 7 days prior to
5 when the fish weir is being cleaned or repaired, dur-
6 ing the 90-day period stating the dates totaling no
7 more than 7 days, that the weir is not maintained and
8 operated. The commissioner shall, by July 25th each
9 year, report to the municipality the name of the li-
10 icensed owner and location of each weir and whether
11 the weir was in operating condition on July 15th of
12 that year.

13 §1025. Recording of documents; compensation to offi-
14 cers

15 The application provided for in section 1022,
16 with the notice and proceedings thereon and the li-
17 cense granted, shall be recorded in said the town and
18 a copy provided to the commissioner by the applicant.
19 Reasonable compensation shall be paid by said the ap-
20 plicant to the municipal officers for their services
21 and expenses and to the clerk for recording, and if
22 license is granted, \$5 additional shall be paid
23 therefor by said the applicant to said the town.

24 Sec. 5. Resolves 1983, c. 26 is repealed.

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

28 STATEMENT OF FACT

29 This bill provides reasonable areas for several
30 methods of fishing; stop and purse seining and weir
31 fishing.

32 It also removes unnecessary restrictions on one
33 method of fishing when it will cause no adverse ef-
34 fect on another. It is the intent of this bill to
35 make the most efficient and beneficial method of
36 fishing available when fish are available, while pro-
37 tecting the efforts of weir owners who construct,
38 maintain and operate their weirs as required.

1 It is the intention of this bill to grandfather
2 the licenses of weirs licensed in 1983 and preceding
3 years. Any license which expires because the owner
4 failed to maintain and operate the weir in compliance
5 with the Revised Statutes, Title 12, section 1023,
6 shall lose the privilege of construction less than
7 2,000 feet from an existing weir.

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