

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 21

6
7 H.P. 23

House of Representatives, January 3, 1985

8 Reference to the Committee on Marine Resources suggested and ordered
9 printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Weir Licensing Laws.
18

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

21 Sec. 1. 38 MRSA §1022, first ¶, as amended by PL
22 1983, c. 731, §4, is further amended to read:

23 Any person intending to build or extend any
24 wharf, fish weir or trap in tidewaters, within the
25 limits of any city or town, may apply in writing to
26 the municipal officers thereof, stating the location
27 of the weir, the boundaries of the cove in which the
28 weir will be constructed as identified on a map pre-
29 pared by the commissioner, limits and boundaries, as
30 nearly as may be, of such intended erection or exten-
31 sion, and asking license therefor. Upon receiving
32 such application, the officers shall give at least 3
33 days' public notice thereof in a newspaper, published
34 in the town, or, if there is no newspaper published
35 in the town, in a newspaper published within the
36 county, and shall therein designate a day and time on

1 which they will meet on or near the premises de-
2 scribed, to examine the same and hear all parties in-
3 terested. If, upon such examination and hearing of
4 all parties interested, the officers decide that such
5 erection or extension would not be an obstruction to
6 navigation or injury to the rights of others, and de-
7 termine to allow the same, they shall issue a license
8 under their hands to the applicant, authorizing him
9 to make such an erection or extension, and to main-
10 tain the same within the limits mentioned in such li-
11 cense. The applicant for license to build or extend a
12 fish weir or trap shall first give bond to the town,
13 with sureties, in the sum of \$5,000, conditioned that
14 upon the termination of such license he shall remove
15 all stakes and brush from the location therein de-
16 scribed. The municipal officers shall, within 10 days
17 after the date of hearing, give written notice by
18 registered mail of their decision to all parties in-
19 terested. Any person aggrieved by the decision of the
20 municipal officers, in either granting or refusing to
21 grant a license as provided, may appeal to the Supe-
22 rior Court within 10 days after the mailing of such
23 written notice. The court shall set a time and place
24 for hearing and give notice thereof in the same man-
25 ner as provided for a hearing before the municipal
26 officers. The decision of the court shall be communi-
27 cated within 10 days after the date of hearing to the
28 appellant and to the municipal officers of the town
29 in which the proposed wharf, weir or trap is to be
30 located. This decision shall be binding on the munic-
31 ipal officers, who shall issue a license, if so di-
32 rected by the decision of the court, within 3 days
33 after the decision has been communicated to them. If
34 the appeal is sustained by the court in whole or in
35 part, the appellant shall have his costs against the
36 appellee. If the appeal is not so sustained, the ap-
37 pellee shall have his costs against the appellant. If
38 any owner to whom a license has been issued, or his
39 heirs or assigns, fails to remove all stakes and
40 brush within a period of one year after the termina-
41 tion of the license, as provided in section 1023, any
42 person can remove the same without charge against the
43 owner, his heirs or assigns. If the owner has not
44 removed all stakes and brush within one year of ter-
45 mination of the license, the bond given to the munic-
46 ipality by the licensee shall be forfeited and the
47 municipality that issued the license shall remove all

1 stakes and brush. The municipality shall report to
2 the commissioner within 2 years of the expiration of
3 the license on the removal of all stakes and brush
4 from the location described in the license.

5 Sec. 2. 38 MRSA §1023, as amended by PL 1983, c.
6 731, §5, is further amended to read:

7 §1023. Expiration of license

8 The license for the building or extension of a
9 fish weir or trap issued under section 1022 or any
10 right or privilege granted by the Legislature for the
11 building or extension of any such fish weir or trap
12 shall terminate and become void unless such weir or
13 trap shall be built within one year from the date of
14 the license or the granting of such right or privi-
15 lege, and maintained and operated in good faith for
16 not less than 30 consecutive days ~~from July 15th~~ of
17 each year thereafter. The licensee shall notify the
18 municipality and the commissioner in writing within 3
19 days of putting the weir or trap in operating condi-
20 tion for the 30-day period. If the licensee does not
21 notify the municipality and the commissioner of the
22 weir's operation during any calendar year, the li-
23 cence shall terminate and become void. Written notice
24 to the municipality and the commissioner shall be
25 made by the licensee 7 days prior to when the fish
26 weir is being cleaned or repaired, during the 30-day
27 period stating the dates totaling no more than 7
28 days, that the weir is not maintained and operated.
29 The weir may be removed from operating condition at
30 any time due to adverse weather conditions. The com-
31 missioner shall, by ~~July 25th~~ December 31st each
32 year, report to the municipality the name of the li-
33 icensed owner and location of each weir and whether
34 the weir was in operating condition ~~on July 15th~~ of
35 for 30 consecutive days that year.

1 STATEMENT OF FACT

2 The purpose of this bill is to match the weir li-
3 censing requirements more closely with the realities
4 of the herring fishery. These provisions make the
5 requirements more flexible for the weir fisherman
6 while, at the same time, making enforcement easier.
7 The bill imposes no significant new burdens on the
8 fisherman while making it more difficult to hold weir
9 priviledges without fishing it in good faith. The
10 bill also requires municipalities to report on the
11 removal of abandoned, unlicensed weirs.

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