

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 682, L.D. 1767)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2169

8 S.P. 858

In Senate, March 10, 1986

9 Reported by Senator Usher of Cumberland from the Committee on
10 Fisheries and Wildlife and printed under Joint Rule 2. Original bill sponsored
11 by Senator Matthews of Kennebec. Cosponsored by Representative Walker of
Norway, Representative Clark of Millinocket and Representative Duffy of
Bangor.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Revise the Statutes Pertaining to
19 Use and Sale of Live Fish as Bait.
20

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

23 Sec. 1. 12 MRSA §7001, sub-§§1-A and 1-B are en-
24 acted to read:

25 1-A. Baitfish. "Baitfish" means only those spe-
26 cies in the following list:

27 A. Lake chub, (Couesius plumbeus);

28 B. Silvery minnow, (Hybognathus nuchalis);

29 C. Golden shiner, (Notemigonus chrysoleucas);

30 D. Emerald shiner, (Notropis atherinoides);

31 E. Bridled shiner, (Notropis bifrenatus);

- 1 F. Common shiner, (Notropis cornutus);
2 G. Blacknose shiner, (Notropis heterolepis);
3 H. Spottail shiner, (Notropis hudsonius);
4 I. Northern redbelly dace, (Phoxinus eos);
5 J. Finescale dace, (Phoxinus neogaeus);
6 K. Fathead minnow, (Pimephales promelas);
7 L. Blacknose dace, (Rhinichthys atratulus);
8 M. Longnose dace, (Rhinichthys cataractae);
9 N. Creek chub, (Semotilus atromaculatus);
10 O. Fallfish, (Semotilus corporalis);
11 P. Pearl dace, (Semotilus margarita);
12 Q. Banded killifish, (Fundulus diaphanus);
13 R. Mummichog, (Fundulus heteroclitus);
14 S. Longnose sucker, (Catostomus catostomus);
15 T. White sucker, (Catostomus commersoni); and
16 U. Creek chubsucker, (Erimyzon oblongus).

17 1-B. Baitfish trap. "Baitfish trap" means a de-
18 vice used to take baitfish, fitted with rigid en-
19 trance or exit holes and having a volume no greater
20 than 50 cubic feet.

21 Sec. 2. 12 MRSA §7001, sub-§33-A is enacted to
22 read:

23 33-A. Seine. "Seine" means an ordinary
24 commercial-type minnow seine, not to exceed 1,200
25 square feet, used vertically to enclose baitfish when
26 its ends are brought together or drawn ashore.

27 Sec. 3. 12 MRSA §7171, as amended by PL 1983, c.
28 588, §10 and c. 807, Pt. P, §9, is repealed and the
29 following enacted in its place:

1 §7171. License to deal in live smelts and baitfish

2 1. Eligibility. Any resident or noresident is
3 eligible to obtain a license to deal in live smelts
4 and baitfish upon payment of the appropriate fee.

5 2. Issuance. The commissioner may issue live
6 smelt and baitfish licenses in the following catego-
7 ries.

8 A. A live bait retailer's license permits a per-
9 son to possess for resale, sell or offer to sell
10 live smelts, Osmerus mordax, and baitfish, as de-
11 defined in section 7001, subsection 1-A.

12 B. A baitfish wholesaler's license permits a
13 person to take and possess for resale, sell or
14 offer to sell live baitfish.

15 C. A smelt wholesaler's license permits a person
16 to take and possess for resale, sell or offer to
17 sell live smelts.

18 3. Schedule of fees. The schedule of fees is as
19 follows:

20 A. Live bait retailer's license \$10

21 B. Baitfish wholesaler's license \$20

22 C. Smelt wholesaler's license \$65

23 4. Restrictions. Restrictions on the selling of
24 baitfish are as follows.

25 A. The following restrictions apply to the sell-
26 ing of live smelts and baitfish under the live
27 bait retailer's license.

28 (1) If a person sells live smelts or
29 baitfish from more than one retail facility,
30 he must obtain a separate license for each
31 place of business.

32 (2) The holder of a live bait retailer's
33 license may designate others to assist him
34 in selling live smelts and baitfish at his
35 business facility.

1 (3) The holder of a live bait retailer's
2 license, or his designee, may transport live
3 smelts and baitfish.

4 (4) The holder of a live bait retailer's
5 license may possess more than the daily bag
6 limit of smelts at any time, providing that
7 the smelts were acquired in a lawful manner.
8 As evidence of lawful possession, the re-
9 ceipted invoice, bill of lading, bill of
10 sale or other satisfactory evidence shall be
11 presented upon request to any agent of the
12 commissioner.

13 B. The following restrictions apply to the tak-
14 ing and selling of baitfish under the baitfish
15 wholesaler's license.

16 (1) Any person engaged in taking live
17 baitfish for resale from inland waters must
18 hold a current baitfish wholesaler's license
19 which shall be exhibited upon request to any
20 agent of the commissioner.

21 (2) The holder of a baitfish wholesaler's
22 license may take baitfish by use of a seine
23 as defined in section 7001, subsection 33-A;
24 a baitfish trap as defined in section 7001,
25 subsection 1-B; a dipnet, a dropnet, a lift
26 net or a bag net; or by hook and line.

27 (3) The holder of a baitfish wholesaler's
28 license may use particles of food for the
29 purpose of luring baitfish to a baitfish
30 trap, a dipnet, a dropnet, a lift net or a
31 bag net.

32 (4) If a person sells live baitfish from
33 more than one wholesale facility, he must
34 obtain a separate license for each place of
35 business.

36 (5) The holder of a baitfish wholesaler's
37 license may designate others to assist him
38 in selling live baitfish at his business fa-
39 cility.

1 (6) The holder of a baitfish wholesaler's
2 license, or his designee, may transport live
3 baitfish.

4 C. The following restrictions apply to the tak-
5 ing and selling of live smelts under the smelt
6 wholesaler's license.

7 (1) Any person engaged in taking live
8 smelts for resale from inland waters must
9 hold a current smelt wholesaler's license
10 which shall be exhibited upon request to any
11 agent of the commissioner.

12 (2) The holder of a smelt wholesaler's li-
13 cence may take live smelts for resale from
14 any inland water in accordance with general
15 rules promulgated by the commissioner in re-
16 gard to the taking of smelts.

17 (3) The holder of a smelt wholesaler's li-
18 cence may use a baitfish trap, a dipnet, a
19 dropnet, a lift net, a bag net or hook and
20 line to take up to 8 quarts of smelts in a
21 24-hour period, beginning at noon on any
22 given day, from specific inland waters des-
23 ignated by the commissioner.

24 (4) The holder of a smelt wholesaler's li-
25 cence may use particles of food for the pur-
26 pose of luring smelts to a baitfish trap, a
27 dipnet, a dropnet, a lift net or a bag net.

28 (5) The holder of a smelt wholesaler's li-
29 cence may possess more than the daily bag
30 limit of smelts at any time, providing that
31 the smelts were acquired in a lawful manner.
32 If the smelts were purchased from another
33 person, a receipted invoice, bill of lading
34 or bill of sale shall be presented upon re-
35 quest to any agent of the commissioner.

36 (6) If a person sells live smelts from more
37 than one wholesale facility, he must obtain
38 a separate license for each place of busi-
39 ness.

1 (7) The holder of a smelt wholesaler's li-
2 cence may designate others to assist him in
3 selling live smelts at his business facili-
4 ty.

5 (8) The holder of a smelt wholesaler's li-
6 cence, or his designee, may transport live
7 smelts, except that live smelts being trans-
8 ported directly from an inland water source
9 must be accompanied by the licensee.

10 Sec. 4. 12 MRSA §7173, as amended by PL 1979, c.
11 723, §8, is further amended to read:

12 §7173. Permit to take baitfish

13 1. Issuance. Whenever any inland waters are
14 closed to fishing, the commissioner may issue permits
15 to take ~~minnows~~ baitfish for bait purposes from those
16 waters.

17 Sec. 5. 12 MRSA §7606, as enacted by PL 1979, c.
18 420, §1, is repealed and the following enacted in its
19 place:

20 §7606. Selling, using or possessing baitfish

21 1. Selling, using or possessing illegal
22 baitfish. A person is guilty, except as provided in
23 section 7630, subsection 1, of selling, using or pos-
24 sessing illegal baitfish if he sells, offers for
25 sale, uses or possesses for use as bait for fishing
26 any species of fish not listed in section 7001, sub-
27 section 1-A.

28 2. Failure to label baitfish traps or baitfish
29 holding boxes. A person is guilty of failure to label
30 baitfish traps or baitfish holding boxes if he sets
31 or places within the inland waters of the State any
32 baitfish trap or any baitfish holding box without
33 having the baitfish trap or baitfish holding box
34 plainly labeled with his full name and address.

35 Sec. 6. 12 MRSA §7606-A is enacted to read:

36 §7606-A. Disturbing baitfish traps or baitfish hold-
37 ing boxes

1 A person is guilty of disturbing baitfish traps
2 or baitfish holding boxes if he disturbs or takes any
3 baitfish trap or baitfish holding box or any fish
4 from any baitfish trap or baitfish holding box other
5 than his own, without the consent of the owner of the
6 baitfish trap or baitfish holding box.

7 Sec. 7. 12 MRSA §7630, sub-§1, ¶B, as enacted by
8 PL 1979, c. 420, §1, is repealed and the following
9 enacted in its place:

10 B. It is lawful to take baitfish, as defined in
11 section 7001, subsection 1-A, from all inland wa-
12 ters of the State during the period that these
13 waters are open to fishing and the commissioner
14 may grant permits in accordance with section 7173
15 to take baitfish from certain waters at any time.

16 Sec. 8. 12 MRSA §7630, sub-§§1-A and 4 are en-
17 acted to read:

18 1-A. Section 7608. Notwithstanding section 7608,
19 it is lawful to take baitfish with a baitfish trap,
20 as defined in section 7001, subsection 1-B.

21 4. Section 7622. Notwithstanding section 7622,
22 it is lawful to place food particles in a baitfish
23 trap for the purpose of luring baitfish.

24 Sec. 9. Effective date. Section 7171 shall take
25 effect on January 1, 1987.

26 STATEMENT OF FACT

27 Many individuals derive much of their income by
28 selling live baitfish and smelts to fishermen for use
29 as bait in taking sport fish during both the open wa-
30 ter and ice fishing seasons. The current laws dealing
31 with live bait have been on the books for many years
32 and are no longer adequate to ensure proper manage-
33 ment and protection of this very important resource.

34 The purpose of this new draft is to clarify, up-
35 date and ensure enforceability of the laws which per-
36 tain to the taking, possessing and selling of live
37 baitfish and live smelts.

1 Sections 1 and 2 provide definitions of the terms
2 "baitfish," "baitfish trap" and "seine."

3 Section 3 revises the licensing provisions for
4 the commercial harvest and sale of live smelts and
5 baitfish.

6 1. The live bait retailer's license allows a
7 person to sell live smelts and baitfish at his place
8 of business. The fee for this license is \$10, \$10
9 less than the current bait dealer's license.

10 2. The baitfish wholesaler's license allows a
11 person to take live baitfish from inland waters and
12 to sell these fish for bait purposes. The fee of \$20
13 is the same as the current bait dealer's license.

14 3. The smelt wholesaler's license allows a per-
15 son to take up to 8 quarts of live smelts in a
16 24-hour period from certain designated waters and to
17 sell these smelts for bait purposes. The fee of \$65
18 is the same as the current smelt dealer's license.

19 Holders of these licenses must abide by certain
20 restrictions which ensure protection of the smelt and
21 baitfish resources of the State's inland waters.

22 Persons who take live smelts and baitfish for
23 their own use are not affected by these changes.

24 Section 4 changes the word "minnow" to
25 "baitfish."

26 Section 5 establishes prohibited acts for the
27 sale or use of illegal baitfish and for failure to
28 properly label baitfish traps and baitfish holding
29 boxes.

30 Section 6 establishes a prohibited act which
31 makes it unlawful to disturb or take fish from a
32 baitfish trap or baitfish holding box without permis-
33 sion from the owner.

34 Section 7 makes it clear that baitfish may be
35 taken without a permit from waters which are open to
36 fishing. Permits to take baitfish, both for resale
37 and for personal use, are required during periods
38 when waters are closed to fishing.

1 Section 8 makes it clear that baitfish may be
2 taken by methods not allowed in taking other inland
3 fish species.

4 Section 9 provides for an effective date of Janu-
5 ary 1, 1987, for the portion of the new draft dealing
6 with licensing. The remainder of the new draft shall
7 take effect on the general effective date.

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