

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 (EMERGENCY)
2 (After Deadline)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 2313

8
9 S.P. 926

In Senate, April 1, 1986

10 Approved for introduction by a majority of the Legislative Council
11 pursuant to Joint Rule 27.

12 Referred to the Committee on Local and County Government and
ordered printed. Sent down for concurrence.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.

13 Cosponsored by Representative Mitchell of Freeport, Representative
Mayo of Thomaston and Senator Chalmers of Knox.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-SIX
18

19 AN ACT to Clarify the Authority of Harbor
20 Masters.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, it is desirable that coastal municipali-
26 ties regulate activity in their harbors and provide
27 an orderly means by which moorings are assigned and
28 located; and

29 Whereas, many coastal municipalities have enacted
30 ordinances regulating activity in their harbors and
31 providing for an orderly means by which moorings are
32 assigned and located; and

33 Whereas, a recent Superior Court decision has
34 cast doubt on the authority of municipalities to en-
35 act such ordinances; and

1 Whereas, an immediate clarification of the au-
2 thority of municipalities to enact these ordinances
3 is necessary prior to the approaching boating season;
4 and

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

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

13 Sec. 1. 38 MRS A §1, as amended by PL 1985, c.
14 531, §2, is repealed and the following enacted in
15 its place:

16 §1. Appointment; compensation

17 The municipal officers of a town, on request by
18 any person desiring mooring privileges or regulation
19 of mooring privileges for boats or vessels, shall an-
20 nually appoint a harbor master who shall be subject
21 to all the duties and liabilities of that office as
22 prescribed by state law, regulations adopted by the
23 municipal officers and municipal ordinances. In case
24 of the failure or refusal of the harbor master to
25 perform these duties, he commits a civil violation
26 for which a forfeiture of \$25 shall be adjudged, for
27 the benefit of the town, for each intentional neglect
28 or refusal to attend the duties. The municipal offi-
29 cers may establish his compensation and may, for
30 cause by them declared in writing, after due notice
31 to the officer and hearing, if requested, remove him
32 and appoint another in his stead. The municipal offi-
33 cers may limit the authority of a harbor master to
34 make arrests and carry a weapon.

35 Sec. 2. 38 MRS A §7 is enacted to read:

36 §7. Relation to other laws

37 Nothing in this subchapter may be construed to be
38 a limitation on the authority of municipalities to

1 enact ordinances to regulate the assignment or place-
2 ment of moorings and other activities in their har-
3 bors. These ordinances may include, but need not be
4 limited to: A process for assigning mooring privi-
5 leges and determining the location of moorings; a
6 waiting list for the assignment of mooring privi-
7 leges; a fee schedule; construction standards for
8 moorings; time limits on the mooring of vessels; a
9 process for appeals from decisions of the harbor
10 master; and provisions which establish a harbor com-
11 mission or committee to administer the ordinance and
12 oversee the duties of the harbor master. Regulations
13 adopted by the municipal officers under section 2
14 shall remain in effect unless the municipality's leg-
15 islative body enacts an ordinance pertaining to the
16 same matter pursuant to the Constitution of Maine,
17 Article VIII, Part 2, and Title 30, section 1917.

18 Emergency clause. In view of the emergency cited
19 in the preamble, this Act shall take effect when ap-
20 proved.

21 STATEMENT OF FACT

22 Many coastal municipalities currently have in ef-
23 fect ordinances which provide orderly mechanisms for
24 the assignment and location of mooring privileges. A
25 recent Superior Court decision, South Freeport Marine
26 v. Town of Freeport, No. CV-85-1001, Cumberland Coun-
27 ty Superior Court, February 27, 1986, has cast doubt
28 on the authority of these communities to enact these
29 ordinances. The intent of this bill is to clarify the
30 authority of municipalities to enact these ordinances
31 and provide that the ordinances be administered by
32 the harbor master.

33

6858032586