

# MAINE STATE LEGISLATURE

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(Governor's)  
(EMERGENCY)  
FIRST REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

No. 1628

S.P. 539

In Senate, May 19, 1987

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

JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator CAHILL of Sagadahoc.

Cosponsored by Representative RICE of Stonington,  
Representative LOOK of Jonesboro, Representative CROWLEY of  
Stockton Springs.

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STATE OF MAINE

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

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1                   **AN ACT to Clarify Certain Errors and**  
2                   **Inconsistencies in Marine Resources**  
3                   **Law.**  
4

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5           **Emergency preamble.** Whereas, Acts of the Legis-  
6           lature do not become effective until 90 days after  
7           adjournment unless enacted as emergencies; and

8           Whereas, ambiguities exist in the marine re-  
9           sources laws; and

10           Whereas, these ambiguities create uncertainty and  
11           confusion in interpreting legislative intent; and

1           Whereas, it is vitally necessary that this uncer-  
2           tainty and confusion be resolved in order to prevent  
3           any injustice to the citizens of Maine; and

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

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

12                **Sec. 1.** 12 MRSA §4602 is amended to read:

13          §4602. Entry into force -- article II

14                This agreement shall become operative immediately  
15                as to those states executing it whenever any 2 or  
16                more of the States of Maine, New Hampshire, Massachu-  
17                setts, Rhode Island, Connecticut, New York, New Jer-  
18                sey, Delaware, Maryland, Virginia, North Carolina,  
19                South Carolina, Georgia and Florida have executed it  
20                in the form that is in accordance with the laws of  
21                the executing state and the Congress has given its  
22                consent. Any state contiguous with any of the afore-  
23                mentioned states and riparian upon coastal waters  
24                frequented by anadromous fish, flowing into coastal  
25                waters under the jurisdiction of any of the aforemen-  
26                tioned states, may become a party hereto as provided.

27                **Sec. 2.** 12 MRSA §6001, sub-§§20-A and 48-A are  
28                enacted to read:

29                20-A. Internal waters. "Internal waters" means  
30                all waters of the State within the rise and fall of  
31                the tide and inshore of the base line which deter-  
32                mines the landward boundary of the territorial seas,  
33                but it does not include areas above any fishway or  
34                dam when the fishway or dam is the dividing line be-  
35                tween tidewater and freshwater.

36                48-A. Territorial seas. "Territorial seas"  
37                means all internal waters of the State within the  
38                rise and fall of the tide and inshore of the outer

1 limits of the boundary of the territorial seas as de-  
2 finied by the 1985 Geneva Convention and as indicated  
3 on all 13000 series of the United States Department  
4 of Commerce National Oceanic Atmospheric Administra-  
5 tion National Ocean Service charts.

6 Sec. 3. 12 MRSA §6002, sub-§3, as enacted by PL  
7 1977, c. 661, §5, is amended to read:

8 3. General application. Marine resources' laws  
9 shall apply to all registered vessels and to all per-  
10 sons where their activities occur within the State,  
11 within the territorial seas of the State or where the  
12 product of those activities are brought into the  
13 State or its coastal-waters territorial seas. They  
14 shall also apply to all residents of the State  
15 wherever those activities are conducted, but not  
16 within the jurisdiction of another state. These laws  
17 do not apply to marine organisms passing through the  
18 State under the authority of the laws of the United  
19 States. This subsection does not limit section 6859.

20 Sec. 4. 12 MRSA §6075, sub-§1, as enacted by PL  
21 1983, c. 559, §1, is amended to read:

22 1. Purposes. The purposes of this section are  
23 to increase the availability of pathological assess-  
24 ment of shellfish stock to be introduced into the  
25 State for culturing purposes, of culturing facilities  
26 and areas and of shellstock to be exported to other  
27 states and countries. This shall be provided as a  
28 service to protect the state's coastal waters and  
29 other resources, and to support the shellfish indus-  
30 tries of the State.

31 Sec. 5. 12 MRSA §6121, sub-§§1 and 2, as re-  
32 pealed and replaced by PL 1983, c. 388, §1, is  
33 amended to read:

34 1. Commissioner's authority. In order to con-  
35 serve, develop or restore anadromous fish resources,  
36 the commissioner may require a fishway to be erected,  
37 maintained, repaired or altered by the owners, les-  
38 sors or other persons in control of any dam or other  
39 artificial obstruction within coastal-waters territo-  
40 rial seas frequented by alewives, shad, salmon, stur-  
41 geon or other anadromous fish species.

1           2. Examination of dams. The commissioner shall  
2 periodically examine all dams and other artificial  
3 obstructions to fish passage within the ~~coastal~~  
4 waters territorial seas in order to determine whether  
5 fishways are necessary, sufficient or suitable for  
6 the passage of anadromous fish.

7           Sec. 6. 12 MRSA §6122, sub-§1, as repealed and  
8 replaced by PL 1983, c. 388, §2, is amended to read:

9           1. Notice required. Prior to construction or  
10 prior to authorizing construction of a new dam or  
11 other obstruction in the ~~coastal--waters~~ territorial  
12 seas, the owner, lessee or other person in control of  
13 the dam or other artificial obstruction shall provide  
14 written notice to the commissioner, supplying infor-  
15 mation on construction plans, proposed location and  
16 date of construction of the dam or other artificial  
17 obstruction.

18           Sec. 7. 12 MRSA §6131, sub-§2, ¶A, as enacted by  
19 PL 1977, c. 661, §5, is amended to read:

20           A. It shall be unlawful to take alewives from  
21 sunrise 6 a.m. each Saturday morning until  
22 sunrise 6 a.m. Sunday morning. Municipalities  
23 which make other provisions for escape of spawn-  
24 ing alewives, which are approved by the commis-  
25 sioner, shall be exempt from this limit.

26           Sec. 8. 12 MRSA §6208, sub-§2, ¶B, as enacted by  
27 PL 1985, c. 481, Pt. A, §37, is amended to read:

28           B. The commissioner may in his discretion pro-  
29 vide books to other law enforcement agencies and  
30 officers listed in section 7055 6025, subsection  
31 5 for their use in the enforcement of chapters  
32 601 to 627. The commissioner may not require  
33 other agencies to use this form.

34           Sec. 9. 12 MRSA §6255, sub-§6, ¶A, as enacted by  
35 PL 1983, c. 680, §3, is amended to read:

36           A. Tagged with an Atlantic salmon tag provided  
37 by the Atlantic Sea Run Salmon Commission if  
38 caught in Maine coastal waters;

1           **Sec. 10.** 12 MRSA §6405, first ¶, as amended by  
2 PL 1977, c. 713, §3, is further amended to read:

3           Any person whose lobster and crab fishing license  
4 has been suspended shall, within 5 days of suspen-  
5 sion, remove from the water coastal waters all of his  
6 lobster traps or cars, except cars numbered with an  
7 other valid license number. The commissioner may ext-  
8 tend the time period if adverse weather conditions or  
9 other circumstances beyond the control of the license  
10 holder prevent removal within that time period.

11           **Sec. 11.** 12 MRSA §6439, as amended by PL 1985,  
12 c. 268, §5, is further amended to read:

13           §6439. Areas of limited lobster fishing

14           It shall be unlawful to have on any trawl more  
15 than 3 lobster traps in any of the coastal-waters  
16 territorial seas in the following areas:

17           1. West of Cape Elizabeth and east of Kittery.  
18           Westerly of a line drawn from the active lighthouse  
19 at Two Lights in Cape Elizabeth to the Hue and Cry  
20 Buoy, and northerly and easterly of a line running  
21 between the Kitts Rocks Whistle Buoy and the West  
22 Sister Buoy and extending westerly to the New Hamp-  
23 shire border, and from the West Sister Buoy to the  
24 Murray Rock Buoy and thence to and through the  
25 lighthouse on Boone Island and, continuing in a  
26 straight line, to the boundary of the coastal-waters  
27 territorial seas within the jurisdiction of this  
28 State;

29           2. Between Pemaquid and Robinson's Points. Be-  
30 tween the following lines:

31           A. Beginning at a point 48 miles true north of  
32 the lighthouse on Pemaquid Point, Lincoln County;  
33 thence true south through the lighthouse to a  
34 point where that line intersects the southeaster-  
35 ly boundary of the coastal--waters territorial  
36 seas within the jurisdiction of the State; and

37           B. Beginning at a point 40 miles true north from  
38 the lighthouse at Robinson's Point, Isle au Haut,  
39 Knox County; thence true south through the

1 lighthouse to a point where the line intersects  
2 the southeasterly boundary of the ~~coastal-waters~~  
3 territorial seas within the jurisdiction of the  
4 State; and

5 3. Off Hancock County. Within the following ra-  
6 dio direction-finder LORAN C bearings: Beginning at  
7 Schoodic Point, Hancock County; thence running a True  
8 compass course of 159° for approximately 16 miles to  
9 LORAN C bearing of 9960-W-12349.0 and 9960-X-25693.0;  
10 thence running along a True compass course of 234°  
11 for approximately 11.4 miles, to and through Mt.  
12 Desert Rock to LORAN C bearing of 9960-W-12456.0 and  
13 9960-X-25695.0; thence running in a True compass  
14 course of 336° for approximately 4.2 miles to LORAN C  
15 bearing of 9960-W-12440.0 and 9960-X-25718.0; thence  
16 running in a westerly direction to a point where that  
17 line intersects with the line described in subsection  
18 2, paragraph B, if it is extended to that line.

19 **Sec. 12.** 12 MRSA §6439-A, as enacted by PL 1979,  
20 c. 152, §2, is amended to read:

21 §6439-A. Limited lobster fishing in the vicinity of  
22 Kittery

23 It shall be unlawful to have on a trawl more than  
24 10 lobster traps on one warp and buoy in the ~~coastal~~  
25 waters territorial seas southerly of a line running  
26 between the Kitts Rocks Whistle Buoy and the West  
27 Sister Buoy and extending westerly to the New Hamp-  
28 shire border, and from the West Sister Buoy to the  
29 Murray Rock Buoy and thence to and through the  
30 lighthouse on Boone Island and, continuing in a  
31 straight line, to the boundary of the ~~coastal-waters~~  
32 territorial seas within the jurisdiction of this  
33 State. Each trawl set in this area shall be marked  
34 with at least one buoy with a buoy stick of at least  
35 4 feet in length.

36 **Sec. 13.** 12 MRSA §6440, first ¶, as enacted by  
37 PL 1977, c. 661, §5, is amended to read:

38 It shall be unlawful to raise, haul or transfer  
39 any lobster trap from the ~~coastal-waters~~ territorial  
40 seas:

1           **Sec. 14.** 12 MRSA §6451, sub-§1, as repealed and  
2 replaced by PL 1985, c. 737, Pt. A, §27, is amended  
3 to read:

4           1. Allocation of license fees. Ten dollars of  
5 each ~~§33~~ §53 fee and \$5 of each ~~§13~~ §26 fee for each  
6 lobster and crab fishing license shall be allocated  
7 to the Lobster Fund, which shall be used for the pur-  
8 poses of lobster biology research, of propagation of  
9 lobsters by liberating seed and female lobsters in  
10 Maine ~~coastal--waters~~ territorial seas and of estab-  
11 lishing and supporting lobster hatcheries.

12           **Sec. 15.** 12 MRSA §6451, sub-§3, as repealed and  
13 replaced by PL 1985, c. 237, §2, is amended to read:

14           3. Liberation and v-notching. The commissioner  
15 may provide purchased seed lobsters to lobster hatch-  
16 eries. The remaining seed and all other female  
17 lobsters shall be liberated in the ~~coastal--waters~~  
18 territorial seas after v-notching them in the right  
19 flipper. The right flipper shall be determined as es-  
20 tablished under section 6436, subsection 1.

21           **Sec. 16.** 12 MRSA §6521, sub-§2, as enacted by PL  
22 1977, c. 661, §5, is amended to read:

23           2. Scaled finfish. It shall be unlawful to de-  
24 posit, release or dump into the ~~coastal--waters~~ terri-  
25 torial seas any dead or alive finfish from which the  
26 scales have been removed.

27           **Sec. 17.** 12 MRSA §6522, as enacted by PL 1977,  
28 c. 661, §5, is amended to read:

29           §6522. Monofilament nets

30           It shall be unlawful to discard or abandon into  
31 any coastal waters any net made of monofilament or of  
32 other material which is not biodegradable.

33           **Sec. 18.** 12 MRSA §6523, as enacted by PL 1977,  
34 c. 661, §5, is amended to read:

35           §6523. Marking ice fishing shacks



1 It shall be unlawful to place any shack or tempo-  
2 rary structure used for ice fishing on the frozen  
3 ~~coastal-waters territorial seas~~ or to use the shack  
4 or structure, unless the owner's name and address are  
5 painted or otherwise clearly marked on the outside  
6 with 2-inch letters. The fine or penalty for convic-  
7 tion of violating this section shall include the  
8 costs incurred in removing any structure.

9 Sec. 19. 12 MRSA §6552, sub-§1, as amended by PL  
10 1985, c. 217, is further amended to read:

11 1. Method and amount. From March 15th to June  
12 15th, both days inclusive, it shall be unlawful to  
13 fish for or take smelts from the ~~coastal-waters ter-~~  
14 ritorial seas by any means other than a hand dip net  
15 operated by one man or by angling with a hook and  
16 line or to take or possess more than 2 quarts of  
17 smelts in one day.

18 Sec. 20. 12 MRSA §6555, last ¶, as amended by PL  
19 1985, c. 596, §1, is further amended to read:

20 It is unlawful to take or possess striped bass  
21 which are less than 33 inches total length and it is  
22 unlawful to possess striped bass unless the fish is  
23 whole with head on and is 33 inches or more in total  
24 length.

25 Sec. 21. 12 MRSA §6555, last ¶, as repealed and  
26 replaced by PL 1985, c. 596, §§2 and 5, is amended to  
27 read:

28 It is unlawful to take or possess striped bass  
29 which are less than 24 inches fork length and it is  
30 unlawful to possess striped bass unless the fish is  
31 whole with head on and is 24 inches or more in fork  
32 length.

33 Sec. 22. 12 MRSA §6571, first ¶, as enacted by  
34 PL 1977, c. 661, §5, is amended to read:

35 Within the ~~coastal--waters~~ territorial seas of  
36 Washington County:

37 Sec. 23. 12 MRSA §6722, as amended by PL 1983,  
38 c. 685, is further amended to read:



