

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)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 281

H.P. 201

House of Representatives, February 21, 1989

Submitted by the Department of Marine Resources pursuant to Joint Rule 24.
Reference to the Committee on Marine Resources suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative LOOK of Jonesboro.

Cosponsored by Representative MARSH of West Gardiner, Senator
BRANNIGAN of Cumberland and Representative MITCHELL of Freeport.

STATE OF MAINE

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

An Act to Amend Certain Provisions of the Marine Resources Laws.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 5 MRSA §945, sub-§1,** as amended by PL 1985, c. 481,
5 Pt. A, §10, is further amended to read:

7 **1. Major policy-influencing positions.** The following
9 positions are major policy-influencing positions within the
11 Department of Marine Resources. Notwithstanding any other
13 provision of law, these positions and their successor positions
15 shall be subject to this chapter:

17 A. Deputy Commissioner; and

19 B. Chief, Bureau of Marine Patrol; and

21 D. Assistant to the Commissioner for Public Information.

23 **Sec. 2. 12 MRSA §6001, sub-§10,** as enacted by PL 1977, c. 661,
25 §5, is amended to read:

27 **10. Crayfish.** "Crawfish" "Crayfish" means all species of
29 from either fresh or salt water including, but not limited to,
31 the family Palinuridae, including the representative genera
33 Panulirus, Jasus, Galathea and Panulirus Palinurus, which have
35 been called by such terms including, but not limited to, rock
37 lobster, spiny lobster, sea crawfish, red lobster, thorny
39 lobster, langoust, langoustini, langostino, crayfish, Sidney
41 crawfish, kreef, Cuban rock lobster, African lobster or African
43 crawfish.

45 **Sec. 3. 12 MRSA §6022, sub-§3,** as amended by PL 1985, c. 785,
47 Pt. B, §65, is further amended to read:

49 **3. Organization and personnel.** The commissioner shall
51 organize the department into the administrative units which he
53 the commissioner decides are necessary to carry out its duties.
55 The commissioner shall hire all necessary employees of the
57 department subject to the Civil Service Law, except that persons
59 in the following positions shall be appointed by and serve at the
61 pleasure of the commissioner: Deputy Commissioner; Chief, Bureau
63 of Marine Patrol; and Assistant to the Commissioner for Public
65 Information. The Chief of the Bureau of Marine Patrol shall be
67 appointed from among the patrol personnel of the bureau with the
69 rank of sergeant or higher. In the event that the Chief of the
71 Bureau of Marine Patrol is not reappointed, he that person shall
73 have the right to be restored to the classified position from
75 which he that person shall have been promoted or to a position
77 equivalent thereto in salary grade without impairment of his that
79 person's personnel status or the loss of seniority, retirement or
81 other rights to which uninterrupted service in the classified

1 position would have entitled him that person. If his that
2 person's service in the position of Chief of the Bureau of Marine
3 Patrol shall be terminated for cause, his that person's right to
4 be so restored shall be determined by the State Civil Service
5 Appeals Board.

7 **Sec. 4. 12 MRSA §6306, sub-§3** is enacted to read:

9 **3. Refusal.** Refusal to permit inspection or seizure shall
10 be a basis for suspension of any or all licenses under this
11 chapter.

13 **Sec. 5. 12 MRSA §6601, sub-§2**, as enacted by PL 1977, c.661,
14 §5, is amended to read:

15 **2. Licensed activities.** The holder of a shellfish license
16 may fish for or take shellfish or possess, ship or transport
17 within the state limits or sell shellstock he the holder has
18 taken. The holder may also shuck, in the holder's home, shellfish
19 he the holder has taken and sell those shucked shellfish from his
20 that home in the retail trade. This license shall not authorize
21 the holder to fish for or take shellfish in violation of a
22 municipal ordinance adopted pursuant to section 6671.

25 **Sec. 6. 12 MRSA §6745, sub-§4**, as enacted by PL 1987, c. 328,
26 §3, is amended to read:

27 **4. Exception.** In any one day, any person may take or
28 possess not more than ~~2-bushels-of-shell-mussels-or-4-quarts-of~~
29 ~~shucked-mussels~~ 1/2 bushel of mussels for personal use without a
30 mussel license.

33 **Sec. 7. 12 MRSA §6746, sub-§4**, as enacted by PL 1987, c. 328,
34 §3, is amended to read:

35 **4. Exception.** In any one day, any person may take or
36 possess not more than ~~2-bushels-of-shell-mussel-or-4-quarts-of~~
37 ~~shucked-mussels~~ 1/2 bushel of mussels for personal use without a
38 mussel license.

41 **Sec. 8. 12 MRSA §6851, sub-§2, ¶B**, as enacted by PL 1977, c.
42 661, §5, is amended to read:

43 **B.** Within or beyond the state limits, buy, sell,
44 ~~process--or~~ shuck, pack, ship, or within the state
45 limits, transport fresh or fresh frozen shellfish to
46 the extent these activities are expressly authorized by
47 a shellfish certificate issued under section 6856; or
48
49
50
51

STATEMENT OF FACT

The bill accomplishes the following changes.

1. The bill reestablishes the position of Assistant to the Commissioner for Public Information and to define it for purposes of public information.

2. The retail sale of crayfish is increasing with the increased use of aquaculture, especially through the use of freshwater ponds. This product is difficult to differentiate from lobster meat. Similar circumstances related to saltwater crayfish resulted in a requirement that sellers of crawfish, be licensed. This bill broadens the definition of crayfish to include all varieties to ensure that inappropriate mixing of product does not occur.

3. The bill reinstates a penalty provision for refusal to permit inspection or seizure under the Maine Revised Statutes, Title 12, section 6306.

4. The current law which allows licensed shellfish harvesters to shuck shellfish they have taken does not clearly state that this activity may only occur in their homes. This bill clarifies that fact.

5. When the 2 commercial mussel licenses were enacted, language pertaining to a different species was used as the model. This bill makes the exception for noncommercial possession of mussels consistent with the softshell clam noncommercial possession provision, to minimize the opportunity for commercial sale of product harvested for personal use.

6. The Department of Marine Resources is responsible for closely monitoring shellfish facilities which deal in fresh and fresh frozen shellfish product under the terms of the national shellfish sanitation programs. Shellfish which are not fresh or fresh frozen such as pickled, smoked or canned product are not subject to these provisions. The term "process" as currently applied by law makes no distinction as to product form, thus requiring processing facilities to be subject to inappropriate state inspection. This bill clarifies that circumstance. Shellfish facilities affected by section 8 will be subject to inspection by the Department of Agriculture, Food and Rural Resources.