

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1225

S.P. 453

In Senate, April 18, 1989

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PERKINS of Hancock.

Cosponsored by Representative LOOK of Jonesboro, Representative HUTCHINS of Penobscot and Representative TOWNSEND of Eastport.

STATE OF MAINE

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

An Act to Amend Laws Regulating the Sardine Industry.



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

3 Sec. 1. 32 MRSA §4157-A, as amended by PL 1977, c. 694, §634,
5 is further amended to read:

7 **§4157-A. Sardines for export; exempt from quantity and quality
provisions of Maine Sardine Law**

9 ~~Sardines which are packed specifically for export from the~~
11 ~~United States shall be exempt from section 4157 provided they~~
13 that satisfy the requirements of the Maine Food Law, but not the
requirements of the Maine Sardine Law, may be exported by
complying with the shipping carton marking and bonding provisions
of this section.

15 The cover of each can of sardines ~~packed specifically for~~
17 ~~export shall be labeled with the name of the packer and be~~
19 ~~plainly lithographed with the words "FOR EXPORT" in letters not~~
21 less than 1/4 inches high that satisfy the requirements of the
Maine Food Law, but not the requirements of the Maine Sardine Law
23 shall be labelled with the name of the packer. Each shipping
carton shall be marked plainly and conspicuously with the words
"FOR EXPORT" in letters not less than 1/2 inches high.

25 The commissioner shall detain or place an embargo upon such
27 sardines by marking or tagging same; orders for detention or
29 embargo issued under this section shall not be considered to be
licensing or an adjudicatory proceeding as those terms are
31 defined by the Maine Administrative Procedure Act. The
33 commissioner shall not release the sardines from detention or
35 embargo until the packer provides a bond with good and sufficient
37 sureties in an amount not less than twice the value of the
39 sardines, running to the commissioner and his the commissioner's
41 successors in office, conditioned that such sardines shall be
43 exported to a foreign country to be named therein and shall not
45 be reimported into the United States by any person, or in such
47 other amount and upon such other conditions as may be established
49 by the commissioner; or if the packer is regularly engaged in the
business of exporting sardines, the packer may provide one bond
in the amount of \$10,000 to cover all such exports; conditioned
that such sardines shall be exported to a foreign country and
shall not be reimported to the United States by any person and
that the packer will inform the commissioner of the value and the
foreign country of destination of each shipment in writing prior
to release of the embargo and such additional documentary
evidence as the commissioner may require within 45 days of the
date of such shipment. A packer shall be deemed regularly engaged
in the business of exporting sardines if the packer makes 2 or
more shipments in any one year.

51 Shipments to United States military procurement agencies
which do not meet market requirements within the United States,

1 its territories and possessions as specified by the Maine Sardine
2 Law shall not be deemed as being exported to a foreign country.

3 ~~Sardines not packed specifically for export which satisfy~~
4 ~~the requirements of the Maine Feed Law, but not the requirements~~
5 ~~of the Maine Sardine Law, may be exported by complying with the~~
6 ~~shipping carton marking and bonding provisions of this section.~~

7
8 **Sec. 2. 32 MRSA §4159**, as amended by PL 1983, c. 387, §2, is
9 further amended to read:

10
11 **§4159. Sale or packing of herring**

12
13 It shall be unlawful for any person, firm or corporation to
14 sell, offer for sale or transfer in any manner herring which are
15 4 1/2 inches in length or longer when measured from one extreme
16 to the other to any person, firm or corporation, other than for
17 human consumption or bait purposes, ~~unless such herring are not~~
18 ~~desirable for processing for human consumption, provided there is~~
19 ~~a buyer of herring for processing for human consumption within a~~
20 ~~reasonable distance of the place where such herring are caught~~
21 ~~and available at the time they are offered for sale, ready and~~
22 ~~willing to purchase at a price acceptable to the seller.~~ No
23 person, firm or corporation shall can, pack or otherwise process
24 such herring except for human consumption except as provided in
25 this section.

26
27 **Sec. 3. 36 MRSA §4693, sub-§1**, as enacted by PL 1987, c. 333,
28 §2, is amended to read:

29
30
31 1. **Council established.** The Maine Sardine Council, as
32 established by Title 5, section ~~12004~~ 12004-H, subsection 9 8,
33 shall consist of not more than 9 nor less than 5 3 members to be
34 appointed by the Commissioner of Marine Resources. Fifty-one
35 percent of the members of the council shall constitute a quorum
36 and the affirmative vote of at least 51% of the members shall be
37 necessary for the transaction of all business and the carrying
38 out of the duties of the council. The members shall be sardine
39 packers, operating within the State, who have been actively
40 engaged in packing sardines for not less than 2 years and each
41 shall be so actively engaged during his continuance in office. A
42 person shall be considered actively engaged in packing sardines
43 if he that person has derived, during the period, a substantial
44 portion of his income from packing sardines, or has been the
45 director or manager of an entity that derives a substantial
46 portion of its income from packing sardines.

1

STATEMENT OF FACT

3

5 Section 1 of this bill allows for the export of Maine
7 sardines which, while not meeting Maine Sardine Law standards, do
9 meet Maine Food Law standards. All carton marking and bonding
11 regulations will remain intact, thus ensuring that Maine sardines
13 not meeting the standards of the Maine Sardine Law can not be
15 sold in the United States. This change makes it more economical
to prepare sardines for export for certain markets. Currently,
exported sardines must be labelled with the words "FOR EXPORT"
plainly marked on each can. The need for an expensive inventory
of sardine can covers for certain exported products will be
eliminated with this change.

17 Section 2 of this bill prohibits the sale of herring other
19 than for human consumption or bait purposes. The Maine sardine
21 industry is opposed to the sale of herring for use in the
23 manufacture of fish meal. With Gulf of Maine herring stocks
rebuilding and established markets for sardines and bait in
place, the use of herring for fish meal is unnecessary and
potentially damaging to the economic viability of the sardine and
lobster industries.

25 Section 3 of this bill changes the composition of the Maine
27 Sardine Council. Current law requires that the council consist
29 of not less than 5 members. With the consolidation that has
31 taken place in the industry within the last 2 years, only 5
sardine packing companies are operating in Maine today. This
section changes the law to allow the council to consist of no
less than 3 members.