

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2304

H.P. 1664

House of Representatives, February 9, 1990

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

A handwritten signature in cursive script that reads 'Ed Pert'.

EDWIN H. PERT, Clerk

Presented by Representative HUTCHINS of Penobscot.

Cosponsored by Senator BRAUN of Knox, Senator BRANNIGAN of Cumberland  
and Representative MITCHELL of Freeport.

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STATE OF MAINE

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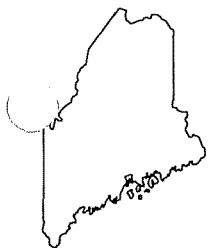
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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An Act to Amend Certain Provisions in Marine Resources Laws.

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(EMERGENCY)



2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           Whereas, provisions of the marine resources laws regulating  
6 the possession and packing of lobster tails were repealed by a  
sunset provision on March 1, 1989; and

8           Whereas, these activities are continuing without authorized  
10 oversight, and statutory authority is immediately required to  
continue oversight; and

12           Whereas, in the judgment of the Legislature, these facts  
14 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
16 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

20           **Sec. 1. 12 MRSA §6024, sub-§1-A,** as enacted by PL 1989, c. 8,  
22 §2; and as amended by PL 1989, c. 503, Pt. B, §§61 and 62, is  
further amended to read:

24           **1-A. Appointment; composition; term; compensation.** The  
26 ~~advisory-council~~ Marine Resources Advisory Council, established  
by Title 5, section 12004-G, subsection 27, shall consist of 9  
28 members. The ~~chair~~ Chair of the Lobster Advisory Council shall  
be an ex officio member of the council. Each other member shall  
30 be appointed by the Governor and shall be subject to review by  
the joint standing committee of the Legislature having  
32 jurisdiction over marine resources and to confirmation by the  
Legislature. Seven of the appointed members shall be selected  
34 from persons directly engaged in commercial activities or  
industries based on marine resources. These 7 members shall be  
36 selected so as to adequately represent, together with the ~~chair~~  
Chair of the Lobster Advisory Council, the various aspects of  
38 commercial fisheries' activities over which the department has  
jurisdiction. One of the appointed members shall be selected  
40 from persons who represent recreational fishing interests. The  
composition of the council shall reflect a geographical  
42 distribution along the coast. All appointed members shall be  
appointed for a term of 3 years, except a vacancy shall be filled  
44 in the same manner as an original member for the unexpired  
portion of the term. No appointed member may serve for more than  
46 2 consecutive terms at any one time. Appointed members shall  
serve until their successors are appointed. The ~~chair~~ Chair of  
48 the Lobster Advisory Council shall serve until a new ~~chair~~ Chair  
of the Lobster Advisory Council is chosen. Members shall be  
50 compensated as provided in Title 5, chapter 379.

2           Sec. 2. 12 MRSA §6555, 2nd ¶, as repealed and replaced by PL  
1987, c. 622, §1, is repealed.

4           Sec. 3. 12 MRSA §6556, 2nd ¶, as repealed and replaced by PL  
1987, c. 622, §2, is repealed.

6           Sec. 4. 12 MRSA §6556-A, as enacted by PL 1987, c. 622, §3,  
8 is repealed.

10          Sec. 5. 12 MRSA §6862, sub-§§1 to 4, as repealed by 12 MRSA  
§6862, sub-§5, are reenacted to read:

12           1. Current lobster tail permit. It is unlawful for any  
14 person to engage in the activities authorized by a permit issued  
16 under this section without a current lobster tail permit.

18           2. Permitted activity. A lobster tail permit authorizes a  
20 wholesale seafood license holder to remove lobster tails in the  
22 shell from lobster under the following conditions.

24           A. The lobster tails shall only be processed at the  
26 establishment named in the permit.

28           B. The tails shall only come from legal sized lobsters, as  
30 defined in section 6431.

32           C. All containers in which lobster tails are packed to be  
34 sold, shipped or transported shall be clearly labeled with  
36 the name, address and permit number of the packer.

38           3. Permit limitation. A permit shall only authorize these  
40 activities at one location or place of business.

42           4. Regulations. The commissioner in accordance with the  
44 Maine Administrative Procedures Act, Title 5, chapter 375, may  
46 adopt such regulations as are deemed necessary for implementation  
48 and enforcement of this section. These regulations may include  
50 provisions for determining that lobster tails processed under  
52 this section were removed from legal sized lobsters and other  
provisions as may be deemed necessary.

**Emergency clause.** In view of the emergency cited in the  
preamble, this Act shall take effect when approved.

#### STATEMENT OF FACT

          This bill properly denotes the advisory council to the  
Department of Marine Resources as the Marine Resources Advisory  
Council. The inclusion of the formal title will avoid confusion  
over statutory reference.

2 This bill gives the Commissioner of Marine Resources the  
3 ability to promulgate rules on limits and methods of capture that  
4 are consistent with the striped bass interstate fisheries  
5 management plan of the Atlantic States Marine Fisheries  
6 Commission. The commissioner may also promulgate rules  
7 consistent with management objectives for Maine's native run  
8 striped bass population.

9  
10 This bill also reenacts the Maine Revised Statutes, Title  
11 12, section 6862, subsections 1 to 4, which were repealed by a  
12 sunset clause on March 1, 1989. Reenactment of these subsections  
is necessary to regulate the ongoing processing of lobster tails.