

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1359

S.P. 510

In Senate, March 28, 1991

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 "Joy J. O'Brien".

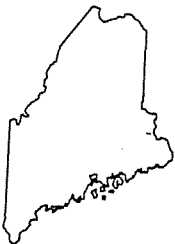
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator VOSE of Washington
Cosponsored by Senator GOULD of Waldo and Representative FARREN of Cherryfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Make Revisions in the Marine Resource Laws.



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

2
4 Sec. 1. 12 MRSA §6001, sub-§36-A is enacted to read:

6 36-A. Resident. "Resident" means a citizen of the United
8 States who has been domiciled in this State continuously during
10 the 6 months directly preceding the date on which that person
12 applies for any license or permit or an alien who has been so
14 domiciled for one year.

16 Sec. 2. 12 MRSA §6071, sub-§3, as enacted by PL 1989, c. 205,
18 §1, is amended to read:

20 3. **Products embargoed and condemned.** The commissioner or
22 the commissioner's agent may indefinitely embargo, condemn or
24 order to be destroyed any marine species organisms or marine
26 species organism product either indigenous or imported and
28 introduced to coastal waters in violation of this section
30 whenever it is determined that the product is of unsound quality;
32 contains any filthy, decomposed or putrid substance; may be
34 poisonous or deleterious to health; or is otherwise unsafe. The
36 commissioner shall cooperate with those state and federal
38 agencies having similar responsibility in the protection of
40 public health and in enforcing the order to embargo, condemn or
42 destroy.

44 If any marine species organisms or marine species organism
46 product is embargoed, condemned or ordered destroyed, the
48 commissioner or the commissioner's agent shall, as soon as
50 practical, notify the owner in writing of the amount and kind of
52 marine species organisms or marine species organism product
 embargoed, condemned or destroyed.

 Sec. 3. 12 MRSA §6172, as amended by PL 1989, c. 205, §3, is
 further amended to read:

§6172. Contaminated or polluted flats

 1. **Commissioner's powers.** The commissioner may examine the
 coastal waters and the intertidal zone and adopt rules to close
 coastal waters or intertidal zone areas if the commissioner
 determines that any marine species organisms are or may become
 contaminated or polluted. The commissioner may adopt or amend
 rules as the commissioner determines necessary, setting forth
 standards for closure of contaminated or polluted areas, giving
 consideration to established state water quality standards, the
 most recently adopted federal sanitation standards, or other
 state or federal public health standards, the most recent
 generally accepted research data and known sources of pollution
 in any area, in a manner to protect the public health and safety
 while allowing reasonable use of the State's marine species
 organisms.

2 **2. Emergency rules.** The commissioner may adopt or amend
rules under the emergency procedures, if immediate action is
4 necessary to prevent the taking of polluted or contaminated
marine species organisms.

6 **3. Repeal.** The commissioner shall repeal a rule closing an
8 area or waters when the marine species organisms are no longer
contaminated or polluted or when the waters meet the sanitary
10 standards set forth in any department rules. The commissioner
may use emergency regulatory procedures to open areas or waters
12 that have been closed under emergency procedures of this section.

14 **4. Procedure.** The procedures of subchapter II shall be
used in adopting or amending rules authorized by this section.

16 **Sec. 4. 12 MRSA §6352, sub-§2,** as enacted by PL 1977, c. 661,
18 §5, is amended to read:

20 **2. Nature of notice.** The notice shall must contain a
statement of the conviction, the suspension and any opportunity
22 for a hearing, and shall must be personally served or mailed to
the holder at the address provided in his the application for the
24 license or certificate. The notice of suspension must be sent by
regular mail to the person at the last known address on record at
26 the department. Any suspension imposed is effective on a
28 specified date not less than 10 days after the mailing of the
notification of suspension by the department.

30 **Sec. 5. 12 MRSA §6353, sub-§3,** as enacted by PL 1977, c. 661,
32 §5, is amended to read:

34 **3. Decisions.** Decisions of the commissioner shall must be
in writing. The commissioner may reinstate the license or
36 certificate or reduce the suspension period if he the
commissioner is satisfied that to do so would be in the best
interests of justice, except that the commissioner may not reduce
38 suspensions set by statute.

40 **Sec. 6. 12 MRSA §6444, 2nd ¶,** as enacted by PL 1989, c. 878,
42 Pt. A, §33, is amended to read:

44 The commissioner may authorize a specified amount of
dipping, soaking or treating of lobster or crab traps, warps or
46 cars in solutions other than salt and sea water ~~for research~~
purposes that have been approved by the Department of
48 Agriculture, Food and Rural Resources, Board of Pesticides
Control. This authorization shall be in writing.

50 **Sec. 7. 12 MRSA §6671, sub-§4,** as amended by PL 1979, c. 608,
§2, is repealed and the following enacted in its place:

2 4. Adoption requirements. Shellfish conservation
3 ordinances may be adopted under this section by municipalities or
4 unorganized townships.

6 A. Prior to adopting an ordinance, a municipality or
7 unorganized township shall raise or appropriate money for a
8 shellfish conservation program within the 2 previous years.

10 B. A municipality shall receive and file with the municipal
11 clerk the written approval of the commissioner for the
12 proposed program and ordinance.

14 C. Unorganized townships may adopt ordinances only if at
15 least 10 inhabitants have petitioned the county
16 commissioners to adopt the ordinances, the county
17 commissioners of the townships have held a public hearing
18 with at least 7 days' prior notice in one of the affected
19 townships and a majority of the inhabitants eligible to vote
20 have approved the ordinances at referendum. The county
21 commissioners shall act as the municipal legislative body
22 within unorganized townships that have elected to adopt
23 ordinances under this section.

24 Sec. 8. 12 MRSA §6671, sub-§6, ¶¶A and B, as enacted by PL
25 1983, c. 283, are amended to read:

28 A. Village corporations; and

30 B. The combined towns of Yarmouth and North Yarmouth; ~~and.~~

32 Sec. 9. 12 MRSA §6671, sub-§6, ¶C, as repealed and replaced by
33 PL 1983, c. 689, is repealed.

34 Sec. 10. 12 MRSA §6731, sub-§2, as repealed and replaced by PL
35 1989, c. 828, §2, is amended to read:

38 2. Licensed activities. The holder of a mahogany quahog
39 license may:

40 A. Fish for or take mahogany quahogs in any harvesting area
41 indicated on the license;

44 B. Possess, ship or transport mahogany quahogs within the
45 State; or

46 C. Sell mahogany quahogs that the holder has taken.

48 The license authorizes crew members aboard the licensee's boat to
49 undertake these activities when engaged in dragging for mahogany
50 quahogs if the licensee is present.

2 **Sec. 11. 12 MRSA §6858, sub-§1**, as enacted by PL 1977, c. 661,
3 §5, is amended to read:

4
5 **1. Size of lobster meat.** It shall be is unlawful to possess
6 any tail section of lobster meat removed from the shell which is
7 ~~less than 4 1/4 inches or more than 6 1/2 inches in length when~~
8 ~~laid out straight and measured from end to end, not including the~~
9 ~~small part that is on the body end of the tail section~~ except in
10 accordance with rules adopted by the commissioner.

12
13 **STATEMENT OF FACT**

14 This bill clarifies and amends various sections of the
15 marine resource laws to make enforcement of the statutes more
16 consistent. This bill:

17 1. Includes a definition of "resident" that is consistent
18 with the definition in the inland fisheries and wildlife laws;

19 2. Provides for control of transfer of contaminated marine
20 organism products originating in this State;

21 3. Amends the laws to refer to marine organisms instead of
22 marine species, which by definition does not include shellfish,
23 in reference to shellfish harvesting area closures;

24 4. Streamlines notification of license suspension by
25 mailing the notice in a manner consistent with the Department of
26 the Secretary of State, Division of Motor Vehicles' mailing
27 policy mandated by statute;

28 5. Clarifies license suspension procedures so the
29 Commissioner of Marine Resources may not reduce suspensions set
30 by statute;

31 6. Allows the introduction of wood preservatives in coastal
32 waters if they meet the standards of the Department of
33 Agriculture, Food and Rural Resources, Board of Pesticides
34 Control;

35 7. Amends the laws to allow unorganized territories through
36 their county commissioners to continue enacting municipal
37 shellfish management ordinances;

38 8. Includes activities of mahogany quahog fishery crew
39 members under the mahogany quahog license holder's license; and

40 9. Allows the Commissioner of Marine Resources to adopt
41 rules designating the minimum size of lobster meat that may be
42 removed from the tail section.