

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1464, L.D. 2076, Bill, "An Act to Make Revisions in Marine Resource Laws"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 12 MRSA §6671, sub-§3-A, ¶B, as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

B. A shellfish conservation ordinance may fix license fees. The fee for a resident license may not exceed \$200 and the fee for a nonresident license shall may be not more than ~~10-times~~ twice the resident fee ~~for a resident license, provided that in no case may the fee for a nonresident license exceed \$150.~~

Sec. 3. 12 MRSA §6741, as amended by PL 1987, c. 694, §3, is repealed.'

Further amend the bill by inserting after section 5 the following:

'Sec. 6. 32 MRSA §4168, sub-§§4 and 5, as enacted by PL 1991, c. 446, Pt. C, §3, are amended to read:

4. **Labeling.** Sardines packed in accordance with rules adopted under this section may be plainly and conspicuously marked "Maine Sardines." Except as provided in section 4619 4169, sardines packed in a manner inconsistent with rules adopted under this section may not be sold for consumption in the United States unless each can and case is plainly and conspicuously marked with the word "herring" and the word "sardine" does not appear.

5. **Substandard grade.** Except as provided in section 4619 4169, sardines, kippers and steaks that are officially designated as substandard grade, for which a certificate is issued, may not

2 be sold for consumption in the United States unless each can in
the lot has the words "Substandard Grade, Good Food - Not High
4 Quality" so placed as to be easily seen when the name of the
product or pictorial representation thereof is viewed and appear
6 conspicuously enough to be seen under ordinary conditions of
purchase. The words "Substandard Grade, Good Food - Not High
8 Quality" must be printed in 2 lines across the cover of all cans
in letters not less than 1/8 inch in height and be enclosed in
10 lines that are not less than 1/32 inch in width. This wording
must be printed on all wrappers, labels, cartons or other outer
12 coverings of the cans with a permanent type of indelible ink or
by means of other approved procedure. The words "Substandard
14 Grade" must appear in letters not less than one inch high on both
ends of the shipping container.

16 Sec. 7. 32 MRSA §4170-A is enacted to read:

18 §4170-A. Embargo authority

20 1. Code plan required. A packer, before packing sardines,
kippers or steaks in 1/4 size cans, or in other containers for
22 which grades are established by the council under section 4168,
must have on file with the council a code plan satisfactory to
24 the executive director. That plan must show the plant where
packed, lot and the calendar year of packing, and may, at the
26 option of the packer, show other information as desired.
Optional coding information may be, but not need be, included in
28 the plan filed. The code plan must define "lot" as not more than
the entire output of one packing plant for one day, or for one
30 personnel shift, whichever is the shorter period. The plan must
remain effective until modified or rescinded by the packer and
32 another approved code plan is filed. A packer may not pack,
process, manufacture, sell, ship, deliver, consign or possess
34 sardines, kippers or steaks for which a code plan is required
unless the code appears legibly and permanently upon that
36 container and also upon the shipping case containing the sardines.

38 2. Certificate. The council may issue a certificate for
each lot of sardines, kippers or steaks, as defined in the
40 applicable code plan on file, stating the quality or grade of the
lot. The certificate is prima facie evidence of the facts stated
42 on the certificate.

44 3. Embargo for violation. Whenever the council or an
authorized agent of the council has reasonable cause to believe
46 that sardines, kippers or steaks are packed in violation of any
of the provisions of this chapter or rules adopted pursuant to
48 this chapter, or that the finished product does not meet the
standards and requirements of this chapter and rules adopted
50 pursuant to this chapter, the council or an authorized agent of

2 the council may detain or place an embargo upon those sardines,
4 kippers or steaks by marking or tagging them, giving notice that
6 the sardines, kippers or steaks were packed in violation of this
8 chapter and that they have been detained or embargoed and warning
10 people not to remove or dispose of them by sale or otherwise
12 until permission for removal or disposal is given by the council
or the court. It is unlawful for any person to remove or dispose
of a detained or embargoed article by sale or otherwise without
permission. The issuance of orders under this section for
detention or embargo does not constitute licensing or an
adjudicatory proceeding, as defined in the Maine Administrative
Procedure Act.

14 4. Libel for condemnation. The council or an authorized
16 agent of the council detaining the sardines, kippers or steaks
18 shall promptly petition the proper officer of the District Court
20 or the Superior Court within whose jurisdiction the sardines,
22 kippers or steaks are detained for a libel for condemnation of
the sardines, kippers or steaks, the procedure for which must
conform, as nearly as possible, to the procedure for libelling
marine organisms.

24 5. Destruction of products. If the court finds that the
26 sardines, kippers or steaks were packed in violation of this
28 chapter or rules adopted pursuant to this chapter, it shall enter
30 a decree that the sardines, kippers or steaks be destroyed at the
expense of the claimant of the sardines, kippers or steaks, under
supervision of the council or an authorized agent, and all court
costs and fees, and storage and other proper expenses must be
paid by the claimant.

32 6. Return to claimant for proper labelling or processing.
34 The court may order that the sardines, kippers or steaks be
36 delivered to the claimant for proper labelling or processing
under the supervision of the council or an authorized agent of
the council if:

38 A. The sardines, kippers or steaks can be brought into
40 conformity with this chapter by proper labelling or another
process;

42 B. The claimant has paid court costs, fees and expenses; and

44 C. The claimant has submitted a bond ensuring compliance
46 with this subsection to the council in an amount directed by
the court.

48 The claimant shall bear the expense of the supervision of the
50 council.

2 7. Return to claimant for export. The court may order that
4 the sardines, kippers or steaks be delivered to the claimant for
6 export under the supervision of the council or an authorized
8 agent of the council if:

6 A. The sardines, kippers or steaks are not in violation of
8 the laws of the foreign country to which they are intended
10 for export;

10 B. The sardines, kippers or steaks are labelled on the
12 outside of the shipping package to indicate they are
14 intended for export;

14 C. The claimant has paid court costs, fees and expenses; and

16 D. The claimant has submitted a bond ensuring compliance
18 with this subsection to the council in an amount not less
20 than twice the value of the goods as directed by the court.

20 Sardines, kippers or steaks exported under this subsection may
22 not be imported into the United States.

24 **Sec. 8. Resolve 1991, c. 39, §1, first 2 sentences are amended to**
26 **read:**

26 That, on or before May 15, 1994, the Department of Marine
28 Resources on behalf of the State, may convey to the Bigelow
30 Laboratory for Ocean Sciences a reasonable subdivision of land
32 and buildings, including the main research building and
34 associated maintenance building with no more than 2 acres of
36 land. The transfer must be completed on or before May 15, 1994
38 and must be on equitable terms to benefit the people of the State
40 as provided in section 2.'

36 **Further amend the bill by renumbering the sections to read**
38 **consecutively.**

40 STATEMENT OF FACT

42 **This amendment increases the maximum permitted fee for**
44 **municipal shellfish licenses, repeals the section of the Maine**
46 **Revised Statutes, Title 12 pertaining to minimum quahog sizes,**
48 **reenacts language pertaining to the embargo authority of the**
50 **Maine Sardine Council and makes technical corrections to 2**
52 **section references.**

50 **This amendment also limits the duration of the authority**
52 **granted to the Department of Marine Resources to convey certain**
properties to the Bigelow Laboratory for Ocean Sciences.