

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 11

S.P. 21

In Senate, January 5, 1993

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

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

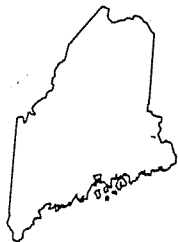
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator VOSE of Washington
Cosponsored by Representative TOWNSEND of Eastport.

STATE OF MAINE

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

An Act to Abolish the Atlantic Sea Run Salmon Commission.



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

2
3 Sec. 1. 3 MRSA §927, sub-§7, ¶B, as amended by PL 1991, c.
4 376, §10, is further amended to read:

6 B. Independent agencies:

8 (1) Maine Sardine Council;

10 ~~(2) Atlantic Sea-Run Salmon Commission;~~

12 ~~(3) (2) Public Utilities Commission;~~

14 ~~(4) (3) Atlantic States Marine Fisheries Commission;~~

16 ~~(5) (4) Maine Development Foundation;~~

18 ~~(6) (5) Board of Directors, Maine Municipal and Rural
Electrification Cooperative Agency;~~

20 ~~(7) (6) Lobster Advisory Council;~~

22 ~~(8) (7) Board of Environmental Protection;~~

24 ~~(9) (8) Board of Underground Oil Storage Tank
26 Installers;~~

28 ~~(10) (9) Telecommunications Relay Services Advisory
Council; and~~

30 ~~(11) (10) Public Advocate.~~

32 Sec. 2. 12 MRSA c. 611, as amended, is repealed.

34 Sec. 3. 12 MRSA c. 707, sub-c. IV-A is enacted to read:

36 **SUBCHAPTER IV-A**

38 **ATLANTIC SEA-RUN SALMON**

40 **§7161. Resource research, planning and management**

42 For the purposes of undertaking projects in research,
44 planning, management, restoration and propagation of the Atlantic
46 sea-run salmon in the State, the department:

48 1. Programs. Shall make studies, undertake research,
50 publish and disseminate information, plans and reports and
implement programs as it deems necessary;

52 2. Contracts and agreements. Subject to the applicable
provisions of Title 5, sections 1811 to 1824 and other

2 requirements of state law, may enter into any contracts,
3 agreements or other arrangements with public agencies and private
4 parties that the department finds necessary;

6 3. Funding. Subject to other applicable requirements of
7 state law, may receive and expend funds from any source, public
8 or private. Any funds received must be placed in a nonlapsing,
9 separate account by the Treasurer of State, to be expended by the
10 department for the purposes stated in this section;

12 4. Rules. Subject to the applicable requirements of Title
13 5, sections 8051 to 8059, may adopt and amend rules to promote
14 the conservation and propagation of the Atlantic sea-run salmon
15 in the same manner and with the same limits as provided in
16 section 7035, except that the advice and consent of the Inland
17 Fisheries and Wildlife Advisory Council is not required. Any
18 marine patrol officer of the Department of Marine Resources, any
19 warden of the Department of Inland Fisheries and Wildlife and any
20 other law enforcement officer may enforce the rules adopted under
21 this section; and

22 5. Property. Subject to other applicable requirements of
23 state law, may acquire, install, construct, operate, manage, sell
24 and convey interests in real and personal property, including,
25 without limitation, lands, dams, buildings, facilities,
26 structures, flowage rights, mill privileges, easements and
27 rights-of-way, as it finds necessary to carry out its purposes,
28 provided that prior rights of municipalities are not affected by
29 the requirements.

30 **§7162. Head of tide; Union River**

32 Notwithstanding any other provisions of law, for the
33 purposes of this subchapter, head of tide on the Union River,
34 Hancock County, is that point on the downstream side where the
35 highway bridge on U.S. Route 1 crosses the river in the City of
36 Ellsworth.

38 **§7163. Atlantic salmon license**

40 1. License required. It is unlawful for any person to fish
41 for Atlantic salmon from the areas indicated in subsection 2 or
42 to take, possess, ship or transport Atlantic salmon taken from
43 these waters without a current Atlantic salmon license, except as
44 provided in subsection 7.

46 2. Limit of application. The license requirement applies
47 to all inland waters and to the following coastal waters, from
48 the head of tide downstream to the line indicated:

50 A. Sheepscot River, above the Wiscasset-Edgecomb U.S. Route
51 1 bridge;

2 B. Dennys River, above the upstream side of the U.S. Route
3 1 bridge;

4
5 C. Kennebec River, above the upstream side of the Route 197
6 bridge between Richmond and Dresden;

7
8 D. East Machias River, above a line extending from
9 Simpson's Wharf due south to the opposite shore on the Rim;

10
11 E. Machias River, above the upstream side of the Rim
12 Bridge, the lowermost bridge on the Machias River;

13
14 F. Pleasant River, above the upstream side on the main
15 river bridge in Addison;

16
17 G. Narraguagus River, above the upstream side on the U.S.
18 Route 1A bridge in Milbridge;

19
20 H. Union River, above a line extending from the southern
21 extremity of the Ellsworth city boat launch ramp due west to
22 the opposite shore of the Union River;

23
24 I. Penobscot River, above the upstream side of the Joshua
25 Chamberlain Bridge in Bangor;

26
27 J. Ducktrap River, above the 3 red posts set on the shores
28 approximately 1,000 feet downstream from the U.S. Route 1
29 bridge;

30
31 K. Saco River, above a line extending from the outer
32 extremity of the Camp Ellis breakwater in Saco to the outer
33 extremity of the Hills Beach breakwater in Biddeford; and

34
35 L. St. Croix River, above the international bridge between
36 Calais and St. Stephen, New Brunswick.

37
38 3. License fees. The commissioner shall issue an Atlantic
39 salmon license to fish for Atlantic salmon in inland and coastal
40 waters of the State designated in subsection 2.

41
42 A. The fee for an Atlantic salmon license is \$10 for a
43 resident.

44
45 B. The fee for an Atlantic salmon license for a nonresident
46 is as follows:

47
48 (1) For a nonresident 16 years of age or older, \$30;

49
50 (2) For a 3-day Atlantic salmon license for a
51 nonresident 16 years of age or older, \$15. This license
52 may not be exchanged for a season license; and

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(3) For a nonresident under 16 years of age, \$5.

C. Members of Maine's Indian tribes and residents under 16 years of age are exempt from any fee.

4. License limitations and validation. It is unlawful for a person to purchase for that person's own use more than one Atlantic salmon license in any single calendar year. Immediately after issuance of an Atlantic salmon license, the purchaser shall sign it in the space provided. An unsigned license is considered invalid.

5. Tags. Any Atlantic salmon taken from inland or coastal waters must be immediately tagged with a tag bearing the license number of the person who caught the fish or must be tagged as provided in section 7164, subsection 5. Five tags must be issued with each Atlantic salmon license, except that only one tag may be issued with a license issued under subsection 3, paragraph B, subparagraph (2) or (3). It is unlawful for any person to possess, sell, give away, accept as a gift, offer for transportation or transport an Atlantic salmon that has not been lawfully tagged.

6. Replacement salmon; additional tags. Notwithstanding any other provision of this subchapter, the first person in a season who, in cooperation with the department or the Department of Marine Resources, presents a salmon for shipment to the President of the United States is entitled to take one additional salmon and must be issued, at no cost, one additional tag bearing that person's license number.

7. Atlantic salmon; possession, buying or selling. It is unlawful for any person to possess, buy or sell an Atlantic salmon unless each fish is clearly identified by one of the following methods:

A. Tagged with an Atlantic salmon tag provided by the department if caught in Maine waters;

B. Tagged with a New Brunswick, Quebec, Nova Scotia or Newfoundland-Labrador Atlantic salmon tag if imported from those Canadian provinces;

C. Identified by a sales receipt less than 24 hours old;

D. For wholesale and retail seafood dealers, a bill of sale indicating numbers of fish purchased, dates of purchase and point of origin of all fish purchased; or

E. Tagged as provided in section 7164, subsection 5.

2 8. Exceptions. Those persons and individuals licensed for
4 the aquaculture of Atlantic salmon are exempt from this section,
6 except that they shall report to the department the number and
8 weight of all Atlantic salmon within the department's
jurisdiction sold and the location to which they are sold. The
department shall abide by the confidentiality rules adopted in
the same manner as provided for the Commissioner of Marine
Resources under section 6173.

10 9. Agent's fee. Any clerk or agent appointed by the
12 department to issue an Atlantic salmon license shall retain \$1
for each license issued.

14 10. Use of license fees. All proceeds, less necessary
16 expenses for issuing and processing licenses, must be paid to the
Treasurer of State as undedicated revenue to the General Fund.

18 11. Duplicates. The department or its agents shall issue a
20 duplicate license to any person who has accidentally lost or
22 destroyed an Atlantic salmon license upon payment of a fee of \$1
that must be retained by the issuing agent. Atlantic salmon tags
bearing the license number of a lost or destroyed license are
considered invalid.

24 12. Fishing in inland waters. When fishing in inland
26 waters, the holder of a license authorized under this section is
28 subject to all the provisions of chapters 701 to 721.

30 §7164. Registration of Atlantic salmon

32 It is unlawful to possess, ship or transport an Atlantic
34 salmon that has not been properly registered according to this
section by the person who killed the fish.

36 1. Time period. Within 12 hours, except as provided in
38 subsection 4, the person who killed the salmon shall present the
40 salmon for registration. The salmon must be registered at the
first open salmon registration station on the route taken by the
person killing the fish.

42 2. Information requirements. The person who killed the
44 fish must register the fish in that person's own name.
Information concerning each salmon registered must be reported
accurately and truthfully.

46 3. Possession of unlabeled parts unlawful. It is unlawful
48 to possess any part of an Atlantic salmon taken from the inland
50 or coastal waters of this State, unless each part is plainly
labeled with the name and address of the person who registered
the fish, except those fish properly identified in section 7163,
subsection 7.

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2 4. Exemptions. The following are exempt from the
registration requirements:

4 A. Atlantic salmon that are imported from outside the State;

6 B. Atlantic salmon imported by taxidermists solely for
taxidermy purposes; and

8 C. Atlantic salmon raised by means of aquaculture.

10 5. Recreational fishing provision. A person engaged in
12 recreational fishing in the coastal waters, other than those
14 identified in section 7163, subsection 2, who takes an Atlantic
16 salmon shall affix to each fish an identification tag designating
18 the date, location and name of the person who caught the fish.
The person shall notify the department within 24 hours of that
person's first landfall providing all information as the
department may require.

20 **Sec. 4. 12 MRSA §7603**, as enacted by PL 1979, c. 420, §1, is
amended to read:

22 **§7603. Illegal fishing for Atlantic salmon**

24 A person is guilty of illegal fishing for Atlantic salmon if
26 he that person fishes for Atlantic ~~sea-run~~ sea-run salmon in
violation of the provisions of chapter ~~611~~ 707.

28 **Sec. 5. 38 MRSA §480-B, sub-§10**, as amended by PL 1991, c.
30 693, §1, is further amended to read:

32 **10. Significant wildlife habitat.** "Significant wildlife
34 habitat" means the following areas to the extent that they have
been mapped by the Department of Inland Fisheries and Wildlife or
entered into the state geographic information system pursuant to
36 section 546-B: habitat for species appearing on the official
state or federal lists of endangered or threatened species; ~~high~~
38 ~~and-moderate-value~~ high- and moderate-value deer wintering areas
and travel corridors as defined by the Department of Inland
40 Fisheries and Wildlife; ~~high--and--moderate--value~~ high- and
moderate-value waterfowl and wading bird habitats, including
42 nesting and feeding areas as defined by the Department of Inland
Fisheries and Wildlife; critical spawning and nursery areas for
44 Atlantic ~~sea-run~~ sea-run salmon as defined by the ~~Atlantic-Sea~~
~~Run--Salmon--Commission~~ Department of Inland Fisheries and
46 Wildlife; and shorebird nesting, feeding and staging areas and
seabird nesting islands as defined by the Department of Inland
48 Fisheries and Wildlife.

50 **Sec. 6. 38 MRSA §480-U, sub-§2, ¶A**, as corrected by RR 1991,
c. 1, §57, is amended by amending subparagraph (5) to read:

(5) Contains any of the following resources:

(a) Habitat for species appearing on the official state or federal lists of endangered or threatened species when there is evidence that the species is present;

(b) As defined by rule by the Commissioner of Inland Fisheries and Wildlife, whether or not the resource has been mapped, high-value and moderate-value deer wintering areas; deer travel corridors; high-value and moderate-value waterfowl or wading bird habitats, including nesting and feeding areas; shorebird nesting, feeding or staging areas; or seabird nesting islands; or

(c) Critical spawning and nesting areas for Atlantic sea-run sea-run salmon as defined by rule by the ~~Atlantic--Sea--Run--Salmon--Commission~~ Department of Inland Fisheries and Wildlife whether or not mapped;

Sec. 7. 38 MRSA §636, sub-§7, ¶B, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §189, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife, and the Department of Marine Resources ~~and--the--Atlantic--Sea--Run Salmon--Commission;~~

Sec. 8. Transition provisions.

1. The Department of Inland Fisheries and Wildlife is the successor in every way to the powers, duties and functions of the former Atlantic Sea Run Salmon Commission.

2. All existing rules, regulations and procedures in effect, in operation or adopted by the Atlantic Sea Run Salmon Commission are hereby declared in effect and continue in effect until rescinded, revised or amended by the Department of Inland Fisheries and Wildlife.

3. All existing contracts, agreements and compacts currently in effect with the Atlantic Sea Run Salmon Commission continue in effect.

4. Any positions authorized and allocated subject to the personnel laws to the former Atlantic Sea Run Salmon Commission

2 are not transferred to the Department of Inland Fisheries and
Wildlife and are no longer authorized.

4 5. All records, property and equipment previously belonging
to or allocated for the use of the former Atlantic Sea Run Salmon
6 Commission become, on the effective date of this Act, the
property of the Department of Inland Fisheries and Wildlife.
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14 STATEMENT OF FACT

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16 This bill abolishes the Atlantic Sea Run Salmon Commission
and places the powers and duties formerly held by the commission
under the Department of Inland Fisheries and Wildlife. To
18 accomplish this, the bill repeals the Maine Revised Statutes,
Title 12, chapter 611, which falls under the marine resources
20 laws, and enacts similar language in the statutes governing the
Department of Inland Fisheries and Wildlife. The bill provides
22 for the transfer of property, contracts, records, equipment and
the like, but does not authorize the transfer of positions of the
24 staff currently assigned to the commission to the department.