

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1298

H.P. 922

House of Representatives, April 11, 1995

An Act to Change the Atlantic Sea Run Salmon Commission.

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BAILEY of Township 27.
Cosponsored by Representatives: BUNKER of Kossuth Township, DRISCOLL of Calais,
LAYTON of Cherryfield.

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

4 **Sec. 1. 3 MRSA §927, sub-§7, ¶B,** as amended by PL 1993, c.
585, §1, is further amended to read:

6 B. Independent agencies:

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

10 (2-A) Atlantic Sea Run Salmon Advisory Board;

12 (3) Public Utilities Commission;

14 (4) Atlantic States Marine Fisheries Commission;

16 (5) Maine Development Foundation;

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

20 (7) Lobster Advisory Council;

22 (8) Board of Environmental Protection;

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

26 (10) Telecommunications Relay Services Advisory
28 Council; and

30 (11) Public Advocate.

32 **Sec. 2. 4 MRSA §164, sub-§17, ¶A,** as amended by PL 1993, c.
34 680, Pt. A, §6, is further amended to read:

36 A. A marine resources offense means any violation of any
38 provision of Title 12, chapters 601 to 627 and ~~chapter~~
chapters 712 and 715, or any rules adopted by the
Commissioner of Marine Resources pursuant to those chapters.

40 **Sec. 3. 5 MRSA §12004-G, sub-§20-A** is enacted to read:

42 20-A. Atlantic \$25/Day 12 MRSA
Inland Sea Run Plus §7641
44 Fisheries and Salmon Expenses
Wildlife Advisory
46 Board

48 **Sec. 4. 5 MRSA §12004-G, sub-§26-B,** as renumbered by RR 1993,
c. 1, §10, is repealed.

50

2 5. Meetings. Except as otherwise provided in this section,
the board shall conduct its business in public meetings, from
4 time to time called by the chair, in accordance with Title 1,
sections 401 to 406. Decisions of the board require at least 3
6 affirmative votes. The board may delegate to any of its members
or to its staff any routine business as it determines necessary
to carry out its purposes.

8
10 6. Staff. Subject to appropriation or allocation and in
accordance with the Civil Service Law, staff may be hired to
12 carry out the work of the board. Hiring and management of the
staff is the responsibility of the Commissioner of Inland
14 Fisheries and Wildlife.

16 **§7642. Head of tide; Union River**

18 Notwithstanding any other provisions of law, for the
purposes of this chapter, head of tide on the Union River,
20 Hancock County, is designated as that point on the downstream
side where the highway bridge on U.S. Route 1 crosses the river
in the City of Ellsworth.

22 **§7643. Atlantic salmon license**

24 1. License required. A person may not fish for Atlantic
26 salmon from the areas indicated in subsection 2, or take,
possess, ship or transport Atlantic salmon taken from these
28 waters without a current Atlantic salmon license, except as
provided in subsection 6.

30 2. Limit of application. This requirement applies to all
32 inland waters and to the following coastal waters, from the head
of tide downstream to the line indicated:

34 A. Sheepscot River, above the Wiscasset-Edgecomb U.S. Route
36 1 bridge;

38 B. Dennys River, above the upstream side of the U.S. Route
40 1 bridge;

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

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

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

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

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

6
8 H. Union River, above a line extending from the southern
extremity of the Ellsworth city boat launch ramp due west to
the opposite shore of the Union River;

10
12 I. Penobscot River, above the upstream side of the Joshua
Chamberlain Bridge in Bangor;

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

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

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

24
26 3. License fees. The department shall issue an Atlantic
salmon license to fish for Atlantic salmon in inland and coastal
waters of the State designated in subsection 2.

28
30 A. The fee for an Atlantic salmon license is \$10 for 1993
and \$15 for 1994 and every year thereafter for any resident.

32 B. The fee for an Atlantic salmon license for any
nonresident is as follows:

34
36 (1) For any nonresident 16 years of age or older, \$30
for 1993 and \$40 for 1994 and every year thereafter;

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

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

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

46
48 4. License limitations and validation. A person may not
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 7644, subsection 5. Five tags are issued with each Atlantic salmon license; except that only one tag is issued with a license issued under subsection 3, paragraph B, subparagraphs (2) and (3). A person may not 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 chapter, the first person in a season who, in cooperation with the department, 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. A person may not 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 7644, subsection 5.

8. Exceptions. Those persons and individuals licensed for the aquaculture of Atlantic salmon are exempt from this section other than that they shall report to the department the number, weight and locations sold to, of all Atlantic salmon within the department's jurisdiction.

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

2 10. Use of license fees. All proceeds, except for
3 necessary expenses for issuing and processing licenses, must be
4 paid to the department for purposes of conservation and
5 management of the Atlantic salmon resource.

6 11. Duplicates. The department or its agents shall issue a
7 duplicate license to any person who has accidentally lost or
8 destroyed that person's Atlantic salmon license upon payment of a
9 fee of \$1, all of which is retained by the issuing agent.
10 Atlantic salmon tags bearing the license number of a lost or
11 destroyed license are considered invalid.

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

15 **§7644. Registration of Atlantic salmon**

16 A person may not possess, ship or transport an Atlantic
17 salmon that has not been properly registered according to the
18 provisions of this section by the person who killed the fish.

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

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

28 3. Possession of unlabeled parts unlawful. A person may
29 not possess any part of an Atlantic salmon taken from the inland
30 or coastal waters of this State, unless each part is plainly
31 labeled with the name and address of the person who registered
32 the fish, except those fish properly identified in section 7643,
33 subsection 7.

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

- 36 A. Atlantic salmon that are imported from outside the State;
37 B. Atlantic salmon imported by taxidermists solely for
38 taxidermy purposes; and
39 C. Atlantic salmon raised by means of aquaculture.
40

2 5. Recreational fishing provision. A person engaged in
3 recreational fishing in the coastal waters, other than those
4 identified in section 7643, subsection 2, who takes an Atlantic
5 salmon, shall affix to each fish an identification tag
6 designating the date, location and name of the person who caught
7 the fish. The person shall notify the department or its agents
8 within 24 hours of that person's first landfall providing all
9 information as the department may require.

10 **Sec. 9. 12 MRSA §7675,** as enacted by PL 1991, c. 679, is
11 amended to read:

12 **§7675. Aquaculture stock**

13 **1. Acceptance of stock.** The ~~Atlantic--Sea--Run--Salmon~~
14 ~~Commission~~ department may accept salmon stock that are offered at
15 no charge from commercial aquaculture hatcheries for release into
16 state rivers subject to rules developed by the ~~Atlantic-Sea-Run~~
17 ~~Salmon-Commission~~ department.

18 **2. Rules.** The ~~Atlantic--Sea--Run--Salmon--Commission~~
19 ~~department~~ shall adopt rules to implement this section. They
20 must, at a minimum:

21 A. Ensure that no negative impact on existing gene pools
22 results from the release of aquaculturally raised salmon;

23 B. Prohibit introduction of exotic species from the release
24 of aquaculturally raised salmon;

25 C. Establish stock disease testing and monitoring
26 procedures; and

27 D. Establish maximum stocking levels in state rivers.
28 Notwithstanding subsection 1, the ~~Atlantic-Sea-Run-Salmon~~
29 ~~Commission~~ department is not required to accept salmon stock
30 if maximum stocking levels are achieved, as long as those
31 levels are maintained.

32 ~~By March 1, 1993, the Atlantic-Sea-Run-Salmon-Commission~~
33 ~~shall report on this program to the joint standing committee of~~
34 ~~the Legislature having jurisdiction over marine resource matters.~~

35 **Sec. 10. 38 MRSA §480-B, sub-§10,** as amended by PL 1993, c.
36 296, §1, is further amended to read:

37 **10. Significant wildlife habitat.** "Significant wildlife
38 habitat" means the following areas to the extent that they have
39 been mapped by the Department of Inland Fisheries and Wildlife or
40 are within any other protected natural resource: habitat, as

2 defined by the Department of Inland Fisheries and Wildlife, for
species appearing on the official state or federal lists of
4 endangered or threatened species; high and moderate value deer
wintering areas and travel corridors as defined by the Department
6 of Inland Fisheries and Wildlife; high and moderate value
waterfowl and wading bird habitats, including nesting and feeding
8 areas as defined by the Department of Inland Fisheries and
Wildlife; critical spawning and nursery areas for Atlantic sea
10 run salmon as defined by the ~~Atlantic-Sea-Run-Salmon-Commission~~
Department of Inland Fisheries and Wildlife; and shorebird
12 nesting, feeding and staging areas and seabird nesting islands as
defined by the Department of Inland Fisheries and Wildlife.

14 **Sec. 11. 38 MRSA §480-U, sub-§2, ¶A**, as corrected by RR 1991,
c. 1, §57, is amended to read:

16
18 A. The application must contain written certification by a
20 knowledgeable professional that the cranberry cultivation
project will not be located in a wetland that has one or
more of the following characteristics:

22 (1) Is a coastal wetland or is located within 250 feet
of a coastal wetland;

24 (2) Is a great pond;

26 (3) Contains endangered or threatened plant species
28 listed under Title 5, section 3315;

30 (4) Contains any type of palustrine natural community
32 of which there are 20 or fewer occurrences in the State;

34 (5) Contains any of the following resources:

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

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

48 (c) Critical spawning and nesting areas for
50 Atlantic sea run salmon as defined by rule by the

~~Atlantic-Sea-Run-Salmon-Commission~~ Department of Inland Fisheries and Wildlife whether or not mapped;

(6) Is located within 250 feet of the normal high water line and within the same watershed of any lake or pond classified as GPA under section 465-A;

(7) Is a bog dominated by ericaceous shrubs, sedges and sphagnum moss and usually having a saturated water regime, except that applications proposing reclamation of previously mined peat bogs may be considered;

(8) Is land adjacent to the main stem of a major river, as classified in section 467, that is inundated with floodwater during a 100-year flood event and that under normal circumstances supports a prevalence of wetland vegetation, typically adapted for life in saturated soils; or

(9) Contains at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for man-made ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, *Vaccinium macrocarpon* Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

Sec. 12. 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. 13. Transition provisions.

2

4 1. Notwithstanding the provisions of the Maine Revised
6 Statutes, Title 5, all accrued expenditures, assets, liabilities,
8 balances or appropriations, allocations, transfers, revenues or
other available funds in an account or subdivision of an account
of the Atlantic Sea Run Salmon Commission must be transferred to
the Department of Inland Fisheries and Wildlife.

10

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

16

18 3. Current members of the Atlantic Sea Run Salmon
Commission shall assume membership on the Atlantic Sea Run Salmon
Advisory Board until their successors are appointed.

20

22

STATEMENT OF FACT

24

26 This bill abolishes the Atlantic Sea Run Salmon Commission
and in its place establishes the Atlantic Sea Run Salmon Advisory
Board to advise the Commissioner of Inland Fisheries and Wildlife
on matters concerning Atlantic Sea Run Salmon. The bill
28 reassigns the Atlantic Sea Run Salmon Commission's
responsibilities to the Department of Inland Fisheries and
30 Wildlife.