

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1478

S.P. 476

In Senate, March 11, 1997

**An Act to Decriminalize Various Marine Resource Violations and
Enhance Collectibility of Associated Penalties.**

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 MILLS of Somerset.

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

2
4 **Sec. 1. 12 MRSA §6073, sub-§3**, as amended by PL 1995, c. 157,
§1, is further amended to read:

6 **3. Penalty.** Any person who violates subsection 2-A or who
knowingly and ~~willfully~~ violates subsection 2 ~~is guilty of a~~
8 ~~Class-D crime, except that, notwithstanding Title 17-A, sections~~
4-A and 1301, ~~the court shall impose a fine~~ commits a civil
10 violation for which a civil penalty of not less than \$1,000 and
12 not more than \$1,500 may be adjudged and restitution may be
ordered made to the owner of the lease in an amount set by the
court.

14 **Sec. 2. 12 MRSA §6174, sub-§3**, as enacted by PL 1977, c. 661,
16 §5, is amended to read:

18 **3. Penalty.** Whoever violates a regulation shall ~~be punished~~
by ~~the penalties under section 6204~~ commits a Class D crime,
20 unless a specific penalty is otherwise authorized and provided.

22 **Sec. 3. 12 MRSA §6204**, as enacted by PL 1977, c. 661, §5, is
amended to read:

24 **§6204. General penalty**

26 A Except as otherwise expressly provided, a violation of any
28 provision of marine resources' laws or any regulation authorized
~~thereunder~~ by marine resources' laws or adopted by legislative
30 directive shall ~~be a Class-D crime, unless another penalty has~~
been ~~expressly provided~~ is a civil violation for which a
32 forfeiture of not less than \$100 and not more than \$500 may be
adjudged.

34 **Sec. 4. 12 MRSA §6431, sub-§7**, as enacted by PL 1977, c. 661,
36 §5, is amended to read:

38 **7. Penalty.** Possession of lobsters in violation of this
section shall ~~be a Class-D crime, except that the court shall~~
40 ~~impose a fine of~~ is a civil violation for which a forfeiture of
not less than \$25 for each violation and, ~~in addition, a fine of~~
42 plus \$10 for each lobster involved, up to and including the first
5, and ~~a fine of~~ \$30 for each lobster in excess of 5 may be
44 adjudged, or, if the number of lobsters ~~cannot~~ can not be
determined, a ~~fine~~ forfeiture of not more than \$1,000 may be
46 adjudged.

48 **Sec. 5. 12 MRSA §6432, sub-§5**, as enacted by PL 1989, c. 413,
50 §1, is amended to read:

2 **5. Penalty for possession.** Possession of lobsters other
3 than those caught by the method specified in subsection 1 is a
4 ~~Class-D crime, except that in addition to any punishment that may~~
5 ~~be imposed under Title 17-A, Part 3, the court shall impose a~~
6 ~~fine of~~ civil violation for which a forfeiture of \$25 for each
7 ~~violation and, in addition, a fine of~~ plus \$30 for each lobster
8 ~~involved may be adjudged.~~

9 **Sec. 6. 12 MRSA §6434, sub-§3-A** is enacted to read:

10 **3-A. Penalty.** Violation of this section is a Class D crime.

11 **Sec. 7. 12 MRSA §6434, sub-§4,** as enacted by PL 1993, c. 543,
12 §2, is amended to read:

13 **4. Additional penalty.** If the holder of a lobster and crab
14 fishing license violates this section by cutting a lobster trap
15 line, the court shall:

16 A. Order that person to pay to the owner of the trap line
17 that was cut an amount equal to twice the replacement value
18 of all traps lost as a result of that cutting; and

19 B. Direct that person to provide proof of payment of that
20 restitution to the Commissioner of Marine Resources as
21 required by section 6402, subsection 1.

22 A penalty imposed under this subsection is in addition to any
23 penalty imposed under ~~section 6204~~ subsection 3-A.

24 **Sec. 8. 12 MRSA §6436, sub-§5,** as enacted by PL 1981, c. 433,
25 §9, is amended to read:

26 **5. Penalty.** Possession of lobsters in violation of this
27 section is a ~~Class-D crime, except that in addition to any~~
28 ~~punishment which may be imposed under Title 17-A, Part 3, the~~
29 ~~court shall impose a fine~~ civil violation for which a civil
30 ~~forfeiture of \$25 for each violation and, in addition, a fine of~~
31 ~~plus \$30 for each lobster involved may be adjudged.~~

32 **Sec. 9. 12 MRSA §6575-D, sub-§2,** as enacted by PL 1995, c.
33 536, Pt. A, §9, is amended to read:

34 **2. Penalty.** A violation of this section is a ~~Class-D~~
35 ~~crime, except that the court shall impose a minimum fine of~~ civil
36 ~~violation for which a forfeiture of not less than \$500 for each~~
37 ~~violation and not more than \$1,000 may be adjudged.~~

38 **Sec. 10. 12 MRSA §6621, sub-§4,** as enacted by PL 1993, c. 281,
39 §2, is amended to read:

2 **4. Penalty.** Notwithstanding the provisions of Title 17-A,
4 section 4-B, a person who violates this section commits a Class D
crime punishable by:

6 A. For the first offense, a fine of not less than \$300 and
not more than \$1,500; and

8 B. For subsequent offenses, a fine of not less than \$500
10 and not more than \$1,500.

12 The court may not suspend a fine imposed under this subsection.

14 **Sec. 11. 12 MRSA §6743, sub-§4** is enacted to read:

16 **4. Penalty.** Violation of this section is a Class D crime.

18 **Sec. 12. 12 MRSA §6749-Y**, as enacted by PL 1995, c. 595, §5,
is amended to read:

20 **§6749-Y. Penalty**

22 ~~Notwithstanding--section--6204,--a~~ A person who violates or
24 fails to comply with this subchapter commits a ~~Class-D-crime-that~~
~~is-punishable-by-a-fine-of-not-less-than-\$500~~ civil violation for
26 which a forfeiture of not less than \$100 and not more than \$500
may be adjudged. The fine may not be suspended.

28 **Sec. 13. 12 MRSA §6861-A, sub-§6**, as enacted by PL 1989, c.
30 348, §13, is amended to read:

32 **6. Penalty.** ~~Violation of this section shall-be-a-Class-D~~
~~crime,--except-that--the--court--shall--impose--a--fine~~ is a civil
34 violation for which a forfeiture of not less than \$100 and not
more than \$500 may be adjudged.

36 **Sec. 14. 12 MRSA §6951, sub-§4** is enacted to read:

38 **4. Penalty.** Violation of this section is a Class D crime.

40 **Sec. 15. 12 MRSA §6954-B**, as amended by PL 1995, c. 518, §1,
42 is further amended by adding at the end a new paragraph to read:

44 Violation of this section is a Class D crime.

46 **Sec. 16. 12 MRSA §6957, sub-§2**, as amended by PL 1995, c. 169,
§2, is further amended to read:

2 2. **Penalty.** A violation of subsection 1 is a Class--D
crime, ~~except that, notwithstanding Title 17 A, section 1301, the~~
4 ~~court shall impose a minimum fine of~~ civil violation for which a
penalty of not less than \$1,000 ~~that may not be suspended~~ and not
6 more than \$1,500 may be adjudged.

8 **SUMMARY**

10 This bill is one of 5 bills designed to enhance enforcement
of fish and game laws, marine resources laws and motor vehicle
12 laws by making enforcement easier and reducing the number of
contested cases. Several crimes are redefined as civil
14 violations to allow efficient processing by the courts.
Violators have the right to contest the matter in court.

16 This bill makes the general penalty for violation of the
18 marine resources law a civil violation for which a forfeiture of
not less than \$100 and not more than \$500 may be adjudged.
20 Violations that are to be kept as crimes are amended to
specifically state that they are Class D crimes.