

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2028

H.P. 1421

House of Representatives, March 24, 1999

An Act Pertaining to the Management of Atlantic Salmon.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DUNLAP of Old Town.
Cosponsored by Senator CATHCART of Penobscot and
Representative TOWNSEND of Portland, Senators: KILKELLY of Lincoln, RUHLIN of
Penobscot.

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

2
3 **Sec. 1. 5 MRSA §12004-G, sub-§20-A**, as enacted by PL 1995, c.
4 406, §2, is amended to read:

6 **20-A.** Atlantic \$25/Day 12 MRSA
7 Inland Salmon Plus @9901
8 Fisheries and Authority Expenses
9 Wildlife Commission

10
11 **Sec. 2. 12 MRSA §6001, sub-§2**, as enacted by PL 1977, c. 661,
12 §5, is amended to read:

14 **2. Atlantic salmon.** "Atlantic salmon" means the anadromous
15 ~~finfish, commonly called Atlantic sea-run salmon~~ fish species
16 Salmo salar that customarily migrates from inland waters to the
17 ocean as part of its life cycle. Wherever used in this Part, the
18 words "Atlantic salmon" standing together means only this species.

20 **Sec. 3. 12 MRSA §6071, sub-§1**, as amended by PL 1997, c. 153,
21 §1, is further amended to read:

22 **1. Live importing for introduction into coastal waters.**
23 Except for Atlantic salmon imported by the Atlantic Salmon
24 Authority Commission under Part 12, it is unlawful to import for
25 introduction, possess for purposes of introduction or introduce
26 into coastal waters a live marine organism without a permit
27 issued by the commissioner pursuant to subsection 2.

30 **Sec. 4. 12 MRSA §7001, sub-§1-E** is enacted to read:

32 **1-E. Atlantic salmon.** "Atlantic salmon" means the
33 anadromous fish species Salmo salar that customarily migrates
34 from inland waters to the ocean as part of its life cycle. The
35 words "Atlantic salmon" standing together means this species.
36 This definition also applies to chapter 811.

38 **Sec. 5. 12 MRSA §7001, sub-§20**, as enacted by PL 1979, c. 420,
39 §1, is amended to read:

40 **20. Landlocked salmon.** "Landlocked salmon" means the same
41 ~~as salmon~~ the subspecies Salmo salar Sebago that does not
42 customarily migrate from inland waters to the ocean as part of
43 its life cycle. Whenever used in this Title, the word "salmon"
44 standing alone without other identification means "landlocked
45 salmon."

48 **Sec. 6. 12 MRSA §7675**, as amended by PL 1995, c. 406, §11, is
49 further amended to read:

2 **§7675. Aquaculture stock**

4 **1. Acceptance of stock.** The Atlantic Salmon Authority
6 Commission may accept salmon stock that are offered at no charge
8 from commercial aquaculture hatcheries for release into state
rivers subject to rules developed by the Atlantic Salmon
Authority Commission.

10 **2. Rules.** The Atlantic Salmon Authority Commission shall
adopt rules to implement this section. They must, at a minimum:

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

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

18 C. Establish stock disease testing and monitoring
20 procedures; and

22 D. Establish maximum stocking levels in state rivers.
Notwithstanding subsection 1, the Atlantic Salmon Authority
24 Commission is not required to accept salmon stock if maximum
stocking levels are achieved, as long as those levels are
26 maintained.

28 **Sec. 7. 12 MRSA c. 810, Pt. 12,** is amended by repealing the Part
headnote and enacting in its place the following:

30 **PART 12**

32 **ATLANTIC SALMON COMMISSION**

34 **Sec. 8. 12 MRSA §9901,** as amended by PL 1995, c. 535, §1, is
36 further amended to read:

38 **§9901. Atlantic Salmon Commission**

40 **1. Commission established; purposes.** The Atlantic Salmon
Authority Commission, referred to in this Part as the
42 "authority," "commission," is established ~~to manage the Atlantic~~
salmon--fishery for the protection, preservation, enhancement,
44 restoration and management of the Atlantic salmon in the State
and to conduct and coordinate all projects involving research,
46 planning, management, restoration or propagation of the Atlantic
salmon. The commission has the responsibility of working with
48 other agencies in the executive branch of State Government, the
Legislature, federal and international agencies and the private
sector in carrying out its mission.
50

2 **2. Members; appointment; composition; term.** The authority
is-governed-by-the-Atlantic-Salmon-Board,-referred-to-in-this
chapter-as-the-"board,"-The-board commission consists of 9 3
4 members including the current Commissioner of Marine Resources
and, the Commissioner of Inland Fisheries and Wildlife and an
6 at-large public member. The Governor shall appoint the remaining
7-members at-large public member, subject to review by the joint
8 standing committee of the Legislature having jurisdiction over
fisheries and wildlife matters and to confirmation by the
10 Senate. ~~The Governor shall select the appointees to adequately~~
~~represent the various aspects of Atlantic salmon issues over~~
~~which the board has jurisdiction. The Governor may appoint the 4~~
~~river drainage representatives from a list of names submitted by~~
~~salmon clubs and may appoint the Native American representatives~~
~~from a list of names submitted by the Penobscot Nation and the~~
~~Passamaquoddy Tribe. In addition to the Commissioner of Marine~~
~~Resources and the Commissioner of Inland Fisheries and Wildlife,~~
18 ~~the board consists of the following appointed members:~~

20 A,--One member who resides within the land area comprising
the Penobscot River or Ducktrap River drainages;

22 B,--One member who resides within the land area comprising
24 the Saco River or Sheepscot River drainages;

26 C,--One member who resides in the Aroostook River drainage
area;

28 D,--One member who resides within these land areas that
30 comprise the drainage for the St. Croix, East Machias,
Machias, Narraguagus, Pleasant or Dennys rivers;

32 E,--One member of the Passamaquoddy Tribe;

34 F,--One member of the Penobscot Nation; and

36 G,--One member at large representing the public from a
38 geographical area not specified in this subsection.

40 Of the initial appointees, 2 members are appointed for one-year
42 terms, 2 members are appointed for 2-year terms and 3 members are
appointed for 3-year terms. Thereafter, members are appointed
44 for 3-year terms. A vacancy must be filled in the same manner as
an original member for the unexpired portion of the term. An
46 appointed member may not serve for more than 2 consecutive 3-year
terms. Appointed members serve until their successors are
48 appointed.

50 **2-A. Executive director; appointment; term; duties.** The
commission shall appoint an executive director for a 5-year

2 term. The executive director has the authority to execute the
3 directives of the commission and also has the following powers
4 and duties:

5 A. To employ personnel and staff in accordance with state
6 procedures;

7 B. To develop programs authorized by the commission;

8 C. To accept grants, donations of monetary value or land
9 necessary to achieve the goals of the commission;

10 D. To be responsible for statewide management of Atlantic
11 salmon;

12 E. To act as a legislative liaison for the commission;

13 F. To establish cooperative agreements with the Department
14 of Marine Resources and the Department of Inland Fisheries
15 and Wildlife in resource policy matters and in field biology
16 activities;

17 G. To enter into contractual agreements with other state
18 agencies and private business to achieve the goals of the
19 commission;

20 H. To work with other state, federal, international and
21 private entities to ensure completion of the commission's
22 goals; and

23 I. To oversee fish culture operations for Atlantic salmon
24 that are not raised by means of aquaculture.

25 The executive director shall conduct meetings with geographic
26 distribution representative of the historic distribution of
27 Atlantic salmon throughout the State. These meetings must have
28 representatives from watershed councils and land and water use
29 councils and any other people the executive director determines
30 necessary to accomplish the purposes of the meetings. Meetings
31 that are held in areas that would affect the Passamaquoddy Tribe
32 or the Penobscot Nation must have representatives from the
33 Passamaquoddy Tribe or the Penobscot Nation.

34 3. Compensation. ~~Board-members--are~~ The at-large public
35 member is entitled to compensation as provided in Title 5,
36 chapter 379.

37 3-A. Administration. The executive director shall manage
38 the administrative and financial matters of the commission.

2 4. ~~Chair.~~ ~~The board shall elect annually a chair from~~
3 among its members, ~~except that neither appointed commissioner may~~
4 ~~serve as chair.~~ ~~The chair shall direct the administrative and~~
5 ~~financial matters of the authority.~~

6 5. ~~Meetings.~~ ~~The chair shall call all meetings of the~~
7 ~~board.~~ ~~The board shall conduct its business in public meetings~~
8 ~~in accordance with Title 1, sections 401 to 406.~~ ~~A quorum of 3~~
9 ~~members is required to conduct business and the affirmative vote~~
10 ~~of at least 3 members of the board is required for board~~
11 ~~actions.~~ ~~The board may delegate to any of its members or to the~~
12 ~~staff of the authority any routine business that the board~~
13 ~~determines necessary to carry out its purposes.~~

14 6. **Staff.** Subject to appropriation or allocation and in
15 accordance with the Civil Service Law, staff may be hired to
16 carry out the work of the authority commission. Hiring and
17 management of the staff is the responsibility of the board
18 executive director.

19 **Sec. 9. 12 MRSA §9902, first ¶,** as amended by PL 1995, c. 535,
20 §2, is further amended to read:

21 The authority commission has the ~~sole~~ authority and
22 responsibility ~~to manage for the protection, preservation,~~
23 enhancement, restoration and management of the Atlantic salmon
24 fishery in the State, including the sole authority to introduce
25 Atlantic salmon into Maine inland waters, other than commercial
26 aquaculture facilities and associated activities. This sole
27 authority does not take effect for the inland waters of the
28 Sheepsfoot, Narraguagus, Pleasant, Machias, East Machias and
29 Dennys rivers until July 1, 1997. The Department of Marine
30 Resources has the responsibility for the protection,
31 preservation, enhancement, restoration and management of Atlantic
32 salmon that are raised by means of aquaculture. The authority
33 commission has the sole authority to limit or prohibit the taking
34 of Atlantic salmon, issue licenses for the taking of Atlantic
35 salmon and adopt rules establishing the time, place and manner of
36 Atlantic salmon fishing in all waters of the State. In addition
37 to these powers and duties, the authority may:

38 **Sec. 10. 12 MRSA §9902, sub-§§2 and 3,** as enacted by PL 1995,
39 c. 406, §12, are amended to read:

40 2. **Contracts and agreements.** Subject to the applicable
41 provisions of Title 5, sections 1811 to 1824 and other
42 requirements of state law, enter into any contracts, agreements
43 or other arrangements with public agencies and with private
44 parties that the authority commission finds necessary to carry
45 out its purposes;

2 **3. Funding.** Subject to other applicable requirements of
state law, receive and expend funds from any source, public or
4 private, that the autherity commission finds necessary to carry
out its purposes. Any funds received must be placed in a
6 nonlapsing, separate account established by the Treasurer of
State, to be expended by the autherity commission for the
8 purposes stated in this section;

10 **Sec. 11. 12 MRSA §9902, sub-§4**, as amended by PL 1995, c. 535,
§3, is further amended to read:

12 **4. Rules.** Adopt rules necessary to manage the Atlantic
salmon fishery and to promote the conservation and propagation of
14 the Atlantic salmon. Rules adopted by the authority must be
enforced by the Department of Marine Resources, the Department of
16 Inland Fisheries and Wildlife and other public officials
authorized by law to enforce marine resource laws or inland
18 fisheries and wildlife laws. The Department of Marine Resources
and the Department of Inland Fisheries and Wildlife retain
20 exclusive jurisdiction over rules pertaining to species other
than Atlantic salmon that are designed to promote the
22 conservation and propagation of Atlantic salmon. The departments
shall consult with the Atlantic Salmon Autherity Commission in
24 adopting such rules;

26 **Sec. 12. 12 MRSA §9902, sub-§5**, as enacted by PL 1995, c. 406,
§12, is amended to read:

30 **5. Property.** Subject to other applicable requirements of
state law, acquire, install, construct, operate, manage, sell and
32 convey interests in real and personal property, including,
without limitation, lands, dams, buildings, facilities,
34 structures, flowage rights, mill privileges, easements and
rights-of-way, as the autherity commission finds necessary to
36 carry out its purposes, provided that prior rights of
municipalities are not affected by the requirements; and

38 **Sec. 13. 12 MRSA §9904, sub-§§2, 6, 7, 8, 9 and 10**, as enacted by
40 PL 1995, c. 406, §12, are amended to read:

42 **2. License fees.** The autherity commission shall issue
Atlantic salmon licenses to fish for Atlantic salmon in inland
44 and coastal waters of the State in accordance with the following
provisions.

46 **A.** The fee for an Atlantic salmon license is \$15 for a
48 resident.

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

4 (1) For a season license for a nonresident 16 years of
age or older, \$30;

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

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

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

16 **6. Atlantic salmon; possession, buying or selling.** A
person may not possess, buy or sell Atlantic salmon unless each
18 fish is clearly identified by one of the following methods:

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

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

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

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

32 E. Tagged as provided in this Part.

34 **7. Exceptions.** This section does not apply to a person
36 licensed to engage in the aquaculture of Atlantic salmon, except
that, that person shall report to the authority commission the
38 number, weight and locations sold to, of all Atlantic salmon
within the authority's commission's jurisdiction. The authority
40 commission shall maintain those records as confidential documents.

42 **8. Agent's fee.** Any clerk or agent appointed by the
authority commission to issue an Atlantic salmon license shall
44 retain \$1 for each license issued.

46 **9. Use of license fees.** All license fees must be used by
the authority commission for purposes of conservation and
48 management of the Atlantic salmon in this State.

2 **10. Duplicates.** The authority commission or its agents
3 shall issue a duplicate license to any person whose license was
4 accidentally lost or destroyed. The fee for a replacement
5 license is \$1, all of which is retained by the issuing agent.
6 Atlantic salmon tags bearing the license number of a lost or
7 destroyed license are invalid.

8 **Sec. 14. 12 MRSA §9905, sub-§5,** as enacted by PL 1995, c. 406,
9 §12, is amended to read:

10 **5. Recreational fishing provision.** A person engaged in
11 recreational fishing who takes an Atlantic salmon shall affix to
12 each fish an identification tag designating the date, location
13 and name of the person who caught the fish. The person shall
14 notify the authority commission within 24 hours of that person's
15 first landfall providing all information the authority commission
16 may require.

17 **Sec. 15. 12 MRSA §9906, first ¶,** as enacted by PL 1995, c. 406,
18 §12, is amended to read:

19 The authority commission may grant an exemption from the
20 provisions of section 6071, subsection 4, for Atlantic salmon,
21 live or eggs, imported for the purpose of enhancing the State's
22 Atlantic salmon fisheries.

23 **Sec. 16. 12 MRSA §9907, first ¶,** as enacted by PL 1995, c. 406,
24 §12, is amended to read:

25 Unless otherwise provided by rule adopted by the authority
26 commission, a person may not:

27 **Sec. 17. 38 MRSA §480-B, sub-§10,** as repealed and replaced by
28 PL 1995, c. 625, Pt. A, §51, is amended to read:

29 **10. Significant wildlife habitat.** "Significant wildlife
30 habitat" means the following areas to the extent that they have
31 been mapped by the Department of Inland Fisheries and Wildlife or
32 are within any other protected natural resource: habitat, as
33 defined by the Department of Inland Fisheries and Wildlife, for
34 species appearing on the official state or federal lists of
35 endangered or threatened animal species; high and moderate value
36 deer wintering areas and travel corridors as defined by the
37 Department of Inland Fisheries and Wildlife; high and moderate
38 value waterfowl and wading bird habitats, including nesting and
39 feeding areas as defined by the Department of Inland Fisheries
40 and Wildlife; critical spawning and nursery areas for Atlantic
41 sea run salmon as defined by the Atlantic Salmon Authority
42 Commission; shorebird nesting, feeding and staging areas and
43 seabird nesting islands as defined by the Department of Inland
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2 Fisheries and Wildlife; and significant vernal pools as defined
and identified by the Department of Inland Fisheries and
4 Wildlife. For purposes of this subsection, "identified" means
identified in a specific location by the Department of Inland
6 Fisheries and Wildlife.

8 **Sec. 18. 38 MRSA §480-U, sub-§2, ¶A**, as amended by PL 1995, c.
406, §14, is further amended to read:

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

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

18 (2) Is a great pond;

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

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

26 (5) Contains any of the following resources:

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

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

42 (c) Critical spawning and nesting areas for
Atlantic sea run salmon as defined by rule by the
44 Atlantic Salmon ~~Autherity~~ Commission whether or
not mapped;

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

50

- 2 (7) Is a bog dominated by ericaceous shrubs, sedges
and sphagnum moss and usually having a saturated water
4 regime, except that applications proposing reclamation
of previously mined peat bogs may be considered;
- 6 (8) Is land adjacent to the main stem of a major
8 river, as classified in section 467, that is inundated
with floodwater during a 100-year flood event and that
10 under normal circumstances supports a prevalence of
wetland vegetation, typically adapted for life in
12 saturated soils; or
- 14 (9) Contains at least 20,000 square feet of aquatic
16 vegetation, emergent marsh vegetation or open water,
except for man-made ponds or impoundments, during most
18 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,
20 emergent marsh vegetation or open water.

22 A project to cultivate indigenous cranberries may be located
in wetlands described in subparagraphs (6) and (7) only if
24 the project location is a natural cranberry bog and
provisions of paragraph D are met. For purposes of this
26 paragraph, "natural cranberry bog" means an area with
indigenous large cranberries, *Vaccinium macrocarpon* Ait.,
28 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.

30 **Sec. 19. 38 MRS** **A §636, sub-§7, ¶B**, as amended by PL 1995, c.
32 406, §15, is further amended to read:

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

42 **SUMMARY**

44 This bill reorganizes the existing Atlantic Salmon Authority
46 by establishing the responsibility for management of Atlantic
salmon in a commission consisting of 3 members: the Commissioner
48 of Inland Fisheries and Wildlife, the Commissioner of Marine
Resources, and an at-large public member appointed by the
50 Governor. The commission shall appoint an executive director.