

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 536

House of Representatives, March 10, 1911.

Reported by Mr. Harmon from Committee on Sea and Shore Fisheries and ordered printed under joint rules.

C. C. HARVEY, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ELEVEN.

AN ACT to provide for the propagation and cultivation of
clams.

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

Section 1. Upon an application in writing, the mayor and
2 aldermen of a city or the selectmen of a town shall grant a
3 written license subject to such rules and regulations as are
4 approved by the city council of the city, or by the voters of
5 the town at an annual or special town meeting, for the pur-
6 poses of planting and cultivating clams upon and in not
7 exceeding one-fourth of the flats and creeks of their re-
8 spective cities and towns and within the limits to be speci-
9 fied in the license, for a term of not more than ten or less
10 than five years, to any person who has resided in the State
11 or who has been a taxpayer in the city or town for not less

12 than one year preceding the date of his application; and all
13 such licenses may be assigned by the licensee to any person
14 who has been a resident of the state or a taxpayer in the
15 city or town for not less than one year preceding the date
16 of the assignment, but shall not be assigned or transferred
17 without the written consent of the mayor and aldermen of
18 such city or the selectmen of such town.

Sect. 2. The licenses herein provided for shall not be
2 granted if their exercises would materially obstruct navi-
3 gable water. No license shall be granted under this act
4 until after a public hearing, stating the name and residence
5 of the applicant, the date of the filing of the application, the
6 location, area, and description of the grounds applied for,
7 due notice of which has been posted in three or more public
8 places, and published in a newspaper, if there be any, pub-
9 lished in the city or town in which the premises are situated,
10 at least ten days before the time fixed for the hearing. Said
11 licenses shall be granted in all cases to the riparian pro-
12 prietors of the adjacent property, when there are two or
13 more applicants for the same territory and the adjacent
14 riparian proprietor is one of them.

Sect. 3. It shall be unlawful for any person, except the
2 licensee or his agents or assignees, to dig or take clams or
3 clam seed within the territory covered by a license granted
4 hereunder, or to remove the same from the said territory.

Sect. 4. A license granted hereunder shall describe by
2 metes and bounds the waters, flats and creeks to which the

3 license is applicable, and it shall have no force until it is
4 recorded with the clerk of the city or town granting the
5 same, and the licensee shall pay annually to the city or town
6 a fee of not less than one dollar nor more than five dollars
7 per acre for the license, as the mayor and aldermen of the
8 city and the selectmen of the town may determine. A re-
9 cording fee of fifty cents shall be paid to the clerk of the
10 city or town for recording the said license or an assignment
11 thereof. The said license and any assignments thereof shall
12 be recorded in a book to be kept for the purpose in the office
13 of the clerk of the city or town, and such books shall be
14 open to inspection by the public. Forms for licenses and
15 for assignments shall be provided by the mayor and alder-
16 men of a city or the selectmen of a town at the expense of
17 the city or town.

Sect. 5. Before granting any license hereunder, the mayor
2 and aldermen of a city or the selectmen of a town shall cause
3 to be made a survey and plan of the territory within which
4 licenses are to be granted, and shall cause to be marked upon
5 a copy of such plan to be kept in the office of the city or town
6 clerk the territory covered by any license issued by them.
7 It shall be the duty of the licensee upon receiving his license
8 to cause the territory covered thereby to be plainly marked
9 out by stakes, buoys, ranges or monuments which shall be
10 maintained by him during the term of the license. Failure
11 to place or maintain the same shall be sufficient cause for
12 revocation of the license by the authority granting the same.

Sect. 6. If it appears to the mayor and aldermen of a city
2 or selectmen of a town granting a license hereunder that
3 the licensee or his assignee does not actually occupy and use
4 in good faith for the purposes specified in sections one and
5 two the territories covered by the license, they shall petition
6 the superior court of the county wherein the territory is situ-
7 ated to appoint a commission of one or more persons to
8 investigate and report to the court as to the use and occu-
9 pancy of such territory, and the court shall appoint a com-
10 mission of one or more persons who, after twelve days'
11 notice to the petitioners and the respondent, shall hear the
12 petitioners and respondent and shall transmit their findings
13 to the court. If it shall appear to the said court that the
14 said territory is not used and occupied in good faith for the
15 purpose stated in the license, the court may order that use
16 of the territory shall revert to the city or town and that all
17 stakes or buoys and other appliances marking the same shall
18 be removed. The costs upon said petition shall be assessed
19 as the court may direct.

Sect. 7. The licensee, his heirs or assignees shall for the
2 purposes described in the license have the exclusive use of
3 the territory described therein during the term of the license
4 and may in an action of tort recover treble damages of any
5 person who, without his or their consent, digs or takes clams
6 or other shellfish in the territory covered by the license or
7 removes the same therefrom. Whoever so digs, takes or
8 removes clams or other shellfish shall, in addition, be sub-
9 ject to a penalty of twenty dollars for each offence.

Sect. 8. All acts and parts of acts inconsistent herewith
2 are hereby repealed.