

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 293

House of Representatives, Feb. 19, 1915.

Ordered, That five hundred copies be printed and that the same be referred to the Committee on Sea and Shore Fisheries.

Committee on Reference.

Presented by Mr. Mulligan of Nobleboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIFTEEN

AN ACT to provide for the Granting of Lobster Licenses.

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

Section 1. No person, firm or corporation either by themselves as principal, or by their servants or agents, shall at any time, catch, take, hold, buy, ship, transport, carry, give away, remove, sell or expose for sale or have in his or its possession, (except for the immediate consumption of himself and family), any lobster from any of the waters in the jurisdiction of this state, or place, set, keep, maintain, supervise, lift, raise or draw in or from any of said waters, or cause to be placed, set, kept, maintained, supervised,

10 lifted, raised or drawn in or from any of said waters, any
11 pot, trap, trawl, car, boat, smack, vessel or other contriv-
12 ance designed or adapted for the catching, taking, holding,
13 or for removal or transportation of lobsters, unless licensed
14 so to do as hereinafter provided. Every person, firm or
15 corporation who shall violate any of the provisions of this
16 section or aid in so doing shall upon conviction in any court
17 of competent jurisdiction, as defined in this act, be fined ten
18 dollars for the first offence; for the second offence, twenty-
19 five dollars, or be imprisoned not more than thirty days or
20 both, and for any subsequent offence, fifty dollars and thirty
21 days imprisonment in addition, and no such party so con-
22 victed for a third offence shall, either by themselves or their
23 servants or agents, be entitled to receive a license during
24 the period of one year from the date of the third conviction.

Sect. 2. The commissioner of sea and shore fisheries shall
2 authorize the clerks of all cities, towns and plantations with-
3 in this state to grant and issue licenses to all parties living
4 in their respective cities, towns and plantations, (if quali-
5 fied under this act to receive said licenses), to catch, take,
6 hold, buy, ship, transport, carry, give away, remove, sell
7 or expose for sale and have in his possession lobsters from
8 the waters within the jurisdiction of this state (in the man-
9 ner, at the time and subject to the regulations provided in
10 this act) to such citizens, firms and corporations of this
11 state as had resided and had their place of business in this
12 state for at least one year next preceding the granting of

13 such license. Applications for licenses shall be made upon
14 a special form, provided, to said clerks, by the commis-
15 sioner of sea and shore fisheries. Such license shall be
16 granted to expire on the last day of November next suc-
17 ceeding the granting of same, unless sooner revoked as in
18 this act provided, and each person, firm or corporation to
19 whom such license shall be granted, shall, for each license
20 pay to said clerk the sum of one dollar for the use of the
21 state. Said clerk shall make a duplicate of each license
22 so issued by him, which duplicate he shall immediately for-
23 ward to the commissioner of sea and shore fisheries, to-
24 gether with the one dollar so collected. For each license
25 so issued and forwarded the state shall pay from its treas-
26 ury to the clerk so issuing and forwarding the sum of fifty
27 cents in full for all his fees and services. Said commis-
28 sioner of sea and shore fisheries shall remit to the state
29 treasurer all money so received from said clerks for licenses,
30 which amounts shall be credited to and be a part of the
31 funds to be used for operating expenses in the department
32 of sea and shore fisheries. Said commissioner in his report
33 to the legislature shall state the number of licenses granted
34 with the names of the parties licensed and the amount of
35 money received therefor. Said clerks shall issue to each
36 person, firm or corporation licensed as aforesaid, a certifi-
37 cate (the blank form of which to be furnished by said com-
38 missioner) stating the name of the person, firm or corpo-
39 ration to whom such license has been granted and the date

40 of expiration of such license. If any person, firm or cor-
41 poration to whom such license shall be granted shall be
42 incapacitated for any reason (except for the violating of
43 the provisions of this act or the provisions of any other
44 act of the lobster laws of the state of Maine) from using
45 said license, said person, firm or corporation may permit
46 his agent or employee (if a citizen of this state) to perform
47 such duties under the license as may be necessary during
48 the period of his or its incapacity: Provided that said agent
49 or employee shall, when performing said duties so licensed,
50 exhibit upon demand of any authorized person the certifi-
51 cate issued to his superior as provided in this act. If any
52 person, firm or corporation by themselves or their servants
53 and agents licensed as aforesaid, shall, at any time, be ad-
54 judged guilty of any of the provisions of this act or of
55 any other act governing the lobster industry (except as
56 otherwise provided in this act) after a full hearing before
57 any court of competent jurisdiction, as defined in this act,
58 the commissioner of sea and shore fisheries shall revoke
59 the license issued to such party and such party shall there-
60 upon cease to have any authority thereunder and no such
61 party or their servants or agents shall be entitled to receive
62 a license during the period of one year from the date of
63 conviction.

Sect. 3. Each person, firm or corporation licensed under
2 the provisions of this act, shall at all times while engaged
3 in the pursuit so licensed, exhibit upon demand of any au-

4 thorized person the certificate issued to him or them, as
5 provided in this act. Every person, firm or corporation
6 violating any of the provisions of this section shall, for
7 each offence, upon conviction, be fined five dollars.

Sect. 4. No negative allegations of any kind need be
2 averred or proved in any prosecution brought under this
3 act, but the respondent in any such action may show his
4 license by way of defence.

Sect. 5. When pots or traps are set on trawls, when con-
2 ditions make it impossible to set otherwise, buoys plainly
3 marked, as provided in this act and in the lobster laws of
4 the state, shall be set at both ends of trawls; but permis-
5 sion for setting such trawls must be obtained from the
6 commissioner of sea and shore fisheries and so stated on
7 the license issued under this act.

Sect. 6. No person, firm or corporation licensed under
2 this act shall use any pots, traps, boats, trawls or other
3 contrivance used for the catching or taking of lobsters,
4 or cars or other contrivance used for holding or keeping
5 lobsters before transporting or selling, unless the same and
6 the buoys attached thereto are plainly marked, as provided
7 by this act and other acts governing the lobster industry,
8 with the name or names of the owners thereof or the per-
9 son or persons using the same, together with the license
10 number or numbers of such party or parties. Every per-
11 son, firm or corporation violating the provisions of this
12 section shall be fined upon conviction twenty dollars or be
13 imprisoned not more than thirty days or both for each such

14 offence and all pots, traps, cars, buoys, trawls and other
15 contrivance, together with the contents thereof, used con-
16 trary to the provisions of this act or any other act govern-
17 ing the lobster industry, shall be seized by any officer en-
18 gaged in the enforcement of this act, and all said property
19 shall be safely kept by said officer until after disposition
20 of same has been rendered as provided by the following
21 section.

Sect. 7. When pots, traps, cars, buoys, trawls or other
2 contrivance together with their contents are seized, as pro-
3 vided in the preceding section, the officer who made such
4 seizure shall immediately file with the magistrate before
5 whom such warrant is returnable a libel against such prop-
6 erty setting forth their seizure by him, describing said
7 property and their place of seizure, and that they were kept
8 and used within this state in violation of law and pray for
9 a decree of forfeiture thereof and such magistrate shall
10 thereupon fix a time for the hearing of such libel and shall
11 issue his monition and notice of the same to all persons in-
12 terested, citing them to appear at the time and place ap-
13 pointed and show cause why said property should not be
14 declared forfeited by causing a true and attested copy of
15 said libel and monition to be posted in two public and con-
16 spicuous places in the town or place where such property
17 were seized twenty-four hours at least before the day to
18 which said libel is returnable.

Sect. 8. If no claimant appears such magistrate shall on
2 proof of notice as aforesaid, declare the same forfeited to

3 the county in which they were seized. If any person ap-
4 pears and claims such property or any part thereof, as hav-
5 ing a right to the possession thereof at the time when the
6 same were seized, he shall file with the magistrate such
7 claim in writing, stating specifically the rights so claimed,
8 and the foundation thereof, the items so claimed, time and
9 place of the seizure, and the name of the officer by whom
10 the same was seized, and in it declare that they were not
11 so kept and used within this state in violation of law as al-
12 leged in said libel and monition, and also state his business
13 and place of residence and shall sign and make oath to the
14 same before said magistrate. If any person, firm or cor-
15 poration so makes claim he or it shall be admitted as a party
16 to the process; and the magistrate shall proceed to deter-
17 mine the truth of the allegation in said claim and libel, and
18 may hear any pertinent evidence offered by the libellant or
19 claimant. If the magistrate is, upon the hearing, satisfied
20 that said property were not so kept and used within this
21 state in violation of law, and that the claimant is entitled to
22 the custody of any part thereof, he shall give the claimant
23 an order in writing, directed to the officer having the same
24 in custody, commanding him to deliver to said claimant the
25 property to which he or it is so found to be entitled within
26 twenty-four hours after demand. If the magistrate finds
27 the claimant entitled to no part of said property, he shall
28 render judgment against the claimant for the libellant for
29 costs, to be taxed as in civil cases before such magistrate.

30 and issue execution thereon, and shall declare said property
31 forfeited to the county where seized. The claimant may
32 appeal and shall recognize with sureties as on appeals in
33 civil causes from a magistrate.

Sect. 9. All said property declared forfeited by any court
2 under this act shall, by order of the court, rendering final
3 judgment thereon, be turned over to the sheriff of the coun-
4 ty where such seizure was made by any officer competent
5 to serve the process on which they were forfeited and he
6 shall make return accordingly to said court; and said sheriff
7 shall receipt to said officer therefor. Said sheriff shall im-
8 mediately dispose of said property to the best interest of the
9 county.

Sect. 10. No person, except the Commissioner of Sea and
2 Shore Fisheries, and his deputies or other officers qualified
3 to enforce this act, shall lift or raise any pot or trap, car,
4 trawl or other contrivance used in the lobster industry be-
5 longing to any person, firm or corporation licensed under
6 this act and set for the catching or taking and holding of
7 lobsters, except with the permission of the owner or owners
8 thereof.

Sect. 11. The commissioner of Sea and Shore Fisheries
2 shall appoint at least deputies, whose duties shall
3 be principally the enforcement of the provisions of this act
4 or any other act relative to the lobster industry. Each of
5 said deputies appointed as aforesaid shall be by virtue of
6 his office a special constable and shall have all the powers
7 of constables, (except the service of civil processes) and of

8 policemen and watchmen, and as such may with a warrant
9 or without a warrant arrest any person found violating any
10 of the provisions of this act or of any other act relative to
11 the lobster industry, and if arrests are made without a war-
12 rant, he shall detain such party arrested for prosecution not
13 exceeding twenty-four hours before obtaining a warrant.
14 Said deputies shall not be required to enter into a recogniz-
15 ance or become liable for costs.

Sect. 12. For the purpose of enforcing the provisions
2 relative to the protection of lobsters, as provided by this
3 act or any other act of the State relative to the lobster in-
4 dustry, the Commissioner of Sea and Shore Fisheries and
5 his appointed deputies may search in suspected places, or
6 any pot, trap, trawl, car, boat, smack, vessel or other vehicle
7 that they may believe is used in the catching, taking, holding
8 or transporting of lobsters and may seize and remove lob-
9 sters taken, held or offered for sale in violation of the pro-
10 visions of this act or any other act of the state relative to
11 the lobster industry.

Sect. 13. The several municipal and police courts shall
2 have concurrent jurisdiction with the Superior and Su-
3 preme Court over all offences under this act and to the full
4 extent of the penalty therein specified; parties defendant,
5 however, having the same right to appeal from the sentences
6 of said inferior courts as is now provided by law in other
7 criminal cases.

Sect. 14. This act shall in no way interfere with any
2 other act relative to the lobster industry or affect penalties

3 under the same, except said acts be inconsistent with this
4 act, and all acts or any parts of acts inconsistent herewith
5 are hereby repealed.

Sect. 15. The license of any party which shall have been
2 revoked for the violation of any lobster law of this state or
3 of any provision of this act shall be void and his license shall
4 immediately be surrendered to the officer who secures the
5 conviction of the offender and said officer shall forthwith
6 forward said license to the Commissioner of Sea and Shore
7 Fisheries who shall cancel the same. Any license issued to
8 any party through error or fraud, or within one year from
9 the date said license was revoked or forfeited under this
10 act shall be void and shall be surrendered on demand of
11 any officer authorized to enforce this act or any other act
12 governing the lobster industry of the state, and any party
13 who obtains a license under this act fraudulently shall be
14 fined one hundred dollars and imprisoned sixty days in addi-
15 tion, for each offence.