

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-SEVENTH LEGISLATURE

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HOUSE

NO. 839

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*House of Representatives, March 18, 1915.*

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

*C. C. HARVEY, Clerk.*

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STATE OF MAINE

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

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AN ACT to provide for the granting of Lobster Licenses and  
giving state-wide jurisdiction to wardens.

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

Section 1. Fish wardens and deputy wardens shall be held  
2 to be officers with all the powers of sheriffs, within the mean-  
3 ing of that term as used in the general law, and shall have  
4 jurisdiction and authority in all the counties of the state,  
5 and in all waters within the jurisdiction of the state, and  
6 may enforce any provisions of this act or any other act re-  
7 lating to the lobster industry, either with or without a war-  
8 rant, but shall obtain a warrant thereafter within twenty-  
9 four hours.

Sect. 2. 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, lifted, raised or drawn in from any of said waters any pot, trap, trawl, car, boat, smack, vessel or other contrivance designed or adapted for the catching, taking, holding or for removal or transportation of lobsters, unless licensed to do so as hereinafter provided, except that common carriers engaged in carrying general freight on fixed schedules may, without license, transport legally caught lobsters, within or without the state; provided that said lobsters are received by said common carriers at one of their regular established places of business upon land for receiving freight; and provided the receptacle containing said lobsters is plainly marked showing the contents to be lobsters, together with the full and correct name and address of both consignor and consignee. Every person, firm or corporation who shall violate any of the provisions of this section, or aid in doing so, upon conviction in any court of competent jurisdiction, as defined in this act, shall be fined twenty-five dollars for the first offense; for the second offense, fifty dollars; and

28 for any subsequent offense, fifty dollars and thirty days  
29 imprisonment in addition; and no such party convicted of  
30 a third offense shall, either by themselves or their servants  
31 or agents, be entitled to receive a license during the period  
32 of one year from the date of said conviction.

Sect. 3. The commissioner of sea and shore fisheries shall  
2 grant and issue licenses to any citizens of this state, or to  
3 any person having resided in this state for one year imme-  
4 diately preceding the date of application for license, or to  
5 corporations or firms engaged in the lobster business lo-  
6 cated in this state or other states, to catch, take, hold, buy,  
7 ship, transport, carry, give away, remove, sell or expose  
8 for sale, within this state, and have in his or its possession,  
9 lobsters from the waters within the jurisdiction of this state  
10 (in the manner, at the time and subject to the regulations  
11 provided in this act).

Applications for licenses shall be made upon a special form  
13 provided by the commissioner of sea and shore fisheries,  
14 and the said commissioner shall keep the clerks of the vari-  
15 ous cities, towns and plantations bordering on the seashore,  
16 and other clerks who request them, supplied with blank  
17 applications, and it shall be the duty of said clerks to keep  
18 a supply of the same on hand and furnish them to all appli-  
19 cants. All applications, when filled out, shall be forwarded  
20 to the office of said commissioner, together with fee for  
21 same. Such license shall be granted to expire on the last  
22 day of November next succeeding the granting of same,

23 unless sooner revoked, as in this act provided, and each per-  
24 son, firm or corporation to whom licenses shall be granted,  
25 shall, for each license, pay to said commissioner the sum  
26 of one dollar for the use of the state, to be forwarded to  
27 the state treasurer; which amounts shall be credited to and  
28 be a part of the funds to be used for operating expenses in  
29 the department of sea and shore fisheries. Said commis-  
30 sioner, in his report to the legislature, shall state the num-  
31 ber of licenses granted, the names of the parties licensed  
32 and the amount of money received therefor. Said com-  
33 missioner shall issue to each person, firm or corporation,  
34 licensed as aforesaid, a certificate, stating the name of the  
35 person, firm or corporation to whom such license has been  
36 granted, the number of said license and the date of expira-  
37 tion of such license.

If any person, firm or corporation to whom such license  
39 shall be granted shall be incapacitated for any reason (ex-  
40 cept for the violating of the provisions of this act or the  
41 provisions of any other act of the lobster laws of the state  
42 of Maine) from using said license, said person, firm or  
43 corporation may permit his agent or employee (if a citizen  
44 of this state) to perform such duties under the license as  
45 may be necessary during the period of his or its incapacity;  
46 provided that said agent or employee shall, when perform-  
47 ing said duties so licensed, exhibit, upon demand of any  
48 authorized person, the certificate issued to his superior, as  
49 provided in this act.

If any person, firm or corporation, by themselves or their  
51 agents licensed as aforesaid, shall, at any time, be adjudged  
52 guilty of any violation of the provisions of this act or of  
53 any other act governing the lobster industry (except as  
54 otherwise provided in this act), after a full hearing before  
55 any court of competent jurisdiction as defined in this act,  
56 the commissioner of sea and shore fisheries may revoke the  
57 license issued to such party, and such party shall thereupon  
58 cease to have any authority thereunder; and no such party,  
59 or their servants or agents, shall be entitled to receive a  
60 license during the period of one year from the date of any  
61 second conviction, but the license shall be suspended from  
62 the date of offense charged until final determination, as  
63 provided in this act by the court.

The commissioner of sea and shore fisheries shall revoke  
65 the license of any person, under this section, when he has  
66 evidence that such person has violated any of the provisions  
67 of the laws relating to lobsters, and the license issued to  
68 such person shall be void.

The commissioner may, in his discretion, on sufficient evi-  
70 dence, restore a license revoked by him, and, if he refuses  
71 so to do, the license may be restored by any justice of the  
72 supreme judicial or superior court; provided the said jus-  
73 tice finds that said commissioner erred in his conclusion of  
74 facts, and application is made to the said justice within ten  
75 days of the refusal of the said commissioner to restore said  
76 license.

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

Sect. 5. 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 defense.

Sect. 6. 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 this state, shall be set at both ends of the trawls; but per-  
5 mission for setting such trawls must be obtained from the  
6 commissioner of sea and shore fisheries, and so stated on  
7 the licenses issued under this act.

Sect. 7. No person, firm or corporation licensed under  
2 this act shall use any pots, traps, boats, trawls or other con-  
3 trivance used for the catching or taking of lobsters, or cars  
4 or other contrivance used for holding or keeping lobsters  
5 before transporting or selling, unless the same and the  
6 buoys attached thereto are plainly marked, as provided by  
7 this act and other acts governing the lobster industry, with  
8 the name or names of the owners thereof, or the person or  
9 persons using the same. In each instance the surname with

10 initials shall be marked together with the license number  
11 or numbers of such party or parties.

Every person, firm or corporation violating the provisions  
13 of this section shall be fined, upon conviction, twenty dol-  
14 lars, or imprisoned not more than thirty days, and the  
15 license shall be suspended pending the decision of the court,  
16 as provided in this act, and, on conviction, license shall be  
17 forfeited, and he shall not be entitled to receive a new one  
18 for the period of one year from date of conviction; and  
19 all pots, traps, cars, buoys, trawls and other contrivance,  
20 together with the contents thereof, used contrary to the pro-  
21 visions of this act or any other act governing the lobster  
22 industry, shall be seized by any officer engaged in the en-  
23 forcement of this act and disposed of as provided by law.

Sect. 8. No person, except the commissioner of sea and  
2 shore fisheries, his wardens and deputy wardens, or other  
3 officers qualified to enforce this act, shall lift or raise any  
4 pot or trap, car, trawl or other contrivance used in the lob-  
5 ster industry belonging to any person, firm or corporation  
6 licensed under this act and set for catching or taking and  
7 holding of lobsters, except with the permission of the owner  
8 or owners thereof. The commissioner may appoint as many  
9 persons as he wishes, who hold licenses under this act, as  
10 deputy wardens, but so long as they hold licenses they shall  
11 serve without pay.

Sect. 9. For the purpose of enforcing the provisions rela-  
2 tive to the protection of lobsters, as provided by this act



3 or any other act of the state relative to the lobster industry.  
4 the commissioner of sea and shore fisheries and his war-  
5 dens and deputy wardens may search, at any time, in sus-  
6 pected places, including buildings of every description, or  
7 any pot, trap, trawl, car, boat, smack, vessel or other vehicle  
8 that they may believe is used in the catching, taking, hold-  
9 ing or transporting of lobsters, and may seize and remove  
10 lobsters taken, held or offered for sale in violation of the  
11 provisions of this act or any other act of the state relative  
12 to the lobster industry.

Sect. 10. No person shall acquire any property in lob-  
2 sters caught in the waters under the jurisdiction of this  
3 state, for the purpose of shipping the same beyond the limits  
4 of this state, unless such lobsters conform to the law, and  
5 are shipped in accordance with the provisions of this act.

Sect. 11. No lobsters shall be transported beyond the  
2 limits of this state, whether of legal length or otherwise,  
3 except by common carriers, as provided in this act, unless  
4 by persons licensed to transport lobsters outside the limits  
5 of the state under the following conditions: The commis-  
6 sioner of sea and shore fisheries shall issue a license, which  
7 shall not be transferable, to the owner or party in control  
8 of any smack, vessel or other means of transportation, either  
9 foreign or domestic, authorizing him to purchase and to  
10 transport lobsters within or beyond the limits of the state  
11 upon the following conditions: The license in each instance  
12 shall state the name of the smack, vessel or other conveyance

13 to be used in so purchasing or transporting lobsters, and  
14 will give no authority to purchase or transport in any other  
15 smack, vessel or other conveyance except that named in the  
16 license. The name of the smack, vessel or other convey-  
17 ance may, however, be changed by the licensee upon appli-  
18 cation to said commissioner, within the license period, with-  
19 out further charge. The fee for issuing said license shall  
20 be five dollars, and a record shall be kept of the same, sim-  
21 ilar to that provided for other licenses in this act. Besides  
22 the name of the conveyance, the license shall bear the date  
23 of taking effect and the termination thereof, which last  
24 named date shall be the last day of November next after  
25 it becomes effective, and shall state that such license, together  
26 with the bond hereinafter provided for, shall be forfeited  
27 upon the violation of any law of this state relating to lob-  
28 sters; and it shall further provide that such smack, vessel  
29 or other conveyance shall, at all times, be subject to inspec-  
30 tion and search by the commissioner of sea and shore fish-  
31 eries, or his wardens or deputy wardens, with warrant or  
32 without, in which inspection and search they shall in no way  
33 be obstructed. Before issuing said license, the said appli-  
34 cant shall file with the said commissioner a bond in the  
35 penal sum of five hundred dollars, conditioned that the  
36 same shall be forfeited to the state upon conviction of the  
37 licensee of any breach of any laws of this state pertaining  
38 to lobsters. All licensees under this act shall be required  
39 to load all smacks, vessels or other contrivances within the

40 waters over which this state has jurisdiction, and any  
41 licensee loading outside the jurisdictional waters of this state,  
42 or who refuses to come within the jurisdictional waters of  
43 the state when ordered so to do by the commissioner, or  
44 any of his wardens or deputy wardens, shall be deemed to  
45 have violated the provisions of this section, and his bond  
46 shall be forfeited.

Any license issued under this section shall become void on  
48 conviction for the breach of any law of this state pertaining  
49 to lobsters. No new license shall be issued for a period of  
50 one year to any party whose license has been revoked be-  
51 cause of such conviction. Any license issued contrary to  
52 the provisions of this section is void and of no effect.

Sect. 12. Any person who violates section eleven of this  
2 act, who has not obtained a license, shall be punished by a  
3 fine of not less than twenty-five nor more than two hun-  
4 dred fifty dollars, and the owner or parties in charge of  
5 any smack, vessel or other contrivance used in illegally trans-  
6 porting lobsters outside the state, as aforesaid, shall become  
7 indebted and pay to the state the sum of five hundred dol-  
8 lars, which sum shall be a lien upon said smack, vessel or  
9 other contrivance, and may be enforced in the name of the  
10 state by any appropriate process.

Any licensee convicted of violation of section eleven shall  
12 be punished by a fine of not less than twenty-five nor more  
13 than two hundred fifty dollars, and, in addition thereto,  
14 shall forfeit the bond given by him to the state of Maine,

15 and any person in charge of any smack, vessel or other con-  
16 trivance used in illegally transporting lobsters out of this  
17 state, as aforesaid, shall be punished by a fine of not less  
18 than twenty-five nor more than two hundred fifty dollars.

All fines collected and money received from bonds for-  
20 feited shall be turned over to the commissioner of sea and  
21 shore fisheries, who shall forward the same to the state  
22 treasurer; which amounts shall be credited to and be a  
23 part of the funds used for operating expenses in the depart-  
24 ment of sea and shore fisheries.

Sect. 13. The several municipal and police courts shall  
2 have concurrent jurisdiction with the superior and supreme  
3 court over all offenses under this act, and to the full extent  
4 of the penalty therein specified; parties defendant, however,  
5 having the same right to appeal from the sentences of said  
6 inferior courts as is now provided by law in other criminal  
7 cases. In case any warrant is issued or indictment found  
8 against any licensee under section eleven of this act, and  
9 any officer qualified to serve said warrant or indictment  
10 shall certify to the court from which it issued that he had  
11 made diligent search and was unable to locate the respond-  
12 ent, then the court shall cause a written notice to be sent  
13 to the respondent at the address given in the application  
14 for license, setting forth the fact that said warrant or in-  
15 dictment had issued against him, and naming a time and  
16 place for hearing on same, which shall not be less than  
17 fourteen nor more than thirty days from date of mailing

18 the same; the notice shall state also that, in his failure to  
19 appear, his bond given to the state shall be forfeited. If  
20 he appears, the court will proceed under the warrant or in-  
21 dictment as though he had been apprehended. In the event  
22 that he does not appear, the court shall order his bond for-  
23 feited; but the order of the court forfeiting said bond shall  
24 not otherwise affect the warrant or indictment. Any war-  
25 rant issued by any such court shall cover offenses occurring  
26 in the county where said court is established or in any ad-  
27 joining county. Parties defendant, however, having the  
28 same right to appeal from the sentences of said inferior  
29 courts as is now provided by law in other criminal cases.

Sect. 14. This act shall in no way interfere with any other  
2 act relative to lobster industry, or affect penalties under the  
3 same, except said acts be inconsistent with this act, and all  
4 acts or parts of acts inconsistent herewith are hereby re-  
5 pealed.

Sect. 15. The license of any parties which shall have been  
2 revoked for the violation of any lobster law of this state,  
3 or any provision of this act, shall be void, and his license  
4 shall immediately be surrendered to the officer who serves  
5 the warrant or indictment, or who secures the conviction  
6 of the offender; and said officer shall forthwith forward  
7 said license to the commissioner of sea and shore fisheries,  
8 who shall cancel the same. Any license issued to any party  
9 through error or fraud, or within one year from the date  
10 said license was revoked or forfeited, under this act, shall

11 be void, and shall be surrendered on demand of any officer  
12 authorized to enforce this act or any other act governing  
13 the lobster industry of this state, and any party who obtains  
14 a license under this act fraudulently shall be fined one hun-  
15 dred dollars and imprisoned sixty days in addition, for each  
16 offense.

Sect. 16. All persons shall have thirty days after this act  
2 goes into effect within which to procure licenses herein-  
3 before referred to.