

MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 974

H. P. 1640

House of Representatives, March 17, 1933.

Reported by Mr. Peacock from Committee on Sea and Shore Fisheries and laid on table to be printed under Joint Rules.

HARVEY R. PEASE, Clerk.

New Draft of H. P. 10.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

AN ACT Relating to the Buying, Selling and Transportation of Clams.

Emergency preamble. Whereas, chapter 199 of the public laws of 1931 provides for the licensing of clam sellers, and clam dealers; and

Whereas, the provisions of this law are such that the business of buying and selling clams for transportation without the state has been and will be seriously affected so that the business of digging and selling clams is disrupted and the said act is thereby causing hardship to many residents of the state; and

Whereas, the amending of said act so that the buying and selling of clams can proceed in an orderly manner will provide additional business and revenue to many residents of the state; and

Whereas, in the judgment of the 86th legislature these facts create an emergency within the meaning of section 16 of article XXXI of the constitution and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now, therefore,

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

P. L., 1931, c. 199, repealed. Chapter 199 of the public laws of 1931 is hereby repealed, and in place thereof the following is substituted:

‘Sec. 1. Clam sellers, buyers and shippers to be licensed. No person, firm, or corporation who is engaged in shipping and transporting clams in

interstate trade, either by themselves as principals, or by their servants or agents, shall buy or sell or transport or ship clams whether shucked or in the shell without first obtaining a license from the commissioner of sea and shore fisheries. But nothing in this act shall be held to require that persons engaged in digging clams for their own use or persons digging clams for sale in intrastate trade or for sale to neighbors or to peddlers engaged in intrastate trade shall be required to obtain a license from the commissioner of sea and shore fisheries.

Sec. 2. License; how issued, application for, fee for. Application for license shall be made by applicants on blanks furnished by the commissioner of sea and shore fisheries. Each application for license must be signed by the applicant, and must show the exact name of the locality from which clams are to be dug or taken, the location of the shucking house or principal place of business of the person, firm, or corporation making the application. The license fee shall be \$5 for each license or renewal thereof. If the commissioner of sea and shore fisheries approve the application, he may issue to the applicant a license; such license shall be numbered, and shall state the name, the address, the principal place of business of the person, firm, or corporation to whom the license is issued, and also the area, designated by local name, and number, from which clams can be dug and sold as covered by the license granted. Said license shall run for the current year until the 1st day of June following date of application on which date it shall terminate, unless sooner revoked as herein provided, and it shall be renewed annually thereafter.

Sec. 3. Bond. Before a license for selling clams for delivery outside the state is granted, the applicant shall file a bond, with surety approved by the commissioner of sea and shore fisheries, in the penal sum of \$500, conditioned that such sum shall be forfeited to the state, upon breach of any of the conditions of application and license.

Sec. 4. Revocation of license. No license shall be issued to a person, firm, or corporation convicted of any violation of the law relating to clams until 1 year after date of conviction. If any person, firm, or corporation their servants or agents, licensed as provided herein in this chapter, shall be adjudged guilty of violation of any law relating to clams, the commissioner of sea and shore fisheries shall revoke the license of such person, firm, or corporation so adjudged guilty and upon such revocation all rights under the license so revoked shall cease, and no such person, firm, or corporation so adjudged guilty shall be entitled of right to receive a license for the period of 1 year, and the license shall be suspended from the date of complaint or indictment until a final determination by the court. In event a bond has been given, conviction shall make the full

penal sum of the bond due to the state. Whenever the commissioner of agriculture informs the commissioner of sea and shore fisheries that a licensee is not complying with the laws and the regulations governing the sale and shipment of clams, the commissioner of sea and shore fisheries shall revoke the license of the licensee.

Sec. 5. Restoration of revoked licenses. The commissioner of sea and shore fisheries may in his discretion restore any license revoked by him, and if he refuses so to do, the license may be restored by any justice of the superior court; provided said justice finds that said commissioner acted corruptly or fraudulently or erred in his conclusion of facts, and further provided that application is made to said justice within 10 days after the refusal of said commissioner to restore said license.

Sec. 6. Certain facts to be furnished commissioner of agriculture on request. When requested by the commissioner of agriculture, the commissioner of sea and shore fisheries shall furnish the commissioner of agriculture, or his deputies with a list of names of all persons granted licenses to buy and sell clams, giving the license numbers, the location of the shucking house, and the exact locality of the source of clams that the licensees are offering for sale and shipment. The commissioner of sea and shore fisheries and the commissioner of agriculture shall diligently enforce all the provisions of this act and they shall make uniform rules and regulations prescribing the conditions under which clams intended for sale shall be handled in order to prevent their contamination, spoilage, or adulteration. They may also fix standards of quality and purity for clams and such regulations shall apply with equal force both to clams intended for consumption within the state and to meet the requirements of the United States public health service governing clams shipped in interstate commerce.

Sec. 7. Packages of clams to be labeled. All packages used in the shipment and transportation of clams from a place within the state to a place without the state shall bear a label which in plain and distinct letters and figures shall state the name and license number of the consignor and the name of the consignee, the word "clams" the date of shipment, and the name of the town in which the clams were dug. This provision shall not apply in any way to clams in hermetically sealed packages.

Sec. 8. Right of search. For the purpose of enforcing the provisions relating to the buying and selling of clams, the commissioner of sea and shore fisheries and his wardens may search at any time in suspected places, including buildings of every description, and vessel or vehicle that they may believe is used in taking, holding or transporting clams and may seize and remove all clams taken, held or offered for sale in violation of the provisions of any law relating to the buying, selling or transporting of

clams but nothing herein shall be held to confer the right to search a dwelling house without a warrant therefor.

Sec. 9. Violations of laws regarding buying, selling or transporting clams; penalty. Any person, firm, or corporation who being licensed as above provided violates any of the laws or regulations of the state regarding buying, selling, or transporting clams shall be punished by a fine not less than \$50 nor more than \$500 and have his license revoked.

Sec. 10. Buying or selling clams without a license; penalty. Any person, firm, or corporation either by themselves as principals or by their servant or agents, who buys or sells clams not having obtained the license provided for herein, or who buys clams taken from areas, declared by the commissioner of agriculture to be contaminated shall be punished by a fine of not less than \$10 nor more than \$100.

Sec. 11. Jurisdiction. Municipal courts and trial justices shall have original jurisdiction concurrent with the superior court of actions brought for the recovery of penalties imposed by this chapter and of prosecutions for violations hereof.'

Emergency clause. In view of the emergency recited in the preamble, this act shall take effect when approved.