

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# STATE LAW LIBRARY

---

---

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

---

---

**Legislative Document**

**No. 212**

H. P. 165

House of Representatives, January 24, 1957.

Referred to the Committee on Sea and Shore Fisheries, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Baird of North Haven.

---

---

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

---

### **AN ACT Clarifying Certain Sea and Shore Fisheries Laws.**

---

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

**Sec. 1. R. S., c. 38, § 5, amended.** The 7th paragraph of section 5 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'Whenever the Commissioner of Agriculture shall certify to the Commissioner of Sea and Shore Fisheries that clams, quahogs, **oysters** or mussels from certain flats or shores are contaminated or polluted and are not in conformity with regulations promulgated by the said Commissioner of Agriculture and the regulations and standards of purity established by the United States Public Health Service and not acceptable for shipment in interstate commerce, the said Commissioner of Sea and Shore Fisheries is authorized to close such flats, without notice or hearing, to all digging of clams, quahogs, **oysters** and mussels.'

**Sec. 2. R. S., c. 38, § 9, amended.** Section 9 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'**Sec. 9. Sheriffs, deputy sheriffs, police officers, constables and inland fish and game wardens to have powers of coastal wardens.** Sheriffs, deputy sheriffs, police officers, constables and inland fish and game wardens, within their respective jurisdiction, are vested with the powers of coastal wardens, **except as provided in section 117**, and shall receive for similar services the same fees as those of coastal wardens.'

**Sec. 3. R. S., c. 38, § 16, amended.** The 23rd paragraph of section 16 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'"Retail dealer," any person not a wholesale dealer who buys, sells or distributes ~~any marine species~~ **shellfish, lobsters or crabs.**'

**Sec. 4. R. S., c. 38, § 32, amended.** The 3rd paragraph of section 32 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'During the open season in such waters, except as otherwise provided, smelts may be taken only with bare hands or by the ordinary mode of angling with hook and line. Unless otherwise provided, no person shall take, catch, kill or have in possession in or from any or all of the tidal brooks and streams more than 4 quarts of smelts; ~~and provided further, that smelts so taken shall not be sold.~~

**Sec. 5. R. S., c. 38, § 93, repealed.** Section 93 of chapter 38 of the revised statutes, as revised, is hereby repealed.

**Sec. 6. R. S., c. 38, § 94, amended.** Section 94 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

**'Sec. 94. Clam, quahog, oyster and mussel flats closed; signs posted.** The Commissioner of Sea and Shore Fisheries and the Commissioner of Agriculture shall cooperate in the investigation and inspection of clam, quahog, **oyster** and mussel flats in this State.

Whenever it is found by examination that any flats and shores are contaminated or polluted and that clams, quahogs, **oysters** or mussels dug from such contaminated or polluted areas are not in conformity with regulations promulgated by the Commissioner of Agriculture and the regulations and standards of purity established by the United States Public Health Service and not acceptable for shipment in interstate commerce, the Commissioner of Agriculture shall file a certified copy of such findings with the Commissioner of Sea and Shore Fisheries and at the same time shall recommend that said flats or shores be immediately closed to all digging of clams, quahogs, **oysters** and mussels, whereupon the Commissioner shall immediately promulgate rules and regulations closing said flats to all digging of clams, quahogs, **oysters** and mussels.

When digging of clams, quahogs, **oysters** or mussels in any area is prohibited by the Commissioner because of contamination or pollution, he shall cause plain and distinct signs to be posted on or adjacent to the area within which said digging is prohibited.'

**Sec. 7. R. S., c. 38, § 110, amended.** The 1st and 2nd paragraphs of section 110 of chapter 38 of the revised statutes, as revised, are hereby amended to read as follows:

'No person, except as provided in this chapter, shall buy, sell, **offer for sale**, serve, ship or transport in any manner any soft-shelled clams, quahogs, crabs or lobsters, or parts thereof, without first having procured from the Commissioner a written license therefor.

A license, designated as a retail sea food dealer's license, shall entitle the holder, as a retail dealer, to buy, sell, **offer for sale**, serve, ship and transport soft-shelled clams, quahogs, crabs or lobsters, or parts thereof, within the limits of the State.'

**Sec. 8. R. S., c. 38, § 115, amended.** The last paragraph of section 115 of chapter 38 of the revised statutes, as revised, is hereby repealed.

**Sec. 9. R. S., c. 38, § 117, amended.** The 1st paragraph of section 117 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'No person, except the rightful owner or ~~an officer authorized to enforce the sea and shore fisheries laws~~ a **Maine coastal warden**, shall raise, lift, transfer or in any manner molest any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs, nor take, remove or carry away from the beach or shore, **or have in possession**, any ~~such~~ pot, trap, car or other contrivance or warp or buoy ~~thereof~~ without the written permission of the **rightful** owner thereof.'

**Sec. 10. R. S., c. 38, § 121, amended.** Section 121 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'**Sec. 121. Traps not to be set near fish weir.** No person shall set any lobster trap within 300 feet of the mouth ~~or outer end of the leaders~~ of any fish weir under a penalty of \$10 for each offense.'

**Sec. 11. R. S., c. 38, § 123, amended.** Section 123 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'**Sec. 123. Shooting seals in Casco bay regulated.** No person shall, during the months of June, July and August, destroy seals in ~~the water of~~ Casco bay, and in the water between Branch river, in the town of Kennebunk, and the easterly end of Goose Rock beach, in the town of Kennebunkport, by shooting with rifle or other long-range weapon which might endanger human life, under a penalty of \$50 for each offense.'

**Sec. 12. R. S., c. 38, § 125-A, amended.** The 1st paragraph of section 125-A of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

'It shall be lawful for any person, firm or corporation, who legally possesses a commercial shellfish and marine worm license, to dig, take, buy or sell marine worms, clamworms, bloodworms and sandworms in any tidewater area of the State, except those areas which are closed to all digging for ~~the conservation of marine worms~~ **purposes** by the Department.'

**Sec. 13. R. S., c. 38, § 127, amended.** The 3rd and 5th paragraphs of section 127 of chapter 38 of the revised statutes, as revised, are hereby amended to read as follows:

'When an appeal has been taken by any person from the decision or sentence imposed for an alleged violation of the provisions of this chapter, or of any rules and regulations adopted by the Commissioner pursuant thereto, the Commissioner ~~shall~~ **may** suspend, until final disposition by the court, the license or right thereto of such person to conduct the particular activity in which he was engaged at the time of the alleged violation, and may suspend for the same period all licenses held by him that have been issued under authority of this chapter.'

'On conviction of a 3rd or subsequent violation of any provisions of this chapter, excepting sections 92 and 117, or of any rule and regulation of the Commissioner, the Commissioner ~~shall~~ **may** revoke or suspend any such license or licenses or right thereto, for a period of 1 year from the date of the final conviction.'

**Sec. 14. R. S., c. 38, § 127, amended.** Section 127 of chapter 38 of the revised statutes, as revised, is hereby amended by adding after the 5th paragraph thereto a new paragraph to read as follows:

**'When a minor has been convicted of or found guilty of juvenile delinquency as the result of a violation of the provisions of this chapter, the Commissioner may suspend or revoke the license or licenses or right thereto in the same manner and for the same period as set forth in the preceding paragraphs of this section.'**

**Sec. 15. R. S., c. 38, § 128, amended.** Section 128 of chapter 38 of the revised statutes, as revised, is hereby amended to read as follows:

**'Sec. 128. Certificate of Commissioner, Deputy Commissioner or Chief Coastal Warden admissible in evidence.** Any certificate of the Commissioner, **Deputy Commissioner or Chief Costal Warden** in regard to the records of his office shall be admissible in evidence in all prosecutions under the provisions of this chapter.'