

MAINE STATE LEGISLATURE

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Legislative Document

No. 257

H. P. 176

House of Representatives, January 28, 1959.

Referred to Committee on Sea and Shore Fisheries. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Rankin of Southport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

**AN ACT to Enact Private and Special Laws Related to the Revision of the
General Laws Concerning Sea and Shore Fisheries.**

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

Chapter A.

Regulation of Clams and Quahogs.

Sec. 1. Municipal clam and quahog licenses. The provisions of this section provide municipal licenses as indicated in each of the following subsections:

I. Licenses required to dig or take clams in Scarborough. No person shall, in the Town of Scarborough in the County of Cumberland, dig or take clams unless license has been granted to him by the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued except to a resident of said town. Nothing herein shall prohibit any resident from digging and taking clams for food for himself and family without license, or shall prohibit a riparian owner of shores or flats in said town from digging and taking from his own shores or flats clams for food for himself and family.

II. License required to dig or take clams in Kennebunkport. No person shall, in the Town of Kennebunkport in the County of York, dig or take clams for sale unless license has been granted to him by the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued except to a resident of said town. Nothing herein shall prohibit any resident or a riparian owner of shores or flats therein from digging and taking clams for food for himself and family without license.

III. License required to take or dig clams in Kennebunk. No person shall, in the Town of Kennebunk in the County of York, dig or take clams for sale unless license has been granted to him by the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued except to a resident of said town. Nothing herein shall prohibit any resident or a riparian owner of shores or flats therein from digging and taking clams for food for himself and family without license.

IV. License required to dig or take clams in Cape Elizabeth. No person shall, in the Town of Cape Elizabeth in the County of Cumberland, dig or take clams for sale unless license has been granted to him by the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued except to a resident of said town. Nothing herein shall prohibit any resident or a riparian owner of shores or flats therein from digging and taking clams for food for himself and family without license.

V. License required to dig or take clams or quahogs in Town of Harpswell. No person, firm or corporation shall, within the limits of the Town of Harpswell, in the County of Cumberland, dig or take any clams or quahogs without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a resident or riparian owner of shores or flats in said town from digging and taking clams and quahogs therefrom for food for himself and family without license.

VI. License required to dig or take clams in Town of Westport. No person, firm or corporation shall, within the limits of the Town of Westport in the County of Lincoln, dig or take any clams without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams therefrom for food for himself and family without license.

VII. License required to dig or take clams in Georgetown. No person, firm or corporation shall, within the limits of the Town of Georgetown in the County of Sagadahoc, dig or take any clams without first having obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams therefrom for food for himself and family without license.

VIII. License required to dig or take clams in Woolwich. No person, firm or corporation shall, within the limits of the Town of Woolwich in the County

of Sagadahoc, dig or take any clams without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams therefrom for food for himself and family without license.

IX. License required to dig or take clams in Town of Boothbay. No person, firm or corporation shall, within the limits of the Town of Boothbay in the County of Lincoln, dig or take any clams without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams therefrom for food for himself and family without license.

X. License required to dig or take clams or quahogs in Town of Brunswick. No person, firm or corporation shall, within the limits of the Town of Brunswick in the County of Cumberland, dig or take any clams or quahogs without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams and quahogs therefrom for food for himself and family without license.

XI. License required to dig or take clams in Rockport. No person, firm or corporation shall, within the limits of the Town of Rockport in the County of Knox, dig or take any clams without having first obtained a license from the municipal officers of said town, who are authorized to grant and issue such licenses and fix the fee therefor. No license shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said town. Nothing herein shall prohibit a riparian owner of shores or flats in said town from digging and taking clams therefrom for food for himself and family without license; provided the amount so taken shall not be in excess of one peck per day per person.

Sec. 2. Dealers' licenses for municipalities. It is unlawful for any person to be a dealer in clams in any municipality which is provided with a municipal license under section 1 unless he holds a current municipal dealers' license from that municipality as provided in this section.

I. Municipal officers authorized to issue dealers' licenses; fix fees. The municipal officers of each municipality which is provided with a municipal license under section 1 are authorized to issue dealers' licenses for their municipality and to fix the fee for the same.

II. Dealer defined. For the purposes of this section "dealer" means any person, firm or corporation buying clams for resale.

III. Quahogs included in certain municipalities. For the municipalities of Brunswick and Harpswell, the word "clam" wherever it appears in this section includes quahogs.

Sec. 3. License; issuance, revocation, appeal. The municipal officers may revoke any license issued by them under sections 1 or 2, upon evidence satisfactory to them that the licensee violated any state law or regulation concerning the digging, taking or selling of clams or quahogs.

If the municipal officers revoke any license under this section, or refuse to issue any license authorized under sections 1 or 2, the aggrieved person may apply to any Justice of the Superior Court, in term time or vacation. The justice may order the issuance or restoration of the license, provided he finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts or failed to issue a license to an applicant who was entitled to one.

Sec. 4. Miscellaneous municipal clam, quahog and mussel regulations. The provisions of this section apply to the municipalities indicated in each subsection.

I. Digging of clams in Cranberry Isles; penalty. It shall be unlawful for any person, not a resident of or riparian owner in the Town of Cranberry Isles in the County of Hancock, to dig clams within the limits of said town.

A. Any person residing therein or the riparian owner of any clam flats may take therefrom not exceeding 5 bushels of clams in one day.

B. Any person taking clams contrary to the provisions of this section shall be punished for each offense by a fine of not more than \$25 or by imprisonment for not more than 30 days, or by both.

II. Digging of clams on flats of York River. It shall be lawful to dig clams on any of the flats in the York River in the County of York, provided said clams are not used for any purposes except as bait for fishing.

III. Digging of clams in the Town of Wells; penalty. It shall be unlawful for nonresidents of the Town of Wells, in the County of York, to dig during one day more than one peck of clams within the limits of said town. It shall be unlawful for the nonresidents of said town to dig any clams for any use whatsoever, except home consumption. This law shall not supersede any law relating to the taking by fishermen of shellfish for bait.

A. It shall be unlawful for any person to dig clams within said town other than with a clam hoe.

B. Whoever violates any of the provisions of this subsection shall be punished for each offense by a fine of not more than \$25 or by imprisonment for not more than 30 days.

IV. Taking of shellfish in Falmouth and Cumberland. No clams, mussels or quahogs shall be taken from any flats within the limits of the Towns of Falmouth or Cumberland, in Cumberland County, except by such written permit as the municipal officers of either town may issue, provided that without

such permit any inhabitant within these towns, or any person temporarily resident therein, or the riparian owner of any such flats, may take therefrom for the immediate use of himself or his family not exceeding one bushel of clams at one tide.

V. Taking clams from Batson's River in the Town of Kennebunkport. From October 1, 1957 to October 1, 1959, no clams shall be dug or taken from the flats in Batson's River or in any of its branches or tributaries, in the Town of Kennebunkport, except that, during said 2-year period, any resident or property owner of said town may dig from said flats not to exceed 2 pecks of clams at one tide.

Sec. 5. General provisions. The following provisions apply to chapter A:

I. Definition and construction of "resident" and "residence." For the purposes of this chapter the word "resident" and the word "residence" each refer to domicile. To become a resident within the meaning of any licensing provision of this chapter it is necessary to be domiciled in this State for at least 6 consecutive months next prior to application for a license, and in addition to be domiciled in the municipality to which application is made for at least 3 consecutive months next prior to application.

II. Term of licenses. All licenses authorized by this chapter expire at midnight on December 31st of the calendar year in which issued.

III. Savings clause. All municipal licenses relating to shellfish which were issued under the Revised Statutes of 1954, chapter 38, and which were still in force up to the time this chapter became law, remain valid until midnight of December 31, 1959, and are subject to the provisions of this chapter as though they were issued under it.

Sec. 6. General penalty. Whoever violates any provision of chapter A, except where a specific penalty is provided, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or by both.

Chapter B.

Regulation of Smelts.

Sec. 1. Taking of smelts in Casco Bay. Except where otherwise provided by special legislation, it is unlawful to take or to fish for smelts in any of the tidal waters of Casco Bay from the first day of April to the 15th day of the following September of each year, except by hook and line.

Sec. 2. Taking of smelts in the Penobscot River; penalty. Except where otherwise provided by special legislation, it shall be lawful to fish for and take smelts from the tidal waters of the Penobscot River between the first day of October and the 15th day of May. During the last 15 days of said open time, such fishing and taking shall be restricted to the use of gill and dip nets only. It shall be lawful to fish for and take smelts from the tributaries of the Penobscot River between the first day of October and the first day of May. Any fish

so taken from said waters may be offered for sale and sold within the State or shipped to such places out of the State as the owner may designate.

Whoever violates any provision of this section shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or by both.

Sec. 3. General penalty. Whoever violates any provision of chapter B, excepting only those provisions for which specific penalties are provided, shall be punished by a fine of not less than \$10 nor more than \$300, or by imprisonment for not more than 90 days, or by both.

Chapter C.

Regulation of Scallops.

Sec. 1. Taking scallops in Bagaduce River; penalty. In addition to the closed season provided for scallops under the Revised Statutes of 1954, chapter 37-A, there is a closed season on scallops in the waters of the Bagaduce River to a point at the mouth of said river marked by a line extending from Dice's Head in Castine through the southernmost point of Nautilus Island to the Brooksville shore, from the first day of November to the 31st day of the following December of each year. During that period it is unlawful to take or to fish for any scallops in that area, and it is unlawful to possess any scallops which were taken from that area during that period.

Whoever violates any provision of this section shall be punished by a fine of not less than \$10 nor more than \$300, or by imprisonment for not more than 90 days, or by both, and in addition by a fine of \$5 for every 100 scallops or part thereof involved.

Sec. 2. Dragging for scallops in Harrington River and Bay and in Pleasant River in Washington County; penalty. No person shall drag for scallops in Harrington River and Bay and in Pleasant River, Washington County, within the area described in this section from the first day of April to the first day of January of each year.

I. The provisions of this section apply only to the specific areas described in this subsection:

A. Harrington River and Bay. All the waters that lie northerly of a line beginning at the southern extremity of Foster's Island and running easterly to the most northerly end of Strout's Island; and thence from said Strout's Island to the most southerly extremity of Ripley's Neck in the Town of Harrington;

B. Pleasant River. All the waters that lie northerly of a line beginning at the most southerly end of Guard Point in the Town of Harrington and extending in an easterly direction therefrom to the most southerly end of Gibbs' Island in the Town of Addison.

II. Whoever violates any of the provisions of this section shall be punished by a fine of not less than \$50 nor more than \$100 for each offense, or by imprisonment for not more than 60 days, or by both.

Chapter D.**Regulation of Seals.**

Sec. 1. Shooting seals in Casco Bay and certain waters in York County regulated; penalty. No person shall, during the months of June, July and August, destroy seals in 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 or by imprisonment for not more than 30 days.

Sec. 2. Hunting seals near Green Island forbidden. It shall be unlawful between May 15th and October 15th, for any person to hunt, shoot at or kill any seal within 2 miles of any part of Green Island in Western Bay in the County of Hancock.

Sec. 3. General penalty. Whoever violates any provision of chapter D, excepting only those provisions for which specific penalties are provided, shall be punished by a fine of not less than \$10 nor more than \$300, or by imprisonment for not more than 90 days, or by both.