

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1320

H. P. No. 934

House of Representatives, April 17, 1959

Reported by Mr. Monroe from the Committee on Inland Fisheries and Game,
printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Regulating Commercial Fishing for Smelts.

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

R. S., c. 38, § 32, repealed and replaced. Section 32 of chapter 38 of the Revised Statutes, as revised, is repealed and the following enacted in place thereof:

'Sec. 32. Closed season on fishing for smelts. From March 15th to June 15th of each year it is unlawful to fish for or take any smelts from the tidal waters of the State by any means other than by the use of a hand dip-net operated by one man, or by the ordinary mode of angling with hook and line.

I. Limit on smelts, exceptions for possession. From March 15th to June 15th of each year it is unlawful to take, catch, kill or have in possession more than 4 quarts of smelts of any description in any one day, regardless of where the smelts were taken, except as otherwise provided in this section.

A. A dealer in fish who is licensed under section 110 or 111, or a bait dealer licensed under chapter 37, section 63, is excused from the possession of more than 4 quarts of smelts if the possession occurs in his vehicle or place of business, but no dealer may catch more than 4 quarts of smelts in any one day.

B. This subsection does not apply to the possession of more than 4 quarts of smelts in any grocery store or fish market if the same were legally taken.

II. Certain commercial fishing licensees excused; prima facie evidence. The holder of a current resident commercial fishing license or a current nonresident commercial fishing license is excused from the provisions of this section to the

extent of any smelts which he catches in any licensed weir or trap maintained and operated in tidal waters for catching herring.

A. If any such licensee is found with smelts in his possession by a coastal warden or game warden, he shall immediately on request show his resident or nonresident commercial fishing license, and his neglect to do so is prima facie evidence that he is not excused as provided in this subsection.

III. Exception for localities covered by special legislation; prima facie evidence. Any provision of this section that is in conflict with any provision of any special legislation which regulates the taking or possession of smelts in any given locality is superseded by that special legislation.

A. If any person, other than as provided in subsection I, paragraphs A and B or in subsection II, is found in possession of more than 4 quarts of smelts in a municipality when and where special legislation does not authorize the possession of more smelts anywhere within that municipality at the time of the possession, it is prima facie evidence that the smelts are possessed in violation of subsection I.

IV. No right inconsistent with regulations granted. Nothing in this section grants to any person any right to take smelts from any area in any manner which is contrary to the provisions of any regulation of the Commissioner of Sea and Shore Fisheries.'