

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. 1375

House of Representatives, May 15, 1959.

Reported by Mr. Brown from Committee on Sea and Shore Fisheries.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

COMMITTEE AMENDMENT "A" to H. P. 175, L. D. 256, Bill, "An Act to Revise Private and Special Laws and Resolves Relating to Sea and Shore Fisheries."

Amend said Bill by striking out the last paragraph of section 1 and inserting in place thereof the following paragraph :

'The municipal officers may revoke any license issued by them under this section, upon evidence satisfactory to them that the person taking or selling clams, quahogs or mussels has violated any of the laws of the State regulating the taking and sale of clams, quahogs or mussels. If the municipal officers refuse to issue the license provided for in this section or if a license has been revoked by the municipal officers, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it 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.'

Further amend said Bill by striking out the last paragraph of section 3 and inserting in place thereof the following paragraph :

'The municipal officers may revoke any license issued by them under this section, upon evidence satisfactory to them that the person taking or selling clams, quahogs or mussels has violated any of the laws of the State regulating the taking and sale of same. If the municipal officers refuse to issue the license provided for in this section or if a license has been revoked by the municipal officers, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it 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.'

Further amend said Bill by striking out all of the first paragraph of section 36 and inserting in place thereof the following paragraph:

'It shall be lawful to fish for or take any tom cods between October 1st and May 1st each year in the following waters of Hancock and Washington Counties: In all the waters of Whitten Parritt Stream in the Town of Gouldsboro, Hancock County, in the waters of Tunk Stream and in all waters tributary to or which empty into Steuben Bay and Joys Bay above the Lobster Island Narrows, so called, at Rogers Point in the Town of Steuben, Washington County.' (P. & S. L. 1959, c. 86)

Further amend said Bill by striking out all of section 42 and inserting in place thereof the following section:

'Sec. 42. Taking of alewives in the Town of Orland regulated. Exclusive rights to the taking of alewives from all the waters in the Town of Orland, Hancock County, shall be optional with the town.

The town, at its annual meeting, may determine by vote whether the alewife fishing in these waters shall be operated by the town, through its selectmen or a committee appointed for that purpose, or the privilege offered for sale by the said selectmen or committee; and likewise may provide for regulations, compatible with good conservation practices, to govern the times when and the manner in which alewives shall be taken therein. There shall be a 24-hour weekly closed season on alewives in all such waters from sunrise on each Sunday morning until sunrise on the following Monday morning. Whenever such regulations are thus provided for, they shall be promulgated by the selectmen of the Town of Orland and a copy of the same filed immediately with the clerk of said town and the Commissioner of Sea and Shore Fisheries.

If in any year said town shall fail to act as provided for in the preceding paragraphs, the taking of alewives in said waters shall be in accordance with the provisions of the general laws of the State and any regulations adopted under authority of this section shall be enforced by the municipal officers of the Town of Orland.

If, after thorough investigation, it is the opinion of the Commissioner of Sea and Shore Fisheries that the town is not following sound conservation principles in its management of the fishery, said commissioner shall notify the town officials of his findings and they shall take immediate corrective measures to prevent destruction of the fishery.

The St. Regis Paper Company or its successors shall be required from the 15th day of April to the first day of December of each year, at their own expense, to keep the fishways at the lower and upper dams of the Eastern River in repair and in such order at all times so that the passage of said fish into, or out of, Lake Alamoosook, so called, will not be hindered.' (P. & S. L. 1959, c. 32)

Further amend said Bill by striking out all of the last sentence of the 2nd paragraph of section 43.

Further amend said Bill by striking out all of section 68 and inserting in place thereof the following section:

'Sec. 68. Taking of smelts in Lincoln County. All brooks and rivers in the County of Lincoln shall be open to the taking of salt water smelts during the months of March, April and May of each year. The taking of salt water smelts in said brooks and rivers shall be subject to the following restrictions and regulations:

1. No person shall take more than 4 quarts of smelts in any 24-hour period.
2. The taking of salt water smelts in said brooks and rivers shall be done ONLY by the use of a hand dip net.
3. No hand dip net shall be used which exceeds a diameter of 10 inches at the bow.
4. No smelts shall be taken above Fish Stream Bridge at Damariscotta Mills.
5. Notwithstanding the provisions of this section, Long Cove Brook, Moxie Cove Brook and Monroe Brook, all in the Town of Bristol, Lincoln County, shall be closed to smelt fishing and the taking of spawn for a period of 2 years.' (Resolves 1959, cc. 72, 73)

Further amend said Bill by striking out all of sections 69, 70, 74 and 75.

Further amend said Bill by striking out all of section 78 and inserting in place thereof the following section:

'Sec. 78. License required to dig or take clams, etc. in Phippsburg. It shall be unlawful for any person, firm or corporation to dig any clams or quahogs within the limits of the Town of Phippsburg, Sagadahoc County, without first having obtained a license therefor from the municipal officers of said Town of Phippsburg, who are hereby authorized to grant and issue such license and fix the fee therefor. No license for digging or taking of clams or quahogs shall be granted or issued to any person, firm or corporation unless such person, firm or corporation is a resident of said Town of Phippsburg. Nothing herein shall prohibit a riparian owner of shores or flats in said Town of Phippsburg from digging and taking clams and quahogs therefrom for food for himself and family without a license. For the purpose of this section, the term "a resident" shall mean a person, firm or corporation who or which has resided in this State for the term of at least 6 consecutive months and in the Town of Phippsburg for at least 3 months immediately prior to the date when a claim of such residence is made.' (P. & S. L. 1959, c. 46, § 1)

Further amend said Bill by striking out the last paragraph of section 89 and inserting in place thereof the following paragraph:

'The selectmen of said town may revoke any license issued by them, or by their predecessors in office, under the provisions of this section upon evidence satisfactory to them that the person, firm or corporation digging, taking, selling or buying clams has violated any of the laws of the State regulating the taking and sale of clams. If the selectmen of the said town refuse to issue the licenses provided for in this section, or if a license has been revoked by

them, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it finds the selectmen 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.'

Further amend said Bill by striking out the last paragraph of section 90 and inserting in place thereof the following paragraph:

'The corporation may revoke any license issued by it under the provisions of this section, upon evidence satisfactory to it that the person taking or selling clams has violated any of the laws of the State regulating the taking and sale of clams. If the corporation refuses to issue the licenses provided for in said section, or if a license has been revoked by the corporation, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it finds the corporation acted fraudulently or corruptly or erred in its conclusion of facts or failed to issue a license to an applicant who was entitled to one.'

Further amend said Bill by inserting after "**Sec. 90**" the following section:

'Sec. 90-A. Taking of clams in Northport. No person shall dig or take any clams within the limits of the Town of Northport, Waldo County, unless a written license has been granted him by the selectmen of said town. The selectmen of said town are authorized to grant and issue such license and fix the annual fee therefor for residents of the Town of Northport and nonresident taxpayers of said town; to limit the amount of clams that may be taken at any one tide; and to set the dates during which clams may be dug from all or any portion of the flats. Nothing herein shall prohibit any resident or non-resident taxpayer of said town from digging and taking not in excess of one peck of clams per day as food for himself and family without license.

For the purposes of this section, the term "resident" shall mean a person who has resided in this State for a period of at least 6 consecutive months and within the Town of Northport for a period of at least 3 consecutive months prior to the date when a claim of such residence is made.

For the purposes of this section, the term "nonresident taxpayer" shall mean a person who has actually paid a tax to the collector of taxes for the Town of Northport for the municipal year last ending prior to the date when a claim of such status is made.

The provisions of this section shall not apply to flats within the territorial limits of Northport Village Corporation so long as the taking of clams therein is regulated.

The selectmen of said town may revoke any license issued by them, or by their predecessors in office, under the provisions of this section upon satisfactory evidence that the person, firm or corporation taking or digging clams has violated any of the laws of the State regulating the taking and sale of clams. If the selectmen of the said town refuse to issue the licenses provided for in this section, or if a license has been revoked by them, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it finds the selectmen 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.' (P. & S. L. 1959, c. 27)

Further amend said Bill by striking out the last paragraph of section 130 and inserting in place thereof the following paragraph:

'The corporation may revoke any license issued by it under this section upon evidence satisfactory to it that the person taking or selling clams has violated any of the laws of the State regulating the taking and sale of clams. If the corporation refuses to issue the licenses provided for in said section, or if a license has been revoked by the corporation, a person aggrieved may appeal to the Superior Court within 30 days. The court may order the issuance or restoration of the license, provided it finds the corporation acted fraudulently or corruptly or erred in its conclusion of facts or failed to issue a license to an applicant who was entitled to one.'

Further amend said Bill by renumbering the sections to read consecutively.