

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
AS PASSED BY THE
Ninety-second and Ninety-third
Legislatures
OF THE
STATE OF MAINE
From April 22, 1945 to May 14, 1947
AND MISCELLANEOUS STATE PAPERS
From May 25, 1945 to May 14, 1947

Published by the Revisor of Statutes in accordance
with Chapter 10 of the Revised Statutes of 1944.

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FIRST
Biennial Revision
OF THE
SEA AND SHORE FISHERIES
LAWS

Being chapter 34 of the revised statutes of 1944, as amended by the public laws of 1945 and 1947; compiled by the Revisor of Statutes in accordance with the provisions of chapter 332 of the public laws of 1947.

(Effective August 13, 1947)

FOREWORD

The revision of chapter 34 of the revised statutes of 1944 is compiled and issued in accordance with the provisions of chapter 332 of the public laws of 1947.

A new revision of such chapter 34 was passed by the 93rd legislature by chapter 332 of the public laws of 1947. An attempt was made during the legislative session by the revisor of statutes, the department of sea and shore fisheries and the joint legislative committee on sea and shore fisheries to incorporate into such chapter 332 all other laws dealing with sea and shore fisheries which were passed by the 93rd legislature. However, several of such laws were not so incorporated but have been placed in the biennial revision and citations have been added thereto designating the original source.

The section numbers of the biennial revision are the same as those in chapter 332 of the public laws of 1947 and all new sections have been given new numbers. It is hoped that this method may be continued in the future to prevent confusion in each biennial revision.

SAMUEL H. SLOSBERG,
Revisor of Statutes.

CHAPTER 34

DEPARTMENT OF SEA AND SHORE FISHERIES.

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Commissioner. Rules and Regulations

Sec. 1. Commissioner of sea and shore fisheries; appointment; term; salary; reports. A commissioner of sea and shore fisheries, as heretofore appointed and hereinafter in this chapter called the "commissioner", shall be appointed by the governor, with the advice and consent of the council, to serve for 4 years, or during the pleasure of the governor and council. He shall serve until his successor is appointed and qualified. Any vacancy in the office shall be filled by an appointment for a like term.

The commissioner shall receive such compensation as shall be fixed by the governor and council.

The commissioner shall make a report to the governor and council on or before the 1st day of January, for the biennium ending June 30th prior thereto. The commissioner now acting will remain in office until his present term expires.

Sec. 2. Powers and duties of commissioner; office; employees. The commissioner shall have general supervision of the administration and enforcement of the sea and shore fisheries laws under the provisions of this chapter, except as otherwise provided by law. He shall have an office at the state capitol and adequate facilities for the transaction of the business of his department, which shall be known as the department of sea and shore fisheries, as heretofore established, and hereinafter in this chapter called the "department."

The commissioner may employ one or more clerks, subject to the provisions of the personnel law. In the event of a vacancy in the office of the commissioner because of death, resignation, removal or other cause, the various clerks shall continue in office and perform such duties as have been prescribed for or assigned to them until said vacancy has been filled by the appointment and qualification of a new commissioner.

See c. 14, §160, re gasoline tax refund for research.

Sec. 3. Jurisdiction of migratory fish; supervision. All sea salmon, shad, alewives and smelts, wherever found, that migrate from the ocean into fresh water shall be under the concurrent jurisdiction of the commissioner of sea and shore fisheries and the commissioner of inland fisheries and game.

The said commissioners shall cooperate in effectively supervising overlapping jurisdiction and may jointly deputize wardens to that end.

Sec. 4. Advisory council; appointment; terms; salary; expenses; meetings. The governor, with the advice and consent of his council, shall appoint an advisory council, consisting of 5 members. Appointment shall be for the term of 3 years and until successors are appointed and qualified, provided that the initial appointment of 3 such members shall be for a term of 2 years instead of 3 years. Upon the death, resignation or removal from office of any person so appointed, the governor, with the advice and consent of his council, shall appoint a member to serve for the unexpired term. The members of the advisory council shall receive no compensation for their services, but said council shall be allowed actual expenses not to exceed \$500 for each fiscal year. The advisory council shall render to the commissioner information and advice concerning the administration of the department. The advisory council shall hold regular meetings with the commissioner or his agent at the state capitol on the 1st Thursday of June and December of each year, and special meetings at such other times and places within the state as would seem advisable. At the meeting held on the 1st Thursday of June of each year or at a

special meeting thereafter, the advisory council may elect one of its members as chairman and one as vice-chairman.

Sec. 5. Rules and regulations. Whenever any existing conditions endanger the conservation of fish, shellfish, lobsters or marine worms, the commissioner, with the advice and approval of the advisory council, shall make such rules and regulations as he may deem necessary, providing for the times, number, weight and manner in which such fish, shellfish, lobsters or marine worms may be taken from such waters or flats, in the manner hereinafter provided.

Petitions stating the conditions endangering the conservation of such fish, shellfish, lobsters or marine worms, and the regulations which are desired as a remedy, may be addressed to the commissioner by a majority of the municipal officers or 25 citizens of the municipality in which the waters exist, or of any town adjacent to the waters or flats affected; or if the waters or flats are in unorganized territory, by a majority of the county commissioners of the county in which said waters or flats exist. Such petitions shall be filed in the office of the commissioner before the 1st day of September of each year.

After receipt of such a petition, except when in the opinion of the commissioner an emergency exists, hearing shall be held in a place near where the waters or flats lie during the period from September 15th to December 1st, inclusive, of the year in which said petition has been filed, before the commissioner or such subordinate officer of the department as the commissioner may designate, at a date and place to be designated by the commissioner.

Notice of the hearings to be held and the time and place thereof shall be by publication once a week for 2 successive weeks prior to the hearing in a newspaper published in the county where said hearing is to be held, and if no paper is published there, in a newspaper having statewide circulation.

After hearing pursuant to the petitions filed, the commissioner, with the advice and approval of the advisory council, shall make such regulations as may be deemed remedial of any danger to such conservation proven to exist at the time of said hearing, such regulations to become effective on January 1st of the year next following the date of the petition. The commissioner shall cause the regulations to be reduced to writing, and publish the same once a week for 2 successive weeks in a newspaper published in the county where the waters or flats are situated and which are affected thereby, or if no paper is published there, in a newspaper having statewide circulation, the publication being prior to January 1st, following the date of the petition.

If an unusually large concentration of fishermen or diggers should occur on any of the coastal waters or flats in this state, so that the supply of fish, shellfish, lobsters or marine worms on those waters or flats might be depleted, or when for any reason the conservation of these species appears to be endangered, the commissioner may declare an emergency and order a hearing held at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 days prior to the hearing in a newspaper published in the county where the waters or flats are situated, and if no newspaper is published in that county, then the notice shall appear in a newspaper having statewide circulation. After the hearing, the commissioner may promulgate regulations providing for the times, number, weight and manner in which such fish, shellfish, lobsters or marine worms may be taken from such waters or flats. He shall reduce the regulations to writing and provide for the expiration date thereof, and shall cause notice of the same to be published, the regulations to take effect upon the day following the publication thereof.

Whenever the commissioner of agriculture shall certify to the commissioner of sea and shore fisheries that clams, quahogs 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 hereby authorized to close such flats without notice or hearing, to all digging of clams, quahogs and mussels.

The commissioner shall file a copy of each rule and regulation issued under the provisions of this chapter in the offices of the town clerks in the locality affected; and whenever such rules and regulations apply to unorganized territory, a like copy shall be filed with the clerk of courts of that county. He shall also file an attested copy of the rules and regulations with the secretary of state.

Sec. 6. Rules and regulations to continue until changed; penalty for violation thereof. All rules and regulations of the commissioner now in effect or hereafter promulgated shall remain in force until changed by further rules and regulations of said commissioner or by the legislature. All rules and regulations shall have the force of law. Whoever violates any provision of any rule or regulation of the commissioner promulgated by virtue of this chapter shall be punished by the penalties provided in section 144.

Sec. 7. Penalty for wilful defacement of notice of commissioner. Whoever wilfully mutilates, defaces or destroys any notice, rule or regu-

lation of the commissioner, posted in conformity with the provisions of this chapter, shall be punished by a fine of \$50, or by imprisonment for 30 days, or by both such fine and imprisonment.

Coastal Wardens

Sec. 8. Power of commissioner as warden; coastal wardens; appointment; powers and duties; tenure; service of processes. The commissioner shall possess all the powers of a coastal warden.

The commissioner shall appoint persons as coastal wardens who shall have qualified under the rules established in the civil service code authorized under the provisions of sections 10 to 15, inclusive, who shall continue to hold office according to the provisions of the civil service code.

It shall be the duty of the coastal wardens to enforce all laws relating to sea and shore fisheries and all rules and regulations pertaining thereto; to arrest all violators thereof and to prosecute all offenses against the same.

The coastal wardens may serve all processes pertaining to the enforcement of any provision of this chapter and shall have jurisdiction and authority in all the counties of the state and in all the waters within the jurisdiction of the state.

They shall be allowed the same fees as sheriffs and their deputies for like service, all such fees to be paid to the commissioner of sea and shore fisheries; and the coastal wardens shall have the same right as sheriffs to require aid in executing the duties of their office.

Sec. 9. Sheriffs, deputy sheriffs, police officers and constables to have powers of wardens; wardens not to hold other office. Sheriffs, deputy sheriffs, police officers and constables are vested with the powers of coastal wardens, and shall receive for similar services the same fees as those of coastal wardens. Coastal wardens appointed under the provisions of section 8 shall hold no other state, county or town office from which they receive compensation.

Civil Service Commission

Sec. 10. Civil service commission provided for; rules promulgated. The advisory council of the department shall select 3 of its members to act as a civil service commission. The commission shall prepare rules for the effective operation of sections 10 to 15, inclusive, including rules of eligibility of applicants for examination under the provisions of section

11 and rules of conduct of employees, which rules shall become effective when approved in writing by the commissioner.

Sec. 11. Code for examination; examinations advertised. The commissioner or his duly authorized agent shall prepare a written code for open and competitive examinations for testing the practical fitness of applicants for permanent employment in the coastal warden service. Such code shall not become operative until reduced to writing and approved by the commissioner. Notice of the time and the place of examination shall be published in a paper having state-wide circulation.

Sec. 12. Probationary employment. No employment shall be considered permanent until the employee shall have completed a probationary period of sufficient length to demonstrate to the commissioner his ability and fitness to discharge the duties of the service.

Sec. 13. Rules may be modified. Rules of eligibility of applicants for examination and rules of conduct of employees, adopted by the civil service commission under authority of section 10, may be modified at any time by the said commission, but shall not become effective until approved in writing by the commissioner.

Sec. 14. Removal from service; punishment for violation of civil service rules. No person in the warden service shall be dismissed or demoted for violation of any civil service rule except for such cause as would reduce the efficiency of the service. Any person being demoted or removed from the service mentioned herein or punished for violation of any civil service rule shall be given a notice in writing by the commissioner, stating the reasons for the demotion or dismissal or other punishment and shall be allowed a reasonable time, to be stipulated in the notice, for answering the same in writing. Copies of charges, notice of hearing, answer, reason for removal, demotion or punishment and the order of demotion, dismissal or punishment shall be made a part of the records of the department, and copies thereof shall be furnished to the person concerned if requested in writing. The civil service commission may provide for a tribunal made up of its members as a hearing board for cases arising under the provisions of this section. If no board has been created by the civil service commission, the hearings shall be held by the commissioner or his agent.

No hearing shall be required under the provisions of this section unless a written request is made within the time required for filing an answer in the notice. The notice may be made by mailing the same to the last known address of the employee in the service.

Sec. 15. All permanent wardens to come under provisions of sections 10 to 14, inclusive; present permanent employees to be retained. The

provisions of sections 10 to 14, inclusive, shall apply to all permanent wardens. All present permanent wardens shall be considered as if appointed under the civil service provisions.

Definitions

Sec. 16. Definitions. In this chapter, the following words shall have the following meanings and the following rules of construction shall apply:

"Angling," fishing with handline or rod, with naturally or artificially baited hook.

"Clam," a marine mollusk commonly called the soft-shell clam.

"Closed season," the time during which fish cannot lawfully be taken.

"Coastal warden," a coastal warden appointed under the provisions of section 8.

"Coastal waters," all waters of the state within the rise and fall of the tide and the marine limits of the jurisdiction of the state, but not waters within or above any fishway or dam when such fishway or dam is normally the dividing line between tidewater and fresh water, nor waters above any tidal bound that has been legally established in streams flowing into the sea.

"Commissioner," the commissioner of sea and shore fisheries.

"Dealer," any person who commercially handles fish, shellfish or marine worms.

"Department," the department of sea and shore fisheries.

The verb, "To fish," in all of its moods and tenses, to take or attempt to take fish by any method or means, whether or not such method or means results in their capture.

"Lobster car," a box or other contrivance in coastal waters, whether floating or sunken, used for keeping lobsters alive.

"Marine worms," clam, sand and blood-worms.

"Mutilated lobsters,"

I. Any lobster, the shell of which has been broken or cut in any manner that will make accurate measurements as prescribed in this chapter impossible.

II. Any female lobster whose middle flipper has been broken or cut in such manner as to hide or obliterate a V notch that may have been cut in it for identification.

III. The tail section of lobster meat that has been removed from the shell that is not whole and intact.

IV. Any female lobster from which eggs have been artificially removed.

"Open season," the time during which fish may lawfully be taken.

"Person," the word person shall include a corporation, partnership and joint association.

"Quahog," a marine mollusk commonly called the hard-shell clam.

"Retail dealer," any person not a wholesale dealer who distributes fish commercially.

"Seed clam," a soft-shell clam of a size less than the minimum prescribed in section 90 and usable for planting purposes only.

"Seed quahog," a hard-shell clam of a size less than the minimum prescribed in section 90 and usable for planting purposes only.

"Shellfish," all marine mollusks, but not lobsters, crabs and shrimps.

"Ship," to consign by common carrier.

"Territorial waters," the same as coastal waters.

"Tidal waters," the same as coastal waters.

"Wholesale dealer," any person who sells or distributes fish commercially in bulk lots of more than 50 lbs. for resale by any dealer.

Whenever the taking of fish is authorized, reference is had to taking by lawful means and in a lawful manner.

Any reference to the taking or having in possession of a fish or shellfish shall include the taking or having in possession of any part or portion thereof.

This chapter and regulations made thereunder, unless otherwise specifically provided, shall apply only to fish in or taken from coastal waters; but this provision shall not be construed so as to limit the authority of the commissioner to protect migratory fish by providing for their passage from the coastal waters to spawning grounds in streams and ponds in inland waters and to have concurrent jurisdiction with the commissioner of inland fisheries and game to regulate commercial fisheries therein for the taking of such migratory fish.

Any citizen of the United States shall be eligible for any resident license required under the provisions of this chapter, providing such person is domiciled in Maine with the intention to permanently reside here, and who has resided in this state during the 6 months next prior to the date an

application is filed for any license under the provisions of this chapter, except where a longer residence is specifically provided for.

For the purposes of this chapter, all aliens shall be classified as non-residents.

Any alien who has resided in this state continuously for 2 years and in addition thereto is assessed and pays taxes on real estate in the municipality in which he resides, if otherwise eligible, may purchase any license under the provisions of this chapter.

General Provisions of Licensing

Sec. 17. Licenses; not transferable, expiration, prima facie evidence of violation, duplicates, penalty.

I. Licenses and permits shall be issued by the commissioner only on written application and shall not be transferable. Written application for any license or permit provided for in this chapter shall be made on blanks furnished by the commissioner, but no license or permit shall be issued to any class of applicants unless all questions asked in said application are fully answered.

II. Any license issued through error, misrepresentation or misstatement shall be void and shall be surrendered on demand of the commissioner and any person obtaining a license through fraud, misstatement or misrepresentation shall be subject to the penalties set forth in section 144.

III. All licenses and permits issued under the provisions of this chapter shall expire at midnight on December 31st of the calendar year in which the license or permit was issued, unless the license or permit specifically provides otherwise, and shall be renewed annually thereafter.

IV. Any person licensed under the provisions of this chapter shall, at all times while engaged in the pursuit so licensed, exhibit upon demand of a coastal warden or any other authorized person, the license issued to him. Failure to produce such license within a reasonable time when requested by any authorized person shall be prima facie evidence of a violation of this section.

V. The commissioner shall issue a duplicate license to any person who has lost or destroyed any license issued to him under the provisions of this chapter, upon the payment of a fee of 25c.

VI. All provisions of this chapter pertaining to license and permit requirements and fees therefor shall become effective on January 1, 1948; provided that all the provisions relating to the issuing of licenses

and permits under chapter 34 of the revised statutes of 1944, as of the effective date of this act, shall remain in full force and effect until December 31, 1947 and all licenses and permits issued under said provisions shall remain in effect until said date.

Until July 1, 1948, the holder of any license or permit issued during 1947 bearing an expiration date which is between the dates of January 1, 1948 and June 30, 1948 shall receive credit in the amount of one-half of the original fee toward renewal of such license or permit.

Sec. 18. Application of general laws. All general laws of this state fixing or regulating minimum and maximum sizes of fish, shellfish or lobsters, or regulating or prohibiting the sale, transportation or possession of fish, shellfish or lobsters, respectively, shall apply whether the same be taken in the waters of the state of Maine or in waters of any other state, country or territory and brought into this state; except lobsters reconditioned intact in original crates by the holder of a Maine wholesale dealer's license to another such dealer in accordance with the provisions of section 114; and fish, shellfish or lobsters passing through the state under authority of the laws of the United States, and the fines and penalties prescribed for violation of said laws respectively shall apply to the same extent.

Fish Culture and Development of Fishing Industry

Sec. 19. Commissioner may take land not to exceed 2 acres in 1 location; proceedings; by lease, etc., may acquire more than 2 acres. The commissioner may, for the purposes of this and the following section, take any shore rights, flats and waters not exceeding an area of 2 acres in extent at any 1 location, and hold the same for a period not exceeding 10 years; such location when so taken may be used by said commissioner or by the United States Fish and Wildlife Service in the prosecution of the work of fish culture and scientific research relative to shellfish or other fish over which said commissioner now has supervision; and whenever said commissioner shall deem it necessary in the furtherance of the objects and purposes of this and the following section to take any such shore rights, flats and waters, he shall proceed in accordance with the provisions allowing the commissioner of inland fisheries and game to set apart waters for fish culture; and in addition thereto shall cause a copy of so much of the proceedings as will show the character and extent of the shore rights, flats and waters taken, and also the location thereof, and time for which taken, to be posted near the location, and shall also cause suitable marks or ranges to be set upon the adjacent upland so as to define, as far as

practicable, the limits and boundaries of the location to be used in such experiments; and shall cause public notice of the taking of such shore rights, flats or waters to be given by publishing the fact of such taking once a week for 2 successive weeks in a newspaper published in the county where the shore rights, flats or waters are situated. Said commissioner may, by agreement, lease or grant, and under such terms and conditions as may be agreed upon with the owner thereof, take possession of suitable shellfish grounds, flats, waters and water-rights, not limited to 2 acres in area, with necessary shore rights, and may use and operate the same under the provisions of and for the purposes of this section.

Sec. 20. Shores and flats set apart for shellfish industry; proceedings. The commissioner, upon the application of any person or corporation interested or engaged in scientific research relating to shellfish or other fish over which the commissioner has supervision, or in the cultivation and development of the shellfish industry for economic purposes, setting forth their desire to make experiments relative to the cultivation and conservation of shellfish or such other fish over which the commissioner now has supervision, shall, after being satisfied of the facts set out in said application, and that the applicant either owns or has the consent, so far as the same can be granted, of the owner of the flats, shore rights and waters where such work is to be undertaken, and that the granting of such rights will not unreasonably interfere with navigation, give notice of a hearing on such application, by causing the same to be published at least 2 weeks in some newspaper published in the county where the proposed location is situated, and stating therein the time and place where such hearing will occur; and if, upon such hearing, the commissioner is satisfied that the interests of the state will be promoted by such experiments, he shall issue a certificate setting apart so much of such shores, flats and water privileges, not exceeding 1 acre in extent to any one of such applicants, and for such length of time, not exceeding the period of 6 years, as in his judgment may be necessary and proper to accomplish the ends sought to be obtained. Such certificate shall be recorded in the registry of deeds of the county or registry district in which the location is situated, and the applicant shall also cause public notice of the issuance of such certificate to be given by publishing the same in a newspaper published in the county where such location is situated, and by posting in a conspicuous place near said location a copy of such certificate, and also by placing stakes or other monuments upon the adjoining upland, so as to designate the locations so set apart, as the commissioner shall, in his certificate, specify.

Sec. 21. All persons forbidden to take fish on shores or flats taken for

fish development; penalty. No person shall, during the period that such shores, flats and waters are taken for the purposes of the 2 preceding sections, take, dig, fish or in any manner destroy or interfere with such fish, or interfere with the shores, flats and waters so set apart. 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 90 days.

Inspection of Fish

Sec. 22. Appointment of inspectors of fish; term. In each town where pickled fish are cured or packed for exportation, the governor, with the advice and consent of the council, shall from time to time as occasion requires appoint one or more persons who know the quality of fish, to be inspectors of fish, who shall hold office for 5 years, unless sooner removed by the governor and council.

Sec. 23. Inspectors to give bond. Every such inspector, before entering upon his duties, shall give bond with sufficient sureties to the treasurer of the town for which he is appointed, to the satisfaction of the municipal officers thereof, in the penal sum of not less than \$500 nor more than \$5,000, for the faithful performance of his official duties; and such officers shall, at least once a year, examine the bonds given by said inspectors, and if that of any inspector is not in their opinion sufficient, they shall forthwith notify him, and if for 30 days thereafter he neglects to give satisfactory bond, they shall give information thereof to the governor, who shall remove him from office.

Sec. 24. Inspectors to make reports annually of all fish inspected. Every inspector shall, by the 30th day of November annually, make a report to the commissioner of all fish by him inspected during the year preceding the said 30th day of November, designating the quantities, kinds and qualities of pickled fish; and said commissioner shall embody the substance thereof in his next official report.

Sec. 25. Any person injured by neglect of inspector may bring action on bond. Any person injured by the neglect or misdoings of an inspector, on tendering the town treasurer a reasonable indemnity against the costs, may bring an action on such inspector's bond in the name of the treasurer for his own use and may have a copy of the bond therefor; and if judgment is rendered thereon for the plaintiff, execution shall issue for the sum found due to the person for whose use such action is brought, and the sum awarded in damages shall be entered by the clerk of the court on the original bond, to remain in the custody of the treasurer.

Sec. 26. Duty of inspector as to inspection and packing of fish. Every inspector who inspects any kind of fish that are split and pickled for packing shall see that they are, in the 1st instance, free from taint, rust or damage and well struck with salt or pickle; and such of said fish as are in good order and of good quality shall be pickled in barrels, half-barrels, quarter-barrels and tenths of barrels or kits; each barrel containing 200 pounds, and so on in that proportion; and the same shall be packed in good, clean, coarse salt sufficient for their preservation; and then each cask shall be headed up and filled with clear strong pickle, and shall be branded by the inspector with the name and quality of the fish therein.

Sec. 27. Mackerel to be branded. Mackerel of the best quality, not mutilated, measuring when split not less than 13 inches from the extremity of the head to the crotch or fork of the tail, free from taint, rust or damage shall be branded "Number 1"; the next best quality, being not less than 11 inches measured as aforesaid, free from taint, rust or damage, shall be branded "Number 2"; those that remain after the above selection, free from taint or damage, and not less than 13 inches measured as aforesaid shall be branded "Number 3 Large"; those of the next inferior quality, free from taint or damage, not less than 10 inches, measured as aforesaid, shall be branded "Number 3"; all other mackerel, free from taint or damage, shall be branded "Number 3 Small". The inspector shall brand or stencil in plain letters on the head of every such cask, the weight, the initials of his christian name, the whole of his surname, the name of his town, and the letters "Me." and an abridgment in figures of the year when packed.

Sec. 28. Quality of casks and how made; dimensions. All barrels and casks used for packing pickled fish shall be made of sound, well-seasoned white oak, white ash, spruce, pine, chestnut or poplar staves with heading of either of such kinds of wood, sound, well planed and seasoned, and when of pine, free from sap, and the barrels hooped with at least 3 strong hoops on each bilge, and 3 also on each chime; the barrel staves shall be 28 inches in length and the heads not less than 16½ inches between the chimes and made in workmanlike manner to hold pickle. The barrels shall contain from 28 to 30 gallons each, and the aliquot part of a barrel in the same proportion.

Sec. 29. Pickled alewives and herring, how prepared and packed. Every inspector who inspects pickled alewives or herring or other small fish, packed whole or round, shall see that they are struck with salt or pickle, and then put in good casks of the size and material aforesaid, packed closely therein, and well salted, and the casks filled with fish and

salt; putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand or stencil all such casks with the name of the inspected fish as aforesaid.

Sec. 30. Fees for inspection and branding. The fees for inspection and branding, exclusive of cooperage, are for each barrel 7c; and all such fees shall in the 1st instance be paid by the original owners of the fish, who may recover the amount thereof from the party buying or receiving the same under the marks and brand aforesaid, and in addition to the price thereof.

Sec. 31. Penalty for selling or exporting uninspected or damaged fish. Whoever sells in the state, or exports therefrom, any fish in barrels or boxes not inspected, packed and branded as aforesaid, except good and wholesome fish packed in kegs of less than 10 gallons, or pickled, dry or smoked fish imported into the state from some other state or country lawfully inspected and branded there, and whoever sells or exports unlawfully any fish known by him to be tainted or damaged, unless sold as such, forfeits \$10 for every hundredweight thus sold or exported.

Sec. 32. Penalty for attempting to export uninspected fish; warrant for seizure; penalty for refusing to aid officer. Whoever ships or receives on board any vessel or other carriage for transportation from the state any pickled fish in barrels, parts of barrels or casks, not inspected and branded or stenciled as aforesaid, forfeits not less than \$50 for each offense. Any municipal judge or trial justice may issue his warrant to the proper officer, directing him to seize and secure such prohibited fish and convey it to any inspector within a convenient distance for inspection. Whoever refuses to give necessary aid in the service of such warrant, when required by the officer, forfeits \$5 to the prosecutor, in an action of debt. Such inspector shall open, inspect, pack and brand such fish according to law, and detain the same until all lawful charges of seizure and inspection are paid.

Sec. 33. Penalty for intermixing inspected fish; for fraud of inspectors. If any person takes from a cask or barrel any pickled fish lawfully inspected and branded, and substitutes therefor or fraudulently intermixes other fish; or if any inspector marks any cask or barrel out of his own town, or which he has not inspected, packed and himself prepared according to law, or permits other persons unlawfully to use his brand, or wilfully and fraudulently uses the same himself after the expiration of his commission, he forfeits \$1 for each cask or barrel so dealt with; but an inspector may, after a satisfactory examination, brand such packages,

thereby becoming responsible for the quality of the contents as represented by his brand.

Fish Packing

Sec. 34. Rules governing sale or packing of herring; penalty; enforcement by commissioner. 1947, c. 248, § 2. Whoever takes, preserves, sells or offers for sale between the 1st day of December and the 15th day of the following April any herring for canning purposes less than 8 inches long, measured from one extreme to the other, or packs or cans sardines of any description between the 1st day of December and the 15th day of the following April forfeits \$20 for every 100 cans so packed or canned, and for every 100 herring so taken. All cans shall be decorated, stamped or labeled with quality, packer's name and place of business, or merchant's name for whom the same are packed, except sardines packed in plain cans and shipped for buyers' labels or cartons. Whoever sells or offers for sale any sardines in cans not so decorated or labeled shall forfeit \$1 for every can so sold or offered for sale, to be recovered by complaint, indictment or action of debt.

Nothing contained in this section nor in the 3 succeeding sections shall be so construed as to prohibit the taking, processing and sale of fish and fish products which may be taken, processed and sold by virtue of sections 198 to 205, inclusive, of chapter 27 and acts amendatory thereof.

Revisor's note: See P. L. 1947, c. 42, §§ 2 and 3 for dates applicable to § 34 for 2 years.

Sec. 35. Size of smoked herring boxes regulated. No person, firm or corporation engaged in the state in buying, selling or packing of smoked herring shall sell or offer for sale smoked herring in boxes of less than the following dimensions: 2 inches in depth, 6 inches in width, inside measure, and 12 inches in length, outside measure. Whoever packs, sells or offers for sale smoked herring in boxes in violation of this section shall forfeit 25c for each box so packed, sold or offered for sale; but this section does not apply to boxes of boneless herring.

Sec. 36. Purchase of herring, regulated; penalty. No person, firm or corporation shall purchase or sell herring in their live or raw state for packing purposes other than by some standard method of measurement, such as by the bushel, barrel of 3 bushels, hogshead of 17½ bushels, or fractional part of said standard method of measurement.

Any person, firm or corporation purchasing herring from a fisherman or his agent shall either pay cash to said fisherman or his agent at the time of purchase or shall furnish to said fisherman or his agent a written ac-

knowledge of purchase, containing all information necessary to a complete understanding of the transaction, including the price and an estimate of the quantity and providing for payment not later than 7 days after receipt of said herring, and all payments shall be made in money or in money equivalent.

Provided, however, that a fisherman may enter into, with a purchaser of his herring, any other and different arrangement relative to the method of determining quantity of herring and the time of payment therefor that is mutually satisfactory to both parties.

Any person violating the provisions of this section shall be punished by a fine of not less than \$100, nor more than \$500, for each offense.

Sec. 37. Taking of herring regulated; penalty. It shall be unlawful for any person to take, preserve, sell, offer for sale, purchase or have in his possession any herring, for any purpose, less than 4 inches in length measured from the tip of the nose to the tip of the tail; provided, however, that where herring under the size of 4 inches in length are mixed with larger herring and the herring of prohibited size represent less than 25% by count of the total catch, sale or purchase, the foregoing provision shall not be applicable. Provided further, that any person may have in his possession not more than 10 bushels of any size herring for the purpose of using the same for bait. Whoever violates any of the provisions of this section shall be punished by a fine of \$1 per bushel for each bushel of herring taken, offered for sale or had in his possession in violation of any of the provisions of this section, or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

Fishing Regulations

Sec. 38. Use of artificial light in taking herring prohibited; exception. No person shall take any herring by use or aid of an artificial light of any kind in any of the coastal waters of this state, except in York county and in so much of Sheepscoot bay as is comprised within the following lines: beginning at the northerly point of Green Island; thence southerly by the coast line to the Cuckolds light station; thence westerly to Pond Island light station; thence northeasterly by the coastline to the northerly point of MacMahan Island; thence easterly to the point of beginning.

Sec. 39. Fishways closed to all fishing; exceptions. No person, except as provided in this chapter or by rules or regulations of the commissioner, shall fish in any fishway or within 100 yards of any fishway, dam or mill-race in any of the coastal waters of the state.

The foregoing shall not apply to the taking of alewives by the town of Warren in the Georges river, nor by the town of Waldoboro in Medomak river, nor by the town of Woolwich in Nequasset stream, nor shall it apply to the taking of alewives by the West Harbor Ice Company in the water below its fishway.

The commissioner may prohibit fishing within 500 yards of any fishway, dam or millrace in any coastal waters.

Sec. 40. Use of trawls regulated; penalty. The use of either otter or beam trawls within the territorial waters of this state is prohibited, unless the same are properly provided with net or nets having all meshes thereon measuring not less than $4\frac{3}{4}$ inches mesh by diagonal or stretch measurement, as it is commonly known and called among shore fishermen.

Whoever violates any of the provisions of this section shall be punished by a fine of \$100 for the 1st offense, and in default of payment, by 30 days in jail; and for the 2nd offense, he shall be punished by a fine of \$200, and in default of payment, by 60 days in jail.

Sec. 41. Protection of weirs; exception; penalty. No person shall set or assist in setting any net or seine within 2,000 feet of the mouth of a weir, except that the owner or person in charge of a weir may use nets and seines in such weir or within 2,000 feet of the mouth thereof.

Whoever violates any provision of this section shall be punished by a fine of \$100, or by imprisonment for 30 days, or by both such fine and imprisonment.

Each day that a net or seine is used in violation of this section shall constitute a separate offense.

Sec. 42. Closed season for salmon; penalty. From the 16th day of July to the 31st day of the following March, both days inclusive, there shall be a closed season for salmon in all the tidal waters of the state, during which no salmon shall be taken or killed in any manner. Provided, however, that between the 16th day of July and the 15th day of September, both days inclusive, it shall be lawful to fish for and take salmon by the ordinary mode, with rod and single line, but not otherwise. Provided, however, salmon may be taken by weirs on the St. Croix river below the breakwater at the ledge between the 15th day of May and the 31st day of August, both days inclusive.

Whoever violates any provision of this section shall be punished as provided in section 144, and in addition thereto \$10 for each salmon involved.

Sec. 43. Weekly closed time for salmon, shad, alewives and bass; how observed; penalty; exceptions. Between the 1st day of April and the 15th day of July, both days inclusive, there shall be a weekly closed time of 48 hours from sunrise on each Saturday morning to sunrise on the following Monday morning, during which no salmon, shad, alewives or bass shall be taken. During the weekly closed time, all seines, nets and other movable apparatus shall be removed from the water. Every weir shall have, in that part where the fish are usually taken, an opening 3 feet wide, extending from the bottom to the top of the weir, and the netting or other material which closes the same while fishing shall be taken out, carried on shore and there remain during the weekly closed time, to the intent that during said closed time fish may have a free and unobstructed passage through such weir or other structure, and no contrivance which tends to hinder such fish shall be placed in any part thereof. If the inclosure where the fish are taken is furnished with a board floor, an opening extending from the floor to the top of the weir is equivalent to one extending from the bottom to the top. Whoever violates any provision of this section shall be punished by a fine of \$20 for each offense.

This section does not apply to the Kennebec, Androscoggin or Penobscot rivers or their tributaries, or to the St. Croix river below the break-water at the ledge, or to the Damariscotta river below the bridge at Damariscotta.

This section shall not apply to the taking of salmon or bass by the ordinary mode of angling with single hook and line or artificial flies, and no person shall fish for, take, catch or kill any bass, except that they may be taken in the ordinary mode of angling with single hook and line or artificial flies in numbers not to exceed 6 per person per day.

Sec. 44. Smelts; methods of taking; open season in tidal brooks and streams; daily limit; not to be sold. 1947, cc. 251, 310. Except as otherwise provided in this chapter or by rules and regulations of the commissioner, it shall be unlawful to take smelts in any tidal waters of the state in any manner except by use of the hands or by the ordinary mode of angling with hook and line from April 1 until September 30, both days inclusive, of each year.

Except as hereinafter provided or under rules and regulations of the department, there shall be an open season for smelts in all the tidal brooks and streams in the state that flow directly or indirectly into the ocean from April 1 to May 31, both days inclusive, of each year. That part of the calendar year falling outside of the open season is expressly declared to be a closed season.

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.

Nothing in this section shall apply to smelts taken in weirs or traps maintained and operated for the catching of herring.

It shall be lawful to fish for and take smelts from the tidewaters of the East Machias river within the town limits of Machiasport between the 1st day of October and the 15th 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.

No smelts shall be taken or fished for in any of the tidal waters of Casco bay between the 1st day of April and the 15th day of September except by hook and line.

Sec. 45. Stationary contrivances regulated; penalty; exceptions. No weir, hedge, set-net or any other contrivance for the capture of fish, which is stationary while in use, shall extend into more than 2 feet of water at ordinary low water, under a penalty of not less than \$50 nor more than \$100 and forfeiture of all apparatus and material so unlawfully used. The provisions of this section apply to any seine or drift-net which is at any time attached to a stationary object, but not to fykes or bag-nets used in the winter fishing for smelts and tomcods, nor to any implements lawfully used above the flow of tide, nor to any portion of Penobscot river, bay or tributaries, nor to the St. Croix river 500 feet above Ferry's Point in Calais.

Sec. 46. Depth of weirs, how measured; standard for low water on the Kennebec river. The limit of depth prescribed for weirs in the preceding section shall be measured at the entrance of the weir, provided that no part of the weir known as the leader is in more than 2 feet of water at low-water mark. Weirs may exceed the limit of 2 feet in depth, measured as aforesaid, under the following conditions:

I. The distance from the before-mentioned 2 feet limit to the entrance of such weir shall not exceed 100 feet.

II. No such weir shall obstruct more than $\frac{1}{8}$ of the channel, except that in the Cathance, Abbagadasset and Eastern rivers such weirs may extend 25 feet beyond the $\frac{1}{8}$ aforesaid, provided such extension shall

not exceed $\frac{1}{4}$ of the width of the channel in the Abbagadasset and Eastern rivers.

III. Every such weir shall be stripped so as to render it incapable of taking fish between the 15th day of June and the 15th day of August of each year; but these conditions apply only to weirs that exceed the aforesaid limit of depth.

The standard for low-water mark on the Kennebec river is in all cases the nearest benchmark of the United States Coast Survey, allowance being made at the various points for the difference in time. The provisions of this and the preceding section do not apply to weirs built for the purpose of taking herring or other salt water fish.

Sec. 47. Dead or injured fish not to be cast on shore nor released in harbors; penalty. No person shall cast or deposit upon the shores, or release and deposit in the bays, harbors or rivers of this state any dead fish or fish that have been smothered or injured so that they will die. Whoever wilfully violates the provisions of this section, or aids therein, shall be punished by a fine of \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Sec. 48. Use of dynamite or poisonous substances for destroying fish prohibited; sale of fish so taken; carrying such dynamite or substance in fishing-boat prohibited; penalty. No person shall use dynamite or any poisonous or stupefying substance whatever for the purpose of destroying or taking any kind of fish in tidal waters. No person shall buy, sell, give away or expose for sale or possess for any purpose any fish taken by use of dynamite or any poisonous or stupefying substance; and no person, while engaging in fishing, shall carry in his fishing-boat or vessel any dynamite or other explosives, or any poisonous or stupefying substance. Whoever violates any provision of this section shall be punished by a fine of \$100 and costs, and by imprisonment for 60 days.

Sec. 49. Persons deriving special benefit from protected waters to post notices of such protection; form of notices; no liability unless notices posted; application of section; mutilation of such notices prohibited; penalties. All persons, who derive special benefits from legislation for the protection of fish in any waters of this state in excess of what is or may be derived by others, shall publish such protection by posting and maintaining notices substantially as hereinafter provided. Said notices shall be placed on the banks or shores of such protected waters not more than 10 feet nor less than 6 feet above the ground, in a conspicuous position; and if

on running water, such notices shall not be more than $\frac{1}{2}$ mile apart on the banks of such waters; and if on a pond or lake, not more than 1 mile apart on the shores of such pond or lake.

Notices shall be painted on wood in black roman letters not less than 2 inches in length and not less than $\frac{1}{2}$ inch in breadth, so that such letters shall be plainly legible; and such notices shall state the number of the act or resolve giving said protection to such waters and the date of the same. In case no notices as herein provided are posted and maintained on waters that are protected by any special law, no one violating such law shall be liable thereunder to any penalties therein set forth.

The provisions of this section shall not apply to towns which by special act have acquired vested rights in any fishery in said towns.

Anyone mutilating or destroying such notices shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 50. Commercial fishing license provided for. No person shall take, catch or kill for commercial purposes any species of fish in the coastal waters of the state until he has procured from the commissioner a written license therefor.

A license designated as a resident commercial fishing license may be issued to persons who have been for 3 years prior to the date of their application, legal residents of the state, upon payment of a fee of \$3, which license shall entitle the holder to take all species of fish, except clams, quahogs, mussels, lobsters and scallops by any lawful method, except the use of a weir or seine.

The holder of a lobster fishing license or the holder of a scallop fishing license shall not be required to procure a resident commercial fishing license, but shall be entitled to all privileges of the same by virtue of such lobster fishing license or such scallop fishing license.

The amount paid for a resident commercial fishing license may be credited on a lobster fishing license or on a scallop fishing license, upon the additional payment of \$2 in the same year in which the resident commercial fishing license was issued.

Sec. 51. Non-residents may procure commercial fishing license for limited period; fee; penalty. No non-residents shall take, catch or kill at any time or in any manner in Maine coastal waters any species of fish for commercial purposes, except in accordance with the following provisions.

A non-resident of the state may procure a commercial fishing license

upon the payment of a fee of \$10, which shall entitle the holder to take all species of fish, except shellfish, lobsters and scallops during the period of November 1 until March 31 of the following year, both days inclusive, by any lawful method except by use of a weir or seine.

Whoever violates any provision of this section shall, upon conviction, be punished by a fine of not less than \$500, nor more than \$1,000, or by imprisonment for not less than 2 months, nor more than 6 months, or by both such fine and imprisonment.

Sec. 52. License required to operate weir, floating fish trap or boat engaged in seining. No person, as owner, shall operate in coastal waters any weir, floating fish trap or boat engaged in seining until he has procured from the commissioner a written license therefor.

The license fee for operating a weir, floating fish trap or for operating a boat engaged in seining, in coastal waters, shall be \$10 for each such weir, floating fish trap or boat.

Sec. 53. Exchange license provided for. The amount paid on a resident commercial fishing license shall be credited on either a lobster fishing or scallop fishing license upon the additional payment of \$2 in the same year in which the commercial fishing license was issued, provided that the holder of such a commercial fishing license is entitled to hold such lobster fishing license or scallop fishing license.

Atlantic Sea Run Salmon Commission

Sec. 53-A. Commission created; compensation; powers and duties; licenses. 1947, c. 399, § 1. There shall be created a commission to be known as the "Atlantic Sea Run Salmon Commission," which shall consist of 3 persons as follows: the commissioner of inland fisheries and game and the commissioner of sea and shore fisheries as ex officio members, and a 3rd member who shall be a citizen of Maine and who shall be appointed by the governor and council for a term of 4 years. The member appointed by the governor and council shall receive \$10 per day and expenses as compensation when engaged in the discharge of his official duties.

The Atlantic Sea Run Salmon Commission, hereinafter in this section designated as "the commission," shall have authority to promulgate rules and regulations providing for the times, number and manner in which Atlantic sea run salmon may be taken in all waters of the state and to designate waters, frequented by this species, where special Atlantic salmon fishing licenses shall be required.

Whenever any existing conditions adversely affect Atlantic sea run salmon within the territorial limits of the state, the commission, after notice and hearing, shall make such regulations as may be deemed remedial of any such adverse conditions in the manner hereinafter provided.

Petitions, stating the conditions affecting the fish and the regulations which are desired as a remedy, may be addressed to the commission by a majority of the municipal officers or 25 citizens of the municipality in which the waters exist; or if the waters are in an unorganized territory, by a majority of the county commissioners of the county in which said waters exist; or the commission may declare an emergency and designate the time and place of hearing.

Notice of the hearings to be held and the time and place thereof shall be published once a week for 2 successive weeks prior to the hearing in a newspaper published in the county where said hearing is to be held, and if no paper is published there, in a newspaper having state-wide circulation; except when an emergency has been declared, notice shall be published at least 5 days before the date of the hearing instead of 2 weeks.

After hearing pursuant to the petition or emergency declared, the commission shall make such regulations as may be deemed remedial of any adverse conditions proven to exist at the time of said hearing and shall establish the effective date of such regulations, which shall be at least 10 days after the date of hearing. The commission shall cause the regulations to be reduced to writing and shall publish the same once a week for 2 successive weeks in a newspaper published in the county where the waters are situated and which are affected thereby, or if no paper is published there, in a newspaper having state-wide circulation. The commission shall file a certified copy of said regulations with the secretary of state and with the clerk of the superior court of the county in which the waters affected thereby are situated.

Notwithstanding the provisions of section 5 of chapter 33, as revised, and section 5 of chapter 34 of the revised statutes, all petitions in regard to Atlantic sea run salmon shall be addressed to the commission, which shall have sole jurisdiction to promulgate rules and regulations affecting Atlantic sea run salmon.

A special license, to be issued by the commission, shall be required for taking, catching or killing Atlantic sea run salmon in such waters as the commission shall designate.

There shall be 3 classes of licenses issued under the provisions of this section: a resident salmon angling license; a non-resident salmon angling license; and a resident commercial salmon license.

The fee for the resident salmon angling license issued to residents of the state shall be \$3 for those residents over 21 years of age and \$1 for those residents under 21 years of age; the fee for the non-resident salmon angling license shall be \$5; and the fee for a resident commercial salmon license shall be \$5.

Licenses provided for in this section shall be in addition to any other required fishing license and they shall expire on December 31st of the calendar year in which they are issued.

Funds received from the sale of licenses authorized under this section shall constitute an "Atlantic Sea Run Salmon Restoration Fund," so called, to be expended under the direction of the commission for the sole purpose of improving conditions affecting this species. Said funds shall not lapse; but funds so collected in any one year may be used in that or any succeeding year for said purpose.

Whoever violates any provision of this section or any rule and regulation promulgated hereunder shall be subject to a fine of not less than \$10 nor more than \$30 for each offense.

The license provision of this section shall become effective January 1, 1948.

See P. L. 1947, c. 399, § 2, re appropriation.

Regulation of Shellfish Industry

Sec. 54. Towns may grant licenses for propagation and cultivation of clams, quahogs and mussels; licenses may be assigned. Upon application in writing, the mayor and aldermen of a city or the selectmen of a town shall grant a written license to any person who has resided in the state or who has been a taxpayer in the city or town for not less than 1 year preceding the date of his application, for the purposes of planting and cultivating clams, quahogs or mussels upon and in not exceeding $\frac{1}{4}$ of the flats and creeks of their respective cities and towns and within the limits to be specified in the license, for a term of not less than 5 years nor more than 10 years. All such licenses shall be subject to such rules and regulations as are approved by the city government of the city, or by the voters of the town at an annual or special town meeting, and may be assigned by the licensee to any person who has been a resident of the state or a taxpayer in the city or town for not less than 1 year preceding the date of the assignment; but shall not be assigned or transferred without the written consent of the mayor and aldermen of such city or the selectmen of such town.

Sec. 55. Proceedings before licenses shall be granted; preference to be given to riparian owner of adjacent property. No license shall be granted if the exercise thereof would materially obstruct navigable water, nor until after a public hearing due notice of which has been posted in 3 or more public places and published in a newspaper, if there be any, published in the city or town in which the premises are situated, at least 10 days before the time fixed for the hearing, stating the name and residence of the applicant, the date of the filing of the application and the location, area and description of the grounds applied for. In granting said licenses, preference shall be given to the riparian proprietors of the adjacent property, when there are 2 or more applicants for the same territory and the adjacent riparian proprietor is one of them.

Sec. 56. Survey and plan of territory covered by license to be made; territory to be marked. Before granting any license, the mayor and aldermen of a city or the selectmen of a town shall cause a survey and plan to be made of the territory within which licenses are to be granted, and shall cause the territory covered by any license issued by them to be marked upon a copy of such plan, to be kept in the office of the city or town clerk. The licensee, upon receiving his license, shall cause the territory covered thereby to be plainly marked out by stakes, buoys, ranges or monuments which shall be maintained by him during the term of the license. Failure to place or maintain the same shall be sufficient cause for revocation of the license by the authority granting the same.

Sec. 57. Penalty for molesting marks or bounds on licensed areas. Whoever wilfully injures, defaces, destroys or removes any mark or bound used to define the extent of any shellfish license or grant, or places any unauthorized mark thereon, or ties or fastens any boat or vessel thereto shall be punished by a fine of not more than \$20 and shall be liable in tort for double damages and costs to the licensee injured by such act.

Sec. 58. License to describe territory covered; to be recorded; records open to public inspection. A license granted hereunder shall describe by metes and bounds the waters, flats and creeks to which the license is applicable and shall have no force until it is recorded with the clerk of the city or town granting the same, in a book to be kept for the purpose in the office of the clerk of the city or town, and such books shall be open to public inspection. The licensee shall pay annually to the city or town a fee of not less than \$1 nor more than \$5 per acre for the license, as the mayor and aldermen of the city or the selectmen of the town may determine. Forms for licenses and for assignments shall be provided by the mayor and aldermen of a city or the selectmen of a town at the expense of the city or town.

Sec. 59. Penalty for molesting shellfish beds covered by license. Whoever works a dredge, tongs, rakes or any other implement for the taking of shellfish of any description upon any shellfish grounds or beds covered by a license granted under the provisions of section 54, or in any way disturbs the growth of the shellfish thereon, or whoever discharges any substances which may directly or indirectly injure the shellfish upon any such grounds or beds without the consent of the licensee or transferee, as the case may be, or whoever, while upon or sailing over any such grounds or beds casts, hauls or has overboard any such dredge, tongs, rake or other implement for the taking of shellfish of any description, under any pretense or for any purpose whatever, without the consent of the licensee, shall for the 1st offense be punished by a fine of not more than \$20, or by imprisonment for not more than 1 month, and for a subsequent offense by a fine of not more than \$50 or by imprisonment for not more than 6 months.

Sec. 60. Taking of clams, quahogs or mussels or their seed on licensed territory, except by licensee prohibited; licensee to have exclusive use of territory covered by license; penalty. No person, except the licensee or his agents or assignees, shall dig or take clams, quahogs or mussels, or clam, quahog or mussel seed within the territory covered by a license granted hereunder, or remove the same from said territory. The licensee, his heirs or assignees shall for the purposes described in the license have the exclusive use of the territory described therein during the term of the license and may in an action of tort recover treble damages of any person who, without his or their consent, digs or takes clams, quahogs, mussels or other shellfish in the territory covered by the license or removes the same therefrom. Whoever so digs, takes or removes clams, quahogs, mussels or other shellfish shall, in addition, be punished by a fine of \$20 for each offense.

Sec. 61. Licensee to submit report; license subject to forfeiture. Any person licensed under the provisions of section 54 shall submit on oath, on or before January 1st in each year, to the aldermen, city council or selectmen of the city or town wherein the territory covered by the license is situated, a report of the total number of bushels of each kind of shellfish planted, produced or marketed during the preceding year upon or from such territory, and an estimate of the total number of bushels of each kind of shellfish at the time of such report planted or growing thereon; and if the total amount thereon falls below the market value of \$25 per acre within the first 2 years of the term of said license, or below the market value of \$50 per acre for any 3 consecutive years thereafter, said value to be determined by the aldermen, councilmen or selectmen by such

reasonable method as they deem best, they may declare the license to be forfeited. Thereupon the licensed premises, with all shellfish thereon, shall revert to the city or town wherein situated.

Sec. 62. Towns to regulate taking of clams, quahogs and mussels; penalty for taking contrary to municipal regulations. Any town may at its annual meeting fix the times in which clams, quahogs and mussels may be taken within its limits and the prices for which its municipal officers shall grant permits therefor; and unless so regulated by vote, residents of the town may take clams, quahogs and mussels without written permit; but without permit, any inhabitant within his own town or transient persons therein may take clams, quahogs and mussels for consumption by himself and family. This section does not apply to hotel keepers taking clams, quahogs and mussels for the use of their hotels, nor does it interfere with any law relating to the taking of shellfish for bait by fishermen. Whoever takes clams, quahogs or mussels contrary to municipal regulations authorized by this section shall, for each offense, be punished by a fine of not more than \$10, or by imprisonment for not more than 30 days. This section shall not be construed to effect the repeal of any special privileges enjoyed by the inhabitants of certain towns by virtue of any public or private and special law in force on the effective date of this chapter; but any town to which any such law applies may in addition have all the advantages of this section if such town shall so vote. Any town that promulgates any regulations under authority of this section shall be responsible for enforcement of the same.

Sec. 63. 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.

Sec. 64. License required to dig or take clams, etc. in Scarborough; definition. No person shall, in the town of Scarborough in the county of Cumberland, dig or take clams, clam-worms or blood-worms for sale unless license has been granted to him by 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. For the purposes of sections 64 to 66, inclusive, the term "a resident" shall mean a person who has resided in this state for the term of at least 6 consecutive months and in the town of Scarborough for at least 3 consecutive months prior to receiving a license.

Sec. 65. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Scarborough unless license has been granted to him by the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 64 to 66 inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 66. Licenses; revocation; appeal. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-worms. If the municipal officers refuse to issue the licenses provided for in said sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 67. Penalty. Whoever violates any of the provisions of sections 64 to 66, inclusive, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days.

Sec. 68. License required to dig or take clams, etc., in Kennebunkport; definition. No person shall, in the town of Kennebunkport in the county of York, dig or take clams, clam-worms or blood-worms 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. For the purposes of sections 68 to 70, inclusive, the term "a resident" shall mean a person who has resided in this state for the term of at least 6 consecutive months and in the town of Kennebunkport for at least 3 consecutive months prior to receiving a license.

Sec. 69. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Kennebunkport unless license has been granted to him by the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 68 to 70, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 70. Licenses; revocation; appeal. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-worms. If the municipal officers refuse to issue the licenses provided for in said sections, or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term or vacation, who may order the issuances or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 71. Penalty. Whoever violates any of the provisions of sections 68 to 70, inclusive, shall be punished by a fine of not less than \$10, nor more than \$100, or by imprisonment for not more than 30 days.

Sec. 72. License required to take or dig clams, etc., in Kennebunk; definition. No person shall, in the town of Kennebunk in the county of York, dig or take clams, clam-worms or blood-worms 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. For the purposes of sections 72 to 74, inclusive, the term "a resident" shall mean a person who has resided in this state for the term of at least 6 consecutive months and in the town of Kennebunk for at least 3 consecutive months prior to receiving a license.

Sec. 73. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Kennebunk unless license has been granted to him by the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 72 to 74, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 74. Licenses; revocation; appeal. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-worms. If the municipal officers refuse to issue the licenses provided for in said

sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 75. Penalty. Whoever violates any of the provisions of sections 72 to 74, inclusive, shall be punished by a fine of not less than \$10, nor more than \$100, or by imprisonment for not more than 30 days.

Sec. 76. License required to dig or take clams, etc., in Cape Elizabeth; definition. No person shall, in the town of Cape Elizabeth in the county of Cumberland, dig or take clams, clam-worms or blood-worms 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. For the purposes of sections 76 to 78, inclusive, the term "a resident" shall mean a person who has resided in this state for the term of at least 6 consecutive months and in the town of Cape Elizabeth for at least 3 consecutive months prior to receiving a license.

Sec. 77. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Cape Elizabeth unless license has been granted to him by the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 76 to 78, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 78. Licenses; revocation; appeal. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-worms. If the municipal officers refuse to issue the licenses provided for in said sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 79. Taking of shellfish and worms in Yarmouth, North Yar-

mouth, Falmouth and Cumberland, regulated. No clams, clam-worms, blood-worms, mussels or quahogs shall be taken from any flats within the limits of either of the towns of Yarmouth, North Yarmouth, Falmouth or Cumberland, in Cumberland county, except by such written permit as the municipal officers of said town may issue, provided that without such permit, any inhabitant within said town, 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 1 bushel of clams at 1 tide.

Sec. 80. Penalty. Whoever violates any of the provisions of sections 76 to 79, inclusive, shall be punished by a fine of not less than \$10, nor more than \$100, or by imprisonment for not more than 30 days.

Sec. 81. License required to dig or take clams, etc., in Georgetown; definition. No person, firm or corporation shall, within the limits of the town of Georgetown in the county of Sagadahoc, dig or take any clams, clam-worms, sand-worms or blood-worms without having first obtained a license from the municipal officers of said town of Georgetown, 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 of Georgetown. Nothing herein shall prohibit a riparian owner of shores or flats in said town of Georgetown from digging and taking clams therefrom for food for himself and family without license. For the purposes of sections 81 to 83, inclusive, the term "a resident" shall mean a person, firm or corporation who has resided in this state for a term of at least 6 consecutive months and in the town of Georgetown for at least 3 consecutive months prior to making application for license.

Sec. 82. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Georgetown without having first obtained a license from the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purpose of sections 81 to 83, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 83. Licenses; revocation; appeals. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-

worms. If the municipal officers refuse to issue the license provided for in said sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 84. Penalty. Whoever violates any of the provisions of sections 81 to 83, inclusive, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days. Trial justices within their county shall have jurisdiction concurrent with municipal courts and the superior court of prosecutions for violations hereof.

Sec. 85. License required to dig or take clams, etc., in Woolwich; definition. No person, firm or corporation shall, within the limits of the town of Woolwich in the county of Sagadahoc, dig or take any clams, clam-worms, sand-worms or blood-worms, without having first obtained a license from the municipal officers of said town of Woolwich, 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 of Woolwich. Nothing herein shall prohibit a riparian owner of shores or flats in said town of Woolwich from digging and taking clams therefrom for food for himself and family without license. For the purposes of sections 85 to 87, inclusive, the term "a resident" shall mean a person, firm or corporation who has resided in this state for a term of at least 6 consecutive months and in the town of Woolwich for at least 3 consecutive months prior to making application for license.

Sec. 86. Dealers' licenses required; definition. No person shall be a dealer in clams, clam-worms or blood-worms in the town of Woolwich without having first obtained a license from the municipal officers of said town, who are authorized to issue such license and fix the fee therefor. For the purposes of sections 85 to 87, inclusive, the term "dealer" herein used shall mean any person, firm or corporation buying clams, clam-worms or blood-worms for resale.

Sec. 87. Licenses; revocation; appeal. The municipal officers may revoke any license issued by them under the provisions of the 2 preceding sections, upon evidence satisfactory to them that the person taking or selling clams, clam-worms or blood-worms has violated any of the laws of the state regulating the taking and sale of clams, clam-worms or blood-worms. If the municipal officers refuse to issue the license provided for in said

sections or if a license has been revoked by the municipal officers, a person aggrieved may apply to any justice of the superior court, in term time or vacation, who may order the issuance or restoration thereof, provided said justice finds the municipal officers acted fraudulently or corruptly or erred in their conclusion of facts.

Sec. 88. Penalty. Whoever violates any of the provisions of sections 85 to 87, inclusive, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days. Trial justices within their county shall have jurisdiction concurrent with municipal courts and the superior court of prosecutions for violations hereof.

Sec. 89. Shellfish certificate and license for interstate transportation; penalties. No person, firm or corporation, as principal or by an agent or servant, shall ship or transport in any manner, beyond the limits of this state, any clams, quahogs or mussels in the shell or shucked, without first having procured therefor a shellfish certificate from the commissioner of agriculture and a license from the commissioner of sea and shore fisheries.

Application for a shellfish certificate shall be made on a form provided by the commissioner of agriculture. Each application for a shellfish certificate must be signed by the applicant and must show the names of persons licensed to dig and sell clams, quahogs and mussels, from whom clams, quahogs and mussels in the shell are to be procured and the names of persons holding shucking licenses, from whom shucked clams, quahogs and mussels are to be procured. If the commissioner of agriculture is satisfied that all such persons named in the application are properly licensed, he may issue the applicant a certificate. Such certificate shall bear a number and shall designate the persons from whom clams, quahogs and mussels in the shell or shucked may be procured for interstate transportation.

Shellfish certificates issued under the provisions of this section shall expire at midnight on December 31st of the calendar year in which they were issued, unless sooner revoked or suspended, and shall be renewed annually thereafter.

The commissioner of agriculture shall have the power to revoke or suspend any certificate thus issued by him, whenever it has been determined that the holder of such a certificate has violated any provision of said certificate or any law or rule and regulation pertaining to shellfish.

Application for a license, designated as an interstate shellfish transportation license, shall be made to the commissioner of sea and shore fisheries on a form provided by him for such purpose and it shall contain a description, sufficient to identify it, of the boat, truck, automobile, airplane

or other means of transportation to be used, and any other information that may be requested.

Such license may be procured by a legal resident of Maine upon payment of a fee of \$25, provided that an extra fee of \$15 shall be required for each additional boat, truck, automobile or other means of transportation to be used.

Such license may be procured by a non-resident of Maine upon payment of a fee of \$100, provided that an extra fee of \$25 shall be required for each additional boat, truck, automobile or other means of transportation to be used.

An applicant for an interstate shellfish transportation license must present a shellfish certificate issued by the commissioner of agriculture before such license shall be issued.

No person shall ship or transport beyond the limits of this state any clams, quahogs or mussels in the shell or shucked, except those procured from the certified licensees named in said shellfish certificate.

The foregoing provisions shall not apply to a common carrier transporting clams, quahogs or mussels in accordance with the provisions of section 97, nor by any person who lawfully possesses the same for immediate consumption by himself and his family, nor shall it apply to clams, quahogs or mussels that are being transported through the state under the authority of the laws of the United States.

Whoever violates any provision of this section shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Revisor's note: See § 95; P. L. 1947, c. 137, §§ 3, 4.

Sec. 90. Taking of clams and quahogs regulated. Whoever takes or has in his possession quahogs or soft-shell clams less than 2 inches in the longest diameter, hereinafter referred to as seed quahogs or seed clams, to the amount of more than 10% of any batch or lot, shall be punished by a fine of not less than \$10 nor more than \$100, or imprisonment for 30 days, or by both such fine and imprisonment, provided that it shall not be unlawful to take seed quahogs or seed clams or have the same in possession under authority of a permit therefor, which the commissioner is hereby authorized to grant, for replanting in waters or flats within the state or any other purpose. The tolerance of 10% shall be determined by numerical count, or by measure of not more than 4 pecks, taken at random from various parts of said batch or lot.

A batch or lot, as used in this section, shall mean the total number of quahogs or soft-shell clams in any bulk pile, provided that when quahogs or soft-shell clams are in a box, barrel or other container, the contents of each such box, barrel or other container shall constitute a separate batch or lot.

Whenever clams, quahogs or mussels are bought or sold in units of 1 bushel, measurement shall be determined by a container having a capacity of a standard bushel, (2150.42 cu. inches).

Sec. 91. Processors and canners to be licensed; penalty. Whoever processes and cans for sale any fish, lobsters, crabs or shrimp shall procure from the commissioner a written license therefor.

The license, designated as a sea food processors license, issued upon payment of a fee of \$25, shall entitle the holder to process in hermetically sealed containers all species of fish, lobsters, crabs and shrimp at a specified place of business, provided that a separate license shall be required for each place of business where fish, lobsters, crabs or shrimp are processed and canned.

Whoever violates any provision of this section shall be subject to the penalties provided in section 144; provided, however, that any person convicted of canning illegal lobsters shall be punished by a fine of \$300 and an additional fine of \$5 for each illegal lobster involved.

"Fish" as used in this section shall not include shellfish.

Sec. 92. Size of bait barrels; penalty. In all contracts relating to the sale of clam, quahog or mussel bait, fresh or salt, by the barrel, and clam, quahog or mussel bait barrels, such barrels shall be $25\frac{1}{4}$ inches long and $15\frac{1}{2}$ inches head diameter, outside measure.

Whoever violates any provision of this section shall be punished by a fine of not more than \$50 for each offense.

Sec. 93. Canning of clams, quahogs and mussels regulated. It shall be unlawful for any person to can any clams, quahogs or mussels between the 1st day of June and the 30th day of the following September, both days inclusive, and it shall also be unlawful for any person to can at any time, either fresh or in salt, any clams, quahogs or mussels dug or taken during the same period.

Whoever violates any provision of this section shall be punished by the penalties provided in section 144 and in addition thereto \$1 for each bushel of clams, quahogs or mussels involved.

Revisors' note: See § 95; P. L. 1947, c. 137, § 1.

Sec. 94. Clam, quahog and mussel flats may be closed to all digging on certain conditions; signs to be posted. The commissioner of sea and shore fisheries and the commissioner of agriculture shall cooperate in the investigation and inspection of clam, quahog 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 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 and mussels, whereupon the commissioner shall immediately promulgate rules and regulations closing said flats to all digging of clams, quahogs and mussels.

When digging of clams, quahogs or mussels in any area is prohibited by the commissioner of sea and shore fisheries because of contamination or pollution, he shall cause plain and distinct signs to be posted on the area within which said digging is prohibited.

Sec. 95. Shipping of clams, quahogs and mussels regulated; closed season; penalty; how enforced; jurisdiction. 1947, c. 137, § 2. No person, firm or corporation shall, between the 1st day of June and the 1st day of October following, ship, transport, offer for shipment or transportation either directly or indirectly any clams, quahogs or mussels either in the shell or shucked, taken from the clam flats of Washington, Hancock, Knox and Waldo counties beyond the limits of the state and/or to the counties of Sagadahoc, Cumberland, Lincoln and York; provided, however, that an exception shall be made to clams, quahogs or mussels which have been canned, packed or barreled between the 1st day of October and the 1st day of June. Any person, firm or corporation who ships, transports, offers for shipment or transportation or who attempts to ship or transport clams, quahogs or mussels beyond the limits of the state in violation of any of the provisions herein shall be punished by a fine of not less than \$10 nor more than \$100 for the 1st offense, and by a fine of not less than \$50 nor more than \$200 for each subsequent offense. Possession of clams, quahogs or mussels in containers not properly marked as required by license provisions by any person, firm or corporation, their servants or agents, when such clams in containers are in process of transportation, or failure of the person, firm or corporation, their servants or agents transporting the said clams, quahogs or mussels to produce a valid license permitting shipment

shall be prima facie evidence of a violation of this provision. All automobiles, trucks, wagons, boats, airplanes, vessels and vehicles of every kind, not common carriers, containing clams, quahogs or mussels shipped or transported contrary to the provisions of this section shall be seized by any officer seizing the clams, quahogs or mussels so shipped or transported and shall be libeled.

Sec. 96. 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 with a list of names of all persons granted licenses to buy and sell clams, quahogs or mussels, giving the license numbers, the location of the shucking houses and the exact locality of the source of clams, quahogs or mussels that the licensees are offering for sale and shipment. The commissioner of sea and shore fisheries and the commissioner of agriculture shall cooperate in the enforcement of all the provisions of this chapter relating to shellfish, and they shall make uniform rules and regulations prescribing the conditions under which clams, quahogs or mussels 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, quahogs or mussels, and such regulations shall apply with equal force both to clams, quahogs or mussels intended for consumption within the state and to meet the requirements of the United States public health service governing clams, quahogs or mussels shipped in interstate commerce.

Sec. 97. Containers of clams, quahogs or mussels to be labeled. All containers used in the shipment and transportation of clams, quahogs or mussels 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," "Quahogs," or "Mussels," the date of shipment and the name of the town in which the clams, quahogs or mussels were dug. This provision shall not apply in any way to clams, quahogs or mussels in hermetically sealed containers.

Sec. 98. General provisions; license. Upon application in writing, the commissioner may grant a written license to any owner of tide flats, other than those used as public bathing beaches, for the purpose of cultivating and propagating quahogs upon not more than 5 acres or clams and mussels upon not more than $\frac{1}{2}$ acre of said flats between high and low-water mark within the limits to be specified in the license for a term of 10 years. All such licenses shall be subject to such rules and regulations as are ap-

proved by the commissioner. The same may not be assigned, except as hereinafter provided.

Sec. 99. Notice of hearing for granting license. No license shall be granted if the exercise thereof would materially obstruct navigable water. No license shall be granted until after a public hearing held in the town where said flats are located, due notice of which has been posted in 3 or more public places and published in a newspaper, if there be any newspaper published in the city or town in which the premises are situated, by the commissioner, at least 10 days before the time fixed for the hearing, stating the name and residence of the applicant, the date of the filing of the application, and the location, area and description of the flats where the cultivation and propagation of quahogs is to be carried on.

Sec. 100. Establishment and maintenance of metes and bounds for territory under license; penalty for removal or destruction of bounds. The licensee under the provisions of section 98 upon receiving his license shall cause the area so designated in the license granted to be plainly marked either by stakes, ranges or monuments, which shall be maintained by him during the time of the license. Failure to place or maintain the same shall be sufficient cause for revocation of the license by the commissioner. Any person who moves, destroys, mutilates or changes the position of stakes, ranges or monuments, when the same have been properly placed and maintained in accordance with the license and in designation of the area described in the license, without the consent of the licensee, shall be punished for the 1st offense by a fine of not more than \$100, and for a 2nd offense by a fine of not more than \$200.

Sec. 101. Cost of license and disposal of fees. A license granted under the provisions of section 98 shall describe by metes and bounds the flats to which the license is applicable, and shall have no force until it is recorded with the clerk of the city or town in which said flats are located, which record shall be open to public inspection. The licensee shall pay, annually, to the commissioner a fee of \$2 per acre for the license granted. All fees received under the provisions of sections 98 to 103, inclusive, by the commissioner and all money received by him under the provisions of said sections shall be paid by him to the treasurer of state for deposit in the general fund.

Sec. 102. Penalty for trespassing on licensed territory. No person, except the licensee or his agents, shall dig or take quahogs or quahog seed within the territory covered by a license granted under the provisions of section 98 or remove the same from said territory. The licensee, his heirs or assignees shall, for the purpose described in the license, have the ex-

clusive use of the territory described therein during the term of the license, and may during said term take any shellfish or worms therefrom. Any person, who without the consent of the licensee digs, takes or removes any quahogs or quahog seeds or other shellfish or worms from or within the territory covered by the license, shall be liable in an action of tort to pay to the licensee treble damages. Any person, except the licensee or his agents, who takes, digs, destroys or removes quahogs, quahog seed, other shellfish, or worms from territory covered by a license, as above described, shall in addition be punished by a fine of \$20 for each offense.

Sec. 103. Provision for revocation of license. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 98 to 103, inclusive, whenever it is determined by him that the licensee is not actually occupying and using in good faith the territory covered by the license for the purpose of cultivating and propagating quahogs in said territory.

Sec. 104. Planting of oysters and quahogs by inhabitants of state; exclusive rights; penalty for trespassing. Any inhabitants of the state, with consent of the adjacent riparian proprietors, may plant oysters and quahogs below low-water mark in any navigable waters, in places where there is no natural oyster bed; inclose such ground with stakes set at suitable distances, extending at least 2 feet above high-water mark, but so as not to obstruct the free navigation of such waters; and have the exclusive right of taking such oysters and quahogs. Whoever trespasses on such inclosure or injures such beds where oysters or quahogs have been planted is liable in an action of trespass for all damages; and if he takes any oysters, quahogs or any shellfish therein, without the consent of the owner, he shall be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment for not exceeding 3 months.

Sec. 105. Authorized selection of proper locations for experiments in propagation of shellfish. The commissioner may, from time to time as his judgment may determine, select proper locations below low-water mark on the coast of Maine for the propagation of oysters and quahogs, and between high and low-water mark for the propagation of clams, quahogs and mussels, cause the same to be properly stocked with oysters, quahogs, mussels and clams and erect proper and sufficient marks or bounds to indicate the locations thus made; but this section shall not be construed to authorize the taking of flats, which by the colonial ordinance of 1641 are possessed by the adjacent upland owners, without the consent of such owners and the payment of proper damages to such owners for such taking.

Sec. 106. Locations protected. No person shall dig, fish for, take or carry away any oysters, quahogs, mussels or clams within any location so

selected for such period as the commissioner may deem necessary after such location has been stocked as aforesaid, without the permission in writing of the commissioner; nor shall any person wilfully injure, deface, destroy or remove any such bounds or marks, nor tie or fasten any boat or vessel thereto.

Sec. 107. Penalty for violating the provisions of §§ 105 and 106. Whoever violates any provision of the 2 preceding sections shall be punished by a fine of not more than \$100, or by imprisonment for not more than 60 days, or by both such fine and imprisonment.

Sec. 108. Closed season on scallops; penalty. 1947, c. 270. There shall be a closed season on scallops in all the coastal waters of the state from the 1st day of April until the 31st day of the following October, both days inclusive, except that there shall be 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 and bound extending from Dice's Head in Castine, through the southernmost point of Nautilus Island to the Brooksville shore, from the 1st day of April until the 31st day of the following December.

Whoever takes or has in his possession any scallops in violation of the provisions of this section shall be subject to the penalties provided in section 144 and an additional penalty of \$5 for every 100 scallops or part thereof involved, whether they be in the shell or shelled.

Provided, however, that there shall be a perpetual open season for scallops in those waters outside the limits of, and southeasterly of a line formed by the following points: beginning at Petit Manan Bar, to Schoodic Point, to little Cranberry Island, to Duck Island, to Long Island, to whistle buoy at Johns Island, to Eastern Ear Isle au Haut to Saddle Back Light, to Green Island, Vinalhaven, to Twobush light, to Burnt Island light.

Sec. 109. Scallop fishing license provided for. No person shall fish for or take in any manner for commercial purposes any scallops without first having procured from the commissioner a written license therefor.

A license, designated as a scallop fishing license, shall be issued upon payment of a fee of \$5 and shall entitle the holder to take scallops for commercial purposes at times and in places permitted by law. The holder of a scallop fishing license shall not be required to procure a resident commercial fishing license, but shall be entitled to all privileges of the same by virtue of such scallop fishing license.

Sec. 110. African crawfish; regulation of sale of. No person shall sell, offer for sale or have in possession for sale within the state, African craw-

fish, so called, in any form. Any person who violates any of the provisions of this section shall be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 110-A. Commercial shellfish license provided for. 1947, c. 286. No person shall dig or take for sale any clams, quahogs or mussels until he has procured from the commissioner a license therefor.

A license designated as a commercial shellfish license shall be issued only to residents of the state who shall make written application for the same. The fee shall be \$3 and it shall entitle the holder to dig or to take clams, quahogs and mussels for sale and to transport and sell the same in the shell within this state.

Sec. 110-B. Shellfish shucking regulated; license provided for. 1947, c. 286. No person, firm or corporation shall shuck or remove from the shell for sale, any clams, quahogs or mussels except as provided in this chapter.

No person, firm or corporation shall shuck or remove from the shell for sale any clams, quahogs or mussels without first having procured therefor a certificate from the commissioner of agriculture and a license from the commissioner of sea and shore fisheries.

Application for a shellfish shucking certificate shall be made by applicants on blanks furnished by the commissioner of agriculture. Each application for a shellfish shucking certificate must be signed by the applicant and must show the exact locality of the flats from which clams, quahogs and mussels are to be dug or taken, and the location within the state of the shucking house described in the application. The application shall also bear the names of all persons digging clams, quahogs and mussels for the applicant.

If the commissioner of agriculture is satisfied that the shucking house and premises conform to the regulations and standards of purity and quality established by the U. S. Public Health Service and the laws and regulations of the state of Maine, he may issue the applicant a certificate, without fee. Such certificate shall bear a number and such certificate shall designate, by local name, the area from which clams, quahogs and mussels can be dug and sold.

Shellfish shucking certificates issued under the provisions of this section shall expire at midnight on December 31st of the calendar year in which they were issued, unless sooner revoked or suspended, and shall be renewed annually thereafter.

The commissioner of agriculture shall have the power to revoke or suspend any certificate thus issued by him, whenever it is determined by himself or any of his deputies that any of the provisions of law or any of the regulations governing the shipment of clams, quahogs or mussels, or the provisions or regulations governing such establishment where clams, quahogs or mussels are shucked, have been violated.

Written application for a shellfish shucking license shall be accompanied by a copy of a shellfish shucking certificate that has been issued by the commissioner of agriculture. The fee for such shellfish shucking license shall be \$3 and it shall entitle the holder to shuck for sale, clams, quahogs and mussels at the certified established place of business named and described in said certificate and said license.

The suspension of a shucking house certificate, by the commissioner of agriculture, shall require the commissioner of sea and shore fisheries to suspend the shellfish shucking license.

The foregoing shall not apply to clams, quahogs and mussels shucked by persons conducting hotels and restaurants for serving on the premises, nor shall it prohibit individuals from shucking clams at home for consumption for themselves and families.

Sec. 110-C. Shellfish processing and canning regulated; license provided for. 1947, c. 286. Whoever processes and cans for sale any clams, quahogs or mussels shall procure a written license therefor.

The license, designated as a shellfish processor's license, shall be issued by the commissioner upon payment of a fee of \$50 and shall entitle the holder to process in hermetically sealed containers, clams, quahogs and mussels at a specified place of business. Provided that a supplemental license, authorizing such processing and canning of clams, quahogs and mussels at an additional place of business, may be procured upon payment of a fee of \$25.

Any person holding a license under the provision of this section, by virtue of such license, may process and can for sale in hermetically sealed containers all species of fish, shellfish, lobsters, crabs and shrimps.

Whoever violates any provision of this section shall be subject to the penalties provided in section 144, except that any person convicted of canning illegal lobsters, or parts thereof, shall be punished by a fine of \$300, and an additional fine of \$5 for each illegal lobster, or part thereof, involved.

Sec. 110-D. Disposition of funds from sale of licenses. 1947, c. 286. The funds received from sale of certain licenses, namely, "commercial shell-

fish licenses," "shellfish shucking licenses," "shellfish processors' licenses" and "interstate shellfish transportation licenses" shall constitute a shellfish fund, so called, to be expended under the direction of the commissioner of sea and shore fisheries for the sole purpose of restoration, development and conservation of clams, quahogs and mussels in the coastal waters of the state and for establishment and maintenance of facilities therefor.

Said funds shall not lapse, but funds so collected in any one year may be used in that or any succeeding year for said purpose.

Dealers' Licenses

Sec. 111. Retail dealer's license required to sell, ship or transport fresh fish, shellfish, lobsters or crabs, or parts thereof. No person, except as hereinafter provided, shall buy and sell, ship or transport in any manner any fresh fish, shellfish, lobsters or crabs, 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 and sell, serve, ship and transport fresh fish, shellfish, lobsters or crabs, or parts thereof, within the limits of the state.

The fee for such license shall be \$5, provided that a separate license shall be required for each market, store or other facility where fresh fish, shellfish, lobsters or crabs are sold in retail trade.

A retail sea food dealer's license shall not be required of a person to transport fish, shellfish, lobsters or crabs, or parts thereof, that are possessed by him for immediate consumption by himself and his family, nor of a properly licensed fisherman who, by virtue of his fishing license, may transport and sell any species that has been lawfully taken by him, nor of a common carrier engaged in carrying freight on a fixed schedule within or without the state, provided that such fish, shellfish, lobsters or crabs, or parts thereof, are received by said common carrier at one of his regular established places on land for receiving general freight and the receptacle containing the same is plainly marked in accordance with law.

Any dealer licensed under the provisions of this section, who buys lobsters in excess of 50 pounds at one time, shall record the license number of the seller and shall keep such record for 1 year, which record shall be available for the inspection of any warden of the department.

Sec. 112. No person, except as provided in the preceding section, shall serve at any public place any fresh clams, quahogs, mussels, lobsters or crabs, or parts thereof, without first having procured from the commissioner a written license therefor.

A license, designated as a shellfish server's license, shall entitle the holder to serve fresh clams, quahogs, mussels, lobsters and crabs, and to transport the same within the limits of the state.

A fee of \$2 shall be paid for such license to provide for the cost of issuing same and the enforcement of the provisions of this section; provided that a separate license shall be required for each such public place where clams, quahogs, mussels, lobsters or crabs are served.

Sec. 113. Wholesale sea food dealer's license provided for. No person, firm or corporation shall engage in a wholesale trade in fresh fish, shellfish or lobsters, or parts thereof, without first having procured from the commissioner a written license therefor.

The fee for a license, designated as a wholesale sea food dealer's license, shall be \$25 and shall entitle the holder to buy and sell and transport fresh fish and shellfish, except lobsters, in wholesale trade; provided that no person shall transport any clams, quahogs, mussels or lobsters beyond the limits of the state, except as otherwise provided in this chapter.

Provided further, that any person, firm or corporation licensed under the provisions of this section that operates any market, store or other facility where the wholesaling of fresh fish or shellfish is conducted, other than at his or their principal place of business, shall procure from the commissioner a supplemental license for each such market, store or other facility, and the fee therefor shall be \$5.

The term "fresh fish" as used in sections 111, 112 and 113 is distinguished from fish that have been smoked, pickled, canned or quick frozen.

Any person, firm or corporation that sells or distributes fish or shellfish, or parts thereof, commercially in bulk lots of more than 50 lbs. for resale by a dealer, shall be classified as a wholesale sea food dealer.

Regulation of Lobster Industry

Sec. 114. Wholesale lobster dealer's license provided for. No person, firm or corporation shall engage in a wholesale trade in lobsters without first having procured from the commissioner a written license therefor.

The fee for a license, designated as a wholesale lobster dealer's license, shall be \$50 and shall entitle the holder to buy and sell and transport fresh fish, shellfish and lobsters in wholesale trade within the state and to ship the same within and outside the state.

Any person, firm or corporation licensed under the provisions of this section, that maintains any facility for the buying of fresh fish, shellfish

or lobsters at any point other than his or their principal place of business, shall procure from the commissioner for each such facility a supplemental license and the fee therefor shall be \$5.

Any person, firm or corporation that distributes fish, shellfish or lobsters, or parts thereof, commercially, in bulk lots of more than 50 lbs. for resale by a dealer, shall be classified as a wholesale dealer.

Any dealer licensed under the provisions of this section, who buys lobsters in excess of 50 pounds at 1 time, shall record the license number of the seller and shall keep such record for 1 year, which record shall be available for the inspection of any warden of the department.

A dealer licensed under this section who receives crates of lobsters from a point beyond the limits of the state and immediately reconsigns them with contents intact, to another such dealer within the state, shall not be responsible for the size of lobsters contained therein, provided each such crate is labeled in the manner prescribed by the commissioner and with materials furnished at cost by said commissioner.

Sec. 115. Lobster and crab fishing license. No person shall fish for, take or catch lobsters or crabs in any manner without having first procured from the commissioner a written license therefor, which shall be kept upon the person while fishing or transporting such lobsters or crabs and which shall be exhibited to any coastal warden upon request.

Any person, assisting or helping another in lobster fishing or in attending to lobster traps or pots, shall be considered a lobster fisherman and must procure a license therefor.

Such license shall be issued only to persons who have been, for 10 years immediately prior to the date of the application, legal residents of this state; provided, however, that any person who has previously been a legal resident of this state and has reestablished a legal residence here for a period of 3 years next preceding his application shall be entitled to have his non-residence taken as part of said 10 years, and the fee for such license shall be \$5.

The holder of a lobster fishing license shall not be required to procure a resident commercial fishing license, but shall be entitled to all privileges of the same by virtue of such lobster fishing license.

All persons licensed under the provisions of this section shall make a return within 1 week after the 1st day of January of each year to the commissioner, of the estimated total number of pounds of lobsters and/or crabs caught by them during the year preceding such 1st day of January, together with a statement of their receipts during such year from the sale

of such lobsters and/or crabs and a statement of their estimated expenditures incurred during such period in their business, on blanks to be furnished by the said commissioner.

Sec. 116. Interstate transportation of lobsters; license; penalty. No person, firm or corporation, as principal or by an agent or servant, except a common carrier, shall transport in any manner any lobsters or parts thereof beyond the limits of the state, without first having procured from the commissioner a written license therefor.

The application for this license shall contain a description of the boat, truck, automobile, airplane or other means of transportation sufficient to identify it and the name and address of the owner.

The fee for such license shall be \$50 with an extra fee of \$5 for each additional boat, truck, automobile, airplane or other means of transportation to be used; provided that any person licensed as a wholesale lobster dealer under the provisions of section 114 may procure this license upon payment of \$25.

The license shall give no authority to transport lobsters, or parts thereof, in any boat, truck, automobile, airplane or other means of transportation, except that named and described in the license.

Whoever violates any provision of this section shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 117. Legal length of lobsters; double gauge measure; method of measurement; penalties. The commissioner shall provide a measure, designated as the state double gauge lobster measure, for determining the legal length of lobsters. One gauge shall be $3\frac{1}{8}$ inches in length, the other shall be 5 inches in length, and no evidence shall be admissible in any court in the state in any manner in which the length of a lobster is in question, unless such length has been determined by such a measure. This measure shall be sold by the commissioner at cost.

No person shall buy, sell, expose for sale, give away, transport or have in possession, any lobster except that which is of legal length as determined by the state measure.

An illegal lobster is one of less than $3\frac{1}{8}$ inches in length or more than 5 inches in length, alive or dead, cooked or uncooked, when measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell.

The possession of lobsters, or parts thereof, alive or dead, cooked or uncooked, mutilated in such manner as to make accurate measurements as prescribed in this section impossible, shall be prima facie evidence that they are not of the required legal length.

Whoever violates any provision of this section relating to lobsters of less than the minimum legal length shall be punished by a fine of \$5 for each such lobster involved, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Whoever violates any provisions of this section relating to lobsters of a length greater than the maximum legal length shall be punished by a fine of \$25 for each such lobster involved, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 118. Lobster pots, traps and cars to be marked; penalty. No person shall set any pot or trap for any lobster or crab without having the pot or trap and buoy attached thereto plainly carved or branded with his lobster fishing license number; and he shall forfeit to the state any pot or trap not so marked and any lobsters or crabs found therein.

No person, firm or corporation shall use or set in tidal waters, any car or other contrivance for holding or keeping lobsters without having the car or other contrivance plainly carved or branded with the proper lobster license number.

Whoever violates any provision of this section shall be subject to the penalties provided in section 144.

Sec. 119. Traps on trawls; permission to be obtained; penalty. When pots or traps are set on trawls, when conditions make it impossible to set otherwise, buoys plainly marked as provided in section 118 shall be set at both ends of the trawls; but permission for setting such trawls must be obtained from the commissioner and so stated on the licenses issued under the provisions of section 115. Whoever violates the provisions of this section shall be punished by a fine of not more than \$25 and costs.

Sec. 120. Sale of lobster meat regulated. No person shall remove lobster meat from the shell for sale without a permit therefor, nor shall any person sell, offer or expose for sale, give away, ship or transport any lobster meat after the same has been removed from the shell except as herein provided.

A permit to remove lobster meat from the shell for sale may be granted to any person licensed as a dealer under the provisions of sections 111 or 113 upon written application to the commissioner and the payment of a fee of \$10.

Such permit shall entitle the holder to remove lobster meat from the shell of legal size lobsters at his regular place of business and to sell, deliver, transport or ship the same under such regulations as the commissioner may prescribe, provided that the tail section of all lobster meat shall be removed from the shell whole and intact and shall be not less than $4\frac{1}{4}$, nor more than $6\frac{1}{2}$ inches in length when laid out straight and measured from end to end, not including the small part that is on the body end of said tail section.

It shall be unlawful to sell, offer for sale, deliver, ship or transport any tail section of lobster meat that is not whole and intact as removed from the shell.

All barrels, boxes or other containers containing lobster meat that has been removed from the shell, before being transported or offered for transportation, shall be plainly labeled with the name of the permittee, together with the words, "Lobster Meat Removed Under Permit Number _____," followed by the number of the permit under which such lobster meat was removed.

No permit shall be required for the resale of such meat so long as it remains in the original package, provided that such package is plainly labeled with the name of the permittee, together with the words "Lobster Meat Removed Under Permit Number _____," followed by the number of the permit under which said lobster meat was removed.

The foregoing provisions of this section shall not apply to such lobster meat in possession of a common carrier for transportation, and which is marked as provided in this section; nor shall they apply to lobster meat passing through the state under authority of laws of the United States, nor shall any permit be required of a person to possess or transport lobster meat that is lawfully possessed by him for immediate consumption by himself and family; nor shall a permit be required to remove lobster meat for serving in hotels or restaurants, provided said meat is removed on the premises where it is served.

Sec. 121. Only owner or authorized person may examine or tend traps, pots or cars set for catching or holding lobsters or crabs; penalties. No person, except the owner or an officer authorized to enforce the sea and shore fisheries laws, shall raise, lift or in any manner molest any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs without the written permission of the owner thereof.

Whoever violates any provision of this section shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$300, or by im-

prisonment for not more than 90 days, or by both such fine and imprisonment.

Any person convicted of violation of any provision of this section shall be ineligible to hold a lobster fishing license for a period of 3 years from the date of such conviction.

Sec. 122. Closed time on egg-bearing lobsters; penalties. Whoever takes, sells or has in possession any female lobster bearing eggs shall be punished by a fine of \$10 for each such female lobster involved, or by imprisonment for not more than 90 days, or by both such fine and imprisonment; but a person who takes any such lobster and immediately returns it alive to the waters from which it was taken shall not be subject to such penalty.

This section shall not apply to lobsters spawning in cars or pounds if they are, upon discovery, immediately liberated alive in the coastal waters, nor to the taking, sale or possession of lobsters as provided in section 123.

Sec. 123. Purchase of egg-bearing lobsters authorized; penalties. The commissioner may authorize the taking, holding and delivery of egg-bearing lobsters by any person licensed under the provisions of this chapter under such regulations as he may prescribe.

Persons taking or holding such egg-bearing lobsters under such authority shall be paid by the commissioner to the extent of the appropriation or appropriations therefor, but at a rate not above the wholesale price of other lobsters.

All egg-bearing lobsters purchased by the commissioner shall be taken to a plant for the propagation of lobsters maintained for rearing them from the time of hatching to the bottom crawling stage, or shall be liberated in coastal waters of the state, as the commissioner may deem for the best interests of the state. Before any such egg-bearing lobster is so liberated, however, it shall be marked by the commissioner or his authorized agent by cutting a V notch in the middle flipper of its tail. No person shall have in possession any such lobster so marked or any lobster mutilated in such manner as to hide or obliterate such mark; but any person catching any such lobster so marked or mutilated and immediately returning the same to the waters from which it was taken shall not be deemed to have violated the foregoing provisions of this section.

Lobsters from which eggs have been so hatched and the young lobsters so reared shall be liberated, as nearly as possible, equally in all coastal counties.

Nothing in this section shall be so construed as to prevent the commissioner from otherwise disposing of female lobsters purchased under the provisions of this section or young lobsters so reared, when in the opinion of the commissioner by so doing depleted or non-productive areas may be benefited.

Whoever takes, holds, transports or has in possession any female lobsters in violation of the provisions of this section shall be punished by a fine of not less than \$50, and in addition thereto, \$10 for each such female lobster involved, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 124. Lobster shipping containers; how marked; penalties. No person, firm or corporation shall ship or offer for shipment any lobsters, or parts thereof, except in barrels, boxes or other containers that are plainly marked on the outside with the word LOBSTERS in capital letters at least 1 inch in length, together with the full name of the shipper; and no common carrier or other person shall accept for transportation or shall transport any lobsters, or parts thereof, unless they are packed and marked in accordance with the foregoing provisions.

Whoever violates any provision of this section, upon conviction, shall be punished by a fine of not less than \$50 nor more than \$300, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Sec. 125. Traps not to set near fish weir; penalty. 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.

Tuna. Seals. Worm Diggers. Sea Moss

Sec. 126. Fishing for tuna regulated. It shall be unlawful to take, catch, kill or have in possession any tuna or horse mackerel, so called, taken by any method other than harpoon or single hook and line within the territorial waters of this state.

All boats, seines or other contrivances, together with the contents thereof, used contrary to the provisions of this section shall be subject to seizure and confiscation.

Sec. 127. Shooting seals in Casco bay regulated; penalty. No person shall, during the months of June, July and August, destroy seals in the water of Casco bay by shooting with rifle or other long-range weapon which might endanger human life, under a penalty of \$50 for each offense.

Sec. 128. Control of seals. The commissioner may authorize the killing and disposal of seals in any of the coastal waters of the state whenever such seals are causing damage to property.

The provisions of this section shall not affect or modify the provisions of section 127.

Sec. 128-A. Hunting seals near Green Island, forbidden. 1947, c. 249. It shall be unlawful, between May 15th and October 15th, both days inclusive, 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. 129. Marine worm diggers to be licensed; exceptions. No person, except as herein provided, shall dig or take from any of the coastal flats or shores of the state any clam-worms, blood-worms or sand-worms for commercial purposes until he has procured from the commissioner a written license therefor, designated as a marine worm license.

The fee for a marine worm license shall be \$3, provided that only legal residents of the state shall be eligible to procure such a license.

Sec. 130. Taking of sea moss for commercial purposes regulated. No person shall take sea moss from any of the shores of the state or within the tidal waters of the state for commercial purposes except under the following conditions:

- I. A license shall be issued to a resident upon payment of a fee of \$2.
- II. Any non-resident of the state may procure a commercial sea moss license upon payment of a fee of \$15.

Whoever violates any provision of this section shall be punished by a fine of not more than \$100, or by imprisonment for not more than 60 days, or by both such fine and imprisonment.

Revocation and Suspension of Licenses. Court Procedure

Sec. 131. Licenses, revocation and suspension. The commissioner shall revoke for 6 months from the date of conviction, the license issued to any person to carry on the particular activity in which he was engaged at the time of the violation of the provisions of sections 48, 89, 93, 97, 108, 120, 122, 123 and 124.

On conviction of any person holding a license or licenses issued under the provisions of this chapter of the violation of any of the sections of this chapter not hereinbefore mentioned, or of any rules or regulations of the commissioner, the commissioner may revoke any such license or licenses for a period of 6 months from the date of conviction.

Any person whose license or licenses have been revoked under the provisions of the 2nd paragraph of this section may request a hearing by the

commissioner, at which hearing all the facts concerning the violation shall be presented and the license or licenses may be reinstated.

When an appeal has been taken by any person from a 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 suspend, until final disposition by the court, the license 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.

If, at the time of committing a violation of any of the provisions of this chapter or of any rules and regulations of the commissioner, the offender shall not be the holder of a license to conduct the particular activity in which he was engaged at the time of such violation, the commissioner shall not issue such a license to said person until 6 months have elapsed from the date of final determination of any complaint or legal proceedings instituted as a result of the violation.

A conviction of a 2nd violation of any of the provisions of this chapter or of any rules and regulations of the commissioner shall require the commissioner to revoke the license or licenses of such offender for a period of 9 months from the date of the final conviction of the alleged violation; and a conviction of a 3rd or subsequent violation of any provisions of this chapter or of any rules and regulations of the commissioner shall require the commissioner to revoke the license or licenses of such offender for a period of 1 year from the date of the final conviction of the alleged violation.

Any person whose license has been suspended or revoked for violation of any provision of this chapter relating to lobsters shall remove from the water, within 5 days of such suspension or revocation, all his pots, traps, cars or other devices used or usable in the catching or holding of lobsters or crabs.

Sec. 132. Certificate of commissioner admissible in evidence. Any certificate of the commissioner in regard to the records of his office shall be admissible in evidence in all prosecutions under the provisions of this chapter.

Sec. 133. Proceedings in case of violation by corporation. In case of violation of any provision of this chapter by a corporation, the warrant may be served by an attested copy on the president, secretary, manager or any general agent thereof in the county where the action is pending, and

upon return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation; but this section shall not be deemed to exempt any agent or employee from prosecution.

Sec. 134. County attorneys to prosecute violations. Each county attorney shall prosecute all violations of this chapter occurring within his county, when such cases may come to his knowledge, or when he may be so requested by the commissioner or any officer charged with its enforcement.

Sec. 135. Participant in violation may be compelled to testify. In any prosecution under the provisions of this chapter, any participant in a violation thereof, when so requested by the county attorney, commissioner or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating the same, but his evidence so given shall not be used against himself in any prosecution for such violation.

Sec. 136. Result of court cases shall be reported to commissioner. Every magistrate or the clerk of the court before whom any prosecution under the provisions of this chapter is commenced or shall go on appeal shall report in writing to the commissioner, within 20 days after the trial or dismissal thereof, the result thereof and the amount of fines collected, if any, and the disposition thereof.

Jurisdiction of Offenses. Search and Seizure. Stopping of Vehicles

Sec. 137. Jurisdiction. Trial justices and municipal courts within their counties shall have original and concurrent jurisdiction with the superior court in all prosecutions under the provisions of this chapter.

Sec. 138. Officers may arrest without process; jurisdiction; impersonating coastal wardens. Any officer authorized to enforce the sea and shore fisheries laws may, without process, arrest any violator of said laws, and shall with reasonable diligence cause him to be taken before the municipal court nearest to where the offense is alleged to have been committed for a warrant and trial, and in such case, jurisdiction is hereby granted to all municipal courts in adjoining counties to be exercised in the same manner as if the offense had been committed in that county. Provided, however, that if a trial justice, whose usual place of holding court in the county where the offense is alleged to have been committed, is nearer to where the offense is alleged to have been committed than is any municipal court,

such violator may be taken before such trial justice for warrant and trial. Any coastal warden may arrest with or without warrant any person who impersonates or represents himself as being a coastal warden.

Sec. 139. Seizure and disposition of fish, shellfish, lobsters and equipment for violation of law. All fish, shellfish or lobsters, or parts thereof, bought, sold, carried, transported or found in possession of any person in violation of the provisions of this chapter shall be contraband and shall be forfeited to the state. In all cases where a coastal warden may find fish, shellfish or lobsters, or parts thereof, or equipment possessed in violation of the provisions of this chapter, he may seize the same without a warrant and keep them for a reasonable time. The officer who made such seizure may within a reasonable time file with a magistrate a libel against such fish, shellfish or lobsters, or parts thereof, or any equipment possessed in violation of the provisions of this chapter, setting forth their seizure by him, describing such fish, shellfish or lobsters, or parts thereof, or equipment and that they were taken, caught, killed or had in possession in violation of the provisions of this chapter, and pray for a decree of forfeiture thereof, except that articles of less than \$10 in value shall not be libeled unless reasonable doubt exists as to the ownership thereof. Such magistrate shall thereupon fix a time for the hearing of such libel and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed and show cause why said fish, shellfish or lobsters, or parts thereof, or equipment possessed should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in 2 conspicuous places in the town or place where such fish, shellfish or lobsters, or parts thereof, or equipment possessed were seized, or in such place or places as is ordered by the magistrate, 10 days at least before the day to which said libel is returnable. Copies shall be served on common carriers.

In case the magistrate finds that the fish, shellfish or lobsters, or any parts thereof, seized, will be unsuitable for food or other use at the day to which said libel is returnable, he shall order the officer making the seizure to dispose of the same. The officer disposing of the same shall, in case of sale, hold the proceeds of said sale subject to order of the court for decision as to the right of the claimant, if any appear, to said fish, shellfish or lobsters, or parts thereof. If the magistrate finds the claimant, if any appear, is not entitled to said fish, shellfish or lobsters, or parts thereof, the officer making such seizure shall turn over to the magistrate proceeds of such sale and such magistrate shall forward the proceeds thereof to the commissioner in the same manner as is provided by section 143.

If no claimant appears, such magistrate shall, on proof of notice as aforesaid declare the same forfeited to the state. If any person appears and claims such articles, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized; and in it must declare that they were not had in possession in violation of the provisions of this chapter with his knowledge or consent, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process and the magistrate shall proceed to determine the truth of the allegations in said claim and libel and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon the hearing, satisfied that said fish, shellfish or lobsters, or parts thereof, or any equipment possessed were not had in possession in violation of the provisions of this chapter, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody commanding him to deliver to said claimant the articles, or proceeds derived from the sale of the same, to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said articles so seized, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said articles forfeited to the state. The claimant may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

The commissioner shall dispose of such articles as are declared forfeited.

The forms herein set forth, with such changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for the libel shall be 50c; for entering the same, 30c; for trying the same, \$1; for a monition, 50c; for posting notices and return, \$1; for order to restore or deliver, 25c; for executing the order, 50c; and 10c per mile for all necessary travel.

FORM OF LIBEL

State of Maine

County of ss To
 a trial justice, judge or recorder of a municipal court, in and for said
 County:

The libel of of
 shows that he has seized certain fish, shellfish or lobsters, or parts there-
 of, or equipment possessed in violation of the provisions of chapter 34
 of the revised statutes, as revised, described as follows:

.....
 because the same were bought, sold, carried, transported or had in posses-
 sion in violation of the provisions of said chapter, as follows:

.....
 which said articles were possessed at in said county of
 Wherefore he prays for decree of forfeiture of said
 articles, according to the provisions of law in such case made and provided.

Dated at, in said county, this day of
, in the year of our Lord nineteen hundred

(Signed)

Coastal Warden

FORM OF MONITION AND NOTICE

State of Maine

L. S.

County of, ss

To all persons interested in

The libel of hereunto annexed, this day
 filed with me esquire, a trial justice, judge or
 recorder of a municipal court, in and for said county, shows that he has
 seized said articles because

 and prays for a decree of forfeiture of the same according to the provisions
 of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, judge, or recorder, at in in said county, on the day of A. D. 19..... at o'clock in the noon and then and there show cause why said articles should not be forfeited, and that notice hereof be given to all persons interested by causing a true and attested copy of this libel and monition to be posted in and two conspicuous places in the town of at least ten days before the return day hereof.

Witness, esquire
on the day of 19

Trial Justice, Judge or Recorder

A true copy. Attest:

.....
Coastal Warden

STATE OF MAINE

..... ss A. D. 19
I have this day made service of the within libel and monition, by posting up true and attested copies of the same, in two conspicuous places to wit: one and one in
Posting notice \$1.00

.....
Coastal Warden

Travel	Miles
Total	\$

STATE OF MAINE

(L. S.)

..... ss.
To one of the
..... of the

WHEREAS it appears that due notice was given to all parties interested in the fish, shellfish or lobsters, or parts thereof, or equipment described in the within libel of to appear before esquire, a trial justice, judge of the municipal court, within and for the county of at in on the day of A. D. 19 at o'clock in the noon, and

show cause why said should not be declared forfeited. And no person appearing to claim the same said are declared forfeited.

And of did appear and claim said and after hearing all the evidence I ordered said returned to said claimant. The same are declared forfeited and you are hereby ordered to turn the same over to the Commissioner of Sea and Shore Fisheries.

Witness, esquire, said trial justice, judge of the municipal court of in the county of this day of A. D. 19

..... Trial Justice
Judge of Municipal Court

..... ss. A. D.

Pursuant to the above order to me directed, I have turned over the within described to the Commissioner of Sea and Shore Fisheries.

.....
Coastal Warden

Sec. 140. Officer seizing fish, shellfish or lobsters to report to commissioner within 10 days. In all cases, the officer making any seizure or sale of fish, shellfish or lobsters, or parts thereof, shall within 10 days thereafter report all particulars thereof and an itemized statement of the proceeds, expenses and fees, and the disposition thereof to the commissioner. The failure of any person or officer to perform any act, duty or obligation enjoined upon him by this chapter shall be deemed a violation thereof.

Sec. 141. Commissioner or coastal wardens may make arrest or search buildings, camps, boats, etc., with or without warrants; commissioner to notify transportation companies of the names of wardens so empowered. The commissioner or any coastal warden may arrest, with or without a warrant, any person whom he has reason to believe guilty of a violation of any provision of this chapter, and with or without a warrant may open, enter and examine all buildings, camps, vessels, boats, wagons, cars, motor vehicles, airplanes, stages, tents and other places and examine all boxes, barrels, packages and other receptacles where he has reason to believe that fish, shellfish or lobsters, or parts thereof, taken or held in violation of the provisions of this chapter, are to be found, and seize such fish, shellfish or lobsters, or parts thereof, if any be found therein; but no dwelling-house

shall be searched for the above purposes without a warrant, and then only in the daytime, and no sealed railroad car shall be entered for the above purposes without such warrant. Any magistrate may issue warrants to search within his jurisdiction any dwelling-house or premises for the purposes above set forth; provided, however, that the commissioner shall, on or before the 1st day of October of each year, in writing, notify the superintendents of all transportation companies doing business within the state of the names of the coastal wardens by him designated to exercise the right of search of railroad cars as herein provided, and no other except those so designated shall be authorized to exercise the powers herein mentioned as to search of railroad cars.

Sec. 142. Vehicles required to stop on signal. It shall be unlawful for the operator of a boat, motor vehicle or other vehicle or conveyance of any kind to fail or refuse to stop any such boat, motor vehicle or other vehicle or conveyance of any kind and stand by for inspection upon request or signal of a coastal warden in uniform.

It shall also be unlawful for any person who has been requested or signaled by a coastal warden in uniform to stop and stand by for inspection to throw or dump into any water any lobsters or any pail, bag, barrel or other receptacle of any kind or the contents thereof before inspection of same has been made by said coastal warden.

Fines, Fees, Forfeitures and Penalties

Sec. 143. Fines, fees, forfeitures and penalties; how recovered; commissioner to report to treasurer of state. All fines, fees, forfeitures and penalties under the provisions of this chapter may be recovered by complaint, indictment, or action of debt made or brought in the county where the offense was committed. The action of debt shall be brought in the name of the state. All fines, fees, forfeitures, penalties and collections under the provisions of this chapter, except when otherwise expressly provided, shall accrue to the commissioner and by him the same shall be paid to the treasurer of state for deposit in the general fund. The commissioner shall report to the treasurer of state the amount of each fine, fee, forfeiture, penalty and collection itemized, and the name of the party paying the same, which shall be kept on record in the office of the treasurer.

Sec. 144. Penalties. Whoever violates any of the provisions of this chapter or rules and regulations promulgated thereunder, or rules and regulations heretofore promulgated and still in force and effect, excepting only those for the violation of which specific penalties have been provided,

shall be punished by a fine of not less than \$10 nor more than \$300 and costs, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Biennial Revision

Sec. 145. Biennial revision of "sea and shore fisheries" laws. As soon as practicable after the adjournment of the legislature, the revisor of statutes, with the assistance of the commissioner, shall issue a revision of all the public laws relating to sea and shore fisheries. This revision shall take the place of chapter 34 of the revised statutes of 1944 and all acts or parts of acts amending said chapter. It may be cited as "Chapter 34 of the revised statutes", and each revision shall replace the previous revision. The revision shall be printed in a pamphlet of the same sized pages as the laws of the state, and the printing and distribution thereof shall be the same as in the case of the biennial laws; except that the commissioner may issue as many extra copies of the said chapter 34, in whatever size pamphlet seems best to him, together with the rules and regulations promulgated under the provisions of this chapter, as he deems necessary or helpful to inform the people as to the sea and shore fisheries laws.

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