

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Ninety-sixth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Ninety-sixth Legislature

1953

Chapter 129

AN ACT Relating to the Biennial Revision of Sea and Shore Fisheries Laws.

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

Sec. 1. R. S., c. 34, § 16, amended. Section 16 of chapter 34 of the revised statutes, as revised, is hereby amended by inserting in alphabetical order thereof the following paragraphs:

‘“Canning,” the business or process of preserving foodstuffs in hermetically sealed containers.

“Crawfish,” those species of the family Palinuridae, including the representative genera *Panulirus*, *Jasus* and *Palinurus* which have been sometimes called by such terms as rock lobster, spiny lobster, sea crawfish, red lobster, thorny lobster, langoust, crayfish, Sidney crayfish, kreef, Cuban rock lobster or African lobster or crawfish.

“Hermetically sealed,” made perfectly close or airtight by or as by fusion, so that no air, gas or spirits can enter or escape, whether or not the can is sterilized by heat. This does not include friction cover containers.’

Sec. 2. R. S., c. 34, § 17, sub-§ VI, additional. Section 17 of chapter 34 of the revised statutes, as revised, is hereby amended by adding thereto a new subsection to be numbered VI, to read as follows:

‘VI. The commissioner may issue a combination license of any or all licenses to any person making application for such and if the person is found to be lawfully entitled to such license. The fee for such combination license shall be the total of the fees for the separate licenses enumerated on the combination license. The suspension of one license included in the combination license shall not suspend the other licenses included in the combination license.’

Sec. 3. R. S., c. 34, § 18, amended. Section 18 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

‘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 reconsigned 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~~ 113; and fish, shellfish or lobsters passing through the state under authority of the laws of the United States, or in crates that are sealed by consignor in accordance with regulations prescribed by the commissioner and with materials furnished by him, at cost, and the fines and penalties prescribed for violation of said laws respectively shall apply to the same extent.'

Sec. 4. R. S., c. 34, § 40, amended. Section 40 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Sec. 40. Use of trawls regulated; penalty. The use of either otter or beam trawls within the territorial waters of this state is prohibited for use in taking all fish except flat fish, whiting, herring and shrimp, 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. The use of either otter or beam trawls within the territorial waters of Washington county is prohibited.

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. 5. R. S., c. 34, § 47, amended. Section 47 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'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 parts thereof or fish that have been smothered or injured so that they will die. No person shall release or dump any fish, whether dead or alive, in the waters within the jurisdiction of the state after the scales have been intentionally removed from said fish. 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. 6. R. S., c. 34, § 50, repealed and replaced. Section 50 of chapter 34 of the revised statutes, as revised, is hereby repealed and the following enacted in place thereof:

'Sec. 50. Resident commercial fishing license. No resident, as owner or operator, shall operate in coastal waters any weir, floating fish trap or boat engaged in seining, netting or dragging until he has procured from the commissioner a written license therefor.

Such license, designated as a resident commercial fishing license, may be issued to persons who have been for 1 year prior to the date of their application, legal residents of the state. The license fee for operating a weir, floating fish trap or boat engaged in seining, netting or dragging in coastal waters shall be \$10 for each such weir, floating fish trap or boat and shall entitle the holder to take all species of fish, except shellfish, scallops and lobsters. Provided, however, that the fee for operating a boat with 1 man or any weir, trap or catch pound which is not more than 80 feet in outside perimeter, or any seine of not more than 40 fathoms in length, shall be \$3, and provided further, that if the crew of a weir, trap or boat exceeds 3 men, including the operator, the fee for this license shall be \$10 for each such weir, trap or boat, and \$3 for each resident or \$25 for each non-resident member of the crew in excess of 3 men.

All personnel assisting or helping in attending fishing gear or operating the boat shall be considered a member of the crew, and if a weir, trap or boat so licensed is found on inspection to have more crew members than stated in the license, the operator of the weir, trap or boat shall be liable for a fine of \$25 for each such unauthorized person or by imprisonment for not more than 30 days.'

Sec. 7. R. S., c. 34, § 51, repealed and replaced. Section 51 of chapter 34 of the revised statutes, as revised, is hereby repealed and the following enacted in place thereof:

'Sec. 51. Non-resident license to operate weir, floating fish trap or boat engaged in seining, dragging or netting. No non-resident, as owner or operator, shall use or operate in coastal waters any weir, floating fish trap or boat engaged in seining, dragging or netting until he has procured from the commissioner a written license therefor.

The license fee for operating a weir, floating fish trap or boat engaged in seining, dragging or netting, in coastal waters, shall be \$100 for each such weir, floating fish trap or boat and shall entitle the holder to take all species of fish except shellfish, lobsters and scallops.

Provided that if the crew of a weir, trap or boat exceeds 3 men, including the operator, the fee for this license shall be \$100 for each such weir, trap

or boat, and \$25 for each non-resident or \$3 for each resident member of the crew in excess of 3 men.

All personnel assisting or helping in attending fishing gear or operating the boat shall be considered a member of the crew and if a weir, trap or boat so licensed is found on inspection to have more crew members than is stated in the license, the operator of the weir, trap or boat shall be punished by a fine of \$50 for each unauthorized person or by imprisonment for not more than 30 days.'

Sec. 8. R. S., c. 34, §§ 52, 52-A, repealed. Sections 52 and 52-A of chapter 34 of the revised statutes, as revised, are hereby repealed.

Sec. 9. R. S., c. 34, § 58, amended. The 1st paragraph of section 58 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'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 ~~or the commissioner of sea and shore fisheries in the case of deorganized towns~~ granting the same and the commissioner of sea and shore fisheries.'

Sec. 10. R. S., c. 34, § 60, amended. The last sentence of section 60 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Whoever so digs, takes or removes clams, quahogs, mussels or other shell-fish shall, in addition, be punished by a fine of \$20 for each offense, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.'

Sec. 11. R. S., c. 34, § 89, amended. The 1st paragraph of section 89 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'No person, firm or corporation, as principal or by an agent or servant, shall ship or transport or attempt to ship or transport, in any manner beyond the limits of this state, any soft-shell clams in the shell; except that holders of licenses under the provisions of this section and ~~sections~~ section ~~110~~ ~~113~~ and ~~114~~ may ship or transport, by common carrier licensed by the interstate commerce commission, such clams in hermetically sealed cans containing no more than 3 dozen of such clams or in individual lots of not more than $\frac{1}{2}$ bushel of such clams to any 1 customer in any 1 day.'

Sec. 12. R. S., c. 34, § 90, amended. The 2nd sentence of section 90 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'On the 2nd conviction thereof the commissioner may in his discretion suspend the offender's commercial shellfish and marine worm license issued under the provisions of this chapter for a period not to exceed 1 month; on the 3rd conviction for a period not to exceed 3 months; and on the 4th and subsequent conviction for a period not to exceed 1 year.'

Sec. 13. R. S., c. 34, § 104, amended. Section 104 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'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 or quahog 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 more than 3 months.'

Sec. 14. R. S., c. 34, § 109, repealed and replaced. Section 109 of chapter 34 of the revised statutes, as revised, is hereby repealed and the following enacted in place thereof:

'Sec. 109. Scallop fishing license. No person, as owner or operator, shall operate in coastal waters any boat or drag engaged in the taking of scallops for commercial purposes until he has procured from the commissioner a written license therefor.

Such a license, designated as a scallop fishing license, may be issued to a person who has been 1 year prior to the date of his application a resident of the state and shall entitle the holder to take scallops for commercial purposes at times and in places permitted by law.

The fee for such scallop fishing license shall be \$10 for each such boat, provided that if the crew of the boat exceeds 3 men, including the operator,

the fee for this license shall be \$10 for each such boat and \$3 for each resident member of the crew in excess of 3 men.

All persons assisting or helping in attending fishing gear or operating the boat shall be considered a member of the crew, and if such boat so licensed is found on inspection to have more crew members than is stated in the license, the operator of the boat shall be punished by a fine of \$25 for each such unauthorized person, or by imprisonment for not more than 30 days.'

Sec. 15. R. S., c. 34, § 110, amended. Section 110 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Sec. 110. **Crawfish; regulation of sale of.** No person shall sell, offer for sale or have in possession for sale within the state, ~~African~~ crawfish, 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. 16. R. S., c. 34, § 110-A, amended. Section 110-A of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Sec. 110-A. **Commercial shellfish and marine worm license.** No person, except the holder of a commercial shellfish and marine worm license, shall sell any clams, quahogs, ~~or~~ mussels or marine worms that he has dug or taken from the flats, shores or coastal waters of the state.

No non-resident of the state shall dig or take more than $\frac{1}{2}$ bushel of clams, quahogs or mussels nor more than 30 marine worms during any 1 day from the flats, shores or coastal waters of the state.

No resident of the state shall dig or take more than $\frac{1}{2}$ bushel of clams, quahogs or mussels nor more than 30 marine worms during any 1 day from the flats, shores or coastal waters of the state without first having procured from the commissioner a written license therefor; except that a holder of a lobster and crab fishing license or a holder of a commercial fishing license may dig or take more than $\frac{1}{2}$ bushel of clams, quahogs or mussels for bait purposes only without obtaining a commercial shellfish and marine worm license.

A license, designated as a commercial shellfish and marine worm license, may be issued to residents of the state who shall make application for the same.

The fee shall be \$3 and it shall entitle the holder to dig or take clams, quahogs or mussels in quantities greater than $\frac{1}{2}$ bushel during any 1 day and to transport and sell the same in the shell within the state; and to dig, take, buy or sell marine worms.

No person, except the holder of a commercial shellfish and marine worm license as provided for in this section or a dealer duly licensed under the provisions of this chapter or as provided in the 3rd paragraph of this section, shall have in his possession more than $\frac{1}{2}$ bushel of clams, quahogs or mussels, nor more than 30 marine worms.'

Sec. 17. R. S., c. 34, § 110-D, amended. Section 110-D of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Sec. 110-D. Disposition of funds from sale of licenses. The funds received from sale of certain licenses, namely, "commercial shellfish licenses and marine worm licenses," ~~shellfish processors' licenses and~~ "interstate shellfish transportation licenses" and 10 per cent of the revenue from the sale of licenses under the provisions of section 113 shall constitute a shellfish fund, so called, to be expended under the direction of the commissioner for the sole purpose of restoration, development and conservation of clams, quahogs, mussels and marine worms 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.'

Sec. 18. R. S., c. 34, § 111, amended. Section 111 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Sec. 111. Retail dealer's license required to sell, serve, ship or transport soft-shelled clams, quahogs, crabs or lobsters; or parts thereof. No person, except as provided in this chapter, shall buy, sell, serve, ship or transport in any manner any soft-shelled clams, quahogs, crabs or lobsters, or parts thereof, without first having procured from the commissioner a written license therefor.

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

The fee for such license shall be ~~\$3~~ \$2, provided that a separate license shall be required for each market, hotel, restaurant, store or other facility

where soft-shelled clams, quahogs, crabs or lobsters are served or sold in retail trade.

A retail sea food dealer's license shall not be required of a person to transport soft-shelled clams, quahogs, crabs or lobsters, 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 within the state 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 soft-shelled clams, quahogs, crabs or lobsters, 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.'

Sec. 19. R. S., c. 34, § 112, repealed. Section 112 of chapter 34 of the revised statutes, as revised, is hereby repealed.

Sec. 20. R. S., c. 34, §§ 91, 110-C, 114, repealed. Sections 91, 110-C and 114 of chapter 34 of the revised statutes, as revised, are hereby repealed.

Sec. 21. R. S., c. 34, § 113, repealed and replaced. Section 113 of chapter 34 of the revised statutes, as revised, is hereby repealed and the following enacted in place thereof:

'Sec. 113. Wholesale sea food dealer's and processor's license. No person, firm or corporation shall engage in the wholesale trade in fish, shellfish, lobsters, crabs, or parts thereof, nor process, preserve by pickling, cooking, freezing or smoking, or can for sale any fish, shellfish, lobsters, crabs, or parts thereof, in wholesale trade without first having procured from the commissioner a written license therefor.

The fee for a license, designated as a wholesale sea food dealer's and processor's license, shall be \$35 and shall entitle the holder in wholesale trade to buy, sell, serve, process, preserve, pickle, cook, freeze, smoke or can for sale all species of fish, shellfish, lobsters and crabs; provided, also that such licensee shall be permitted to transport all fish except shellfish and lobsters in wholesale and retail trade within and outside the state, and to ship all species of fish, shellfish and lobsters within and outside the state with the exceptions of the provisions covering soft shell clams as set forth in section 89.

Provided that in addition to such license a shellfish certificate issued by the commissioner of agriculture, as provided for in section 89, shall be re-

quired for shipment beyond the limits of the state of any clams, quahogs or mussels, either in the shell or shucked; and provided, further, that by virtue of this license, clams may be shipped only by common carrier licensed by the interstate commerce commission.

Any person, firm or corporation licensed under the provisions of this section, that maintains any facility for the buying, selling, processing, preserving by cooking, freezing, smoking or canning of fish, shellfish, lobsters or crabs 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 \$10. Provided further that anyone engaged in smoking of alewives or herring, as smoked herring or bloaters, shall be exempt from the licensing provisions of this section.

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. 22. R. S., c. 34, § 115, amended. The 3rd paragraph of section 115 of chapter 34 of the revised statutes, as revised, is hereby amended to read as follows:

'Such license shall be issued only to persons who have been, for 3 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 1 year next preceding his application shall be entitled to have his non-residence taken as part of said 3 years, and the fee for such license shall be \$5; and provided further, that a veteran of World War II or the Korean campaign, who is honorably discharged, honorably separated or retired from active service in the armed forces shall be granted such license if he has been a resident of Maine for at least 1 year prior to the date of the application.'

Sec. 23. R. S., c. 34, § 120, amended. The 1st, 4th and 5th paragraphs of section 120 of chapter 34 of the revised statutes, as revised, are hereby amended to read as follows:

'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 ~~or 114~~ upon written application to the commissioner and the payment of a fee of \$10.'

'It shall be unlawful to possess, 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, except that hotels and restaurants may cut up such lobster meat immediately prior to and for the purpose of serving it to customers on the premises, and except further that ~~any person~~ the holder of a wholesale sea food dealer's and processor's license in the state may at his regular place of business cut up such lobster meat immediately prior to and for the purpose of preserving, canning or freezing.'

'It shall be lawful for holders of a ~~seafood processor's~~ wholesale sea food dealer's and processor's license to receive meat from other states and countries providing such meat is immediately processed and hermetically sealed in all metal or metal and glass containers for resale as processed stews, newburgs or chowders, in the retail trade. Such meat shall not be resold unless processed as above and it must conform to legal standards of the states or countries from which it originates. The purchaser of such meat is required to file a monthly statement of such shipments received with the commissioner on forms furnished by the commissioner and the shipping containers cannot be opened until immediately prior to processing of the meat.'

Sec. 24. R. S., c. 34, § 119, repealed. Section 119 of chapter 34 of the revised statutes, as revised, is hereby repealed.

Sec. 25. R. S., c. 34, § 129, repealed. Section 129 of chapter 34 of the revised statutes, as revised, is hereby repealed.

Sec. 26. Effective date of certain sections. The provisions of sections 2, 3, 6, 7, 8, 11, 12, 14, 16, 17, 18, 19, 20, 21, 23 and 25 of this act shall not take effect until January 1, 1954.

Effective August 8, 1953, except as noted in Section 26

Chapter 130

AN ACT Relating to Salaries of Members of Boards of Registration.

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

R. S., c. 3, § 13, amended. The last paragraph of section 13 of chapter 3 of the revised statutes, as enacted by chapter 347 of the public laws of 1947, and as amended, is hereby further amended to read as follows: