

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
PORTLAND, MAINE
1977

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

CHAPTER 743

AN ACT to Clarify the Laws Relating to Marine Resources.

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

Sec. 1. 12 MRSA § 3403, as repealed and replaced by PL 1975, c. 275, § 1, is amended to read:

§ 3403. The applicability of the marine resources law generally

All general laws of Maine fixing or regulating the minimum or maximum sizes of fish, shellfish or lobsters, regulating fishing methods, quantity and types of gear, regulating or prohibiting the sale, transportation or possession of fish, shellfish or lobsters, shall apply to all persons conducting the activities so regulated or prohibited where such activities or any portion thereof are conducted within the State of Maine, within the territorial waters of the State of Maine, or the product of such activities are brought into the State or into the territorial waters of the State, and shall apply to all residents of the State of Maine where such activities are conducted within waters adjacent to the territorial waters of Maine and under the jurisdiction of the United States but not another state, except as provided in this section.

1. Exception for wholesale dealer in certain instances; authority for regulations. This section does not apply to lobsters reconsigned intact in the original crates by a holder of a Maine wholesale seafood dealer's and processor's license to another such dealer if the crates are sealed in accordance with regulations adopted by the commissioner with materials furnished by him at cost.

A. The commissioner is authorized to adopt regulations to prescribe the time, manner and method of sealing crates for the effective operation of this subsection. The regulations may contain provisions for inspection of the crates, contents and seals.

(1) The commissioner shall publish the regulation once in the state paper before it becomes effective.

(2) The commissioner shall furnish a copy of the regulations on request of the holder of a wholesale seafood dealer's and processor's license.

2. Exception for certain marine species passing through State. This section does not apply to fish, shellfish or lobsters passing through the State under the authority of laws of the United States.

Sec. 2. 12 MRSA § 3503, sub-§ 2, ¶ C is amended to read:

C. ~~After the commissioner has complied with paragraph B. he~~ The commissioner shall cause the regulation to be published once in a newspaper or combination of newspapers having general circulation in the county or counties where the shores, waters or flats to be closed are located.

Sec. 2-A. 12 MRSA § 3505, sub-§ 1, ¶ B, sub-¶ (3) is repealed.

Sec. 2-B. 12 MRSA § 3505, sub-§ 3, ¶ B is repealed and the following enacted in place thereof:

B. The hearing shall be held within 30 days of receipt by the commissioner of a petition provided in subsection 1, paragraph B.

Sec. 3. 12 MRSA § 3652, sub-§ 1, ¶ A is repealed as follows:

A. ~~They shall arrest and prosecute all violators~~

Sec. 4. 12 MRSA § 4001, sub-§ 2 is amended to read:

2. License designation; resident requirements. The license, designated as a scallop fishing license, may be issued by the commissioner to any person who has been a legal resident of the State of Maine for ~~one year~~ 6 months next prior to the date of his application.

Sec. 5. 12 MRSA § 4062, as enacted by PL 1973, c. 468 and as last amended by PL 1973, c. 625, § 78-A, is repealed.

Sec. 5-A. 12 MRSA § 4252-A, sub-§ 7, last sentence, as enacted by PL 1975, c. 692, § 2, is amended to read:

He shall obligate ~~annually~~ in the calendar year 1976 from the Shellfish Fund, as established according to section 4311, an amount not to exceed \$25,000 to be used to carry out the purposes of this section.

Sec. 6. 12 MRSA § 4301-B, sub-§ 3, as enacted by PL 1965, c. 59, § 1, is amended to read:

3. Residence requirement; supplemental licenses; fees. Any person who has been a resident of the State of Maine for at least ~~12 months~~ 6 months next prior to the date of application may make application to the commissioner for a marine worm dealer's license. A partnership may also make application for such a license, provided all members of the partnership have been residents of the State of Maine for at least ~~12~~ 6 months next prior to the date of application. A corporation created and existing under the laws of this State may likewise make application for such a license, provided all the corporate officers and its manager have been residents of this State for at least ~~12~~ 6 months next prior to the date of application.

Sec. 7. 12 MRSA § 4302, sub-§ 2, ¶ B, as amended by PL 1973, c. 663, § 6, is further amended to read:

B. The licensee must have a shellfish ~~shucking~~ certificate as provided by section 4302-B, if he ~~removes~~ buys, sells or processes clams, quahogs, oysters or mussels ~~from the shell for shipment beyond the limits of the State.~~

Sec. 8. 12 MRSA § 4304, sub-§ 5 is amended to read:

5. Persons qualified for license. A license may be granted only to a person who has resided in the State for at least ~~one year~~ 6 months next preceding the date of his application, or who has been a taxpayer or resident in the municipality for at least ~~one year~~ 6 months next preceding the date of his application.

Sec. 9. 12 MRSA § 4305, sub-§ 1, ¶ B is amended to read:

B. The application must state that the applicant has resided in the State at least ~~one year~~ 6 months next preceding the date of application, or that the applicant has been a taxpayer or resident in the municipality for at least ~~one year~~ 6 months next preceding the date of application.

Sec. 10. 12 MRSA § 4309, 1st ¶, as amended by PL 1967, c. 82, § 10, is further amended to read:

It is unlawful for any person, firm or corporation that holds a wholesale seafood dealer's and processor's license or interstate shellfish transportation license to buy, sell, process, ship or transport to ship beyond the limits of this State any soft shell clams, quahogs, oysters or mussels, whether the same have been removed from the shell or not, or to sell such shellfish to another for shipment or transportation beyond the limits of the State, or to cause the same to be done, without having a current shellfish certificate from the commissioner as provided in this section.

Sec. 11. 12 MRSA § 4309, sub-§ 5, 1st ¶ is amended to read:

5. Suspension of certificate or license. The commissioner may suspend for any period of time any certificate or wholesale seafood dealer's and processor's license or interstate shellfish transportation license issued by him, or the right to obtain a certificate or license, whenever the holder of the certificate or license has violated any provision of the certificate or any law or regulation pertaining to shellfish.

Sec. 12. 12 MRSA § 4309, sub-§ 8 is repealed.

Sec. 13. 12 MRSA § 4311, 1st ¶, as amended by PL 1965, c. 59, § 3, is further amended to read:

~~All~~ Twenty-five percent of the license fees received from commercial shellfish licenses, and ~~from~~ interstate shellfish transportation licenses and ~~10%~~ of all the license fees received from wholesale seafood dealer's and processor's licenses are allocated to the Shellfish Fund, as heretofore established.

Sec. 13-A. 12 MRSA § 4404, sub-§ 2 is amended to read:

2. License designation; general scope. The license, designated as a lobster and crab fishing license, entitles the holder to take and sell his catch of lobsters and crabs when and where it is otherwise lawful to take them.

Sec. 14. 12 MRSA § 4404, sub-§ 4, first ¶, as repealed and replaced by PL 1975, c. 518, § 1, is repealed and the following enacted in place thereof:

A lobster and crab fishing license may be issued to any person who has been a resident of the State for 6 months next prior to the date of application.

Sec. 15. 12 MRSA § 4404, sub-§ 7, as last amended by PL 1975, c. 518, § 2, is further amended to read:

7. Certain persons considered as fishing. Any person, assisting or help-

ing another in lobster or crab fishing, either by operating the boat or in attending to lobster or crab traps or pots, is considered as fishing and must have a current license under this section ~~or as provided in section 4404-A.~~

Sec. 15-A. 12 MRSA § 4466, as enacted by PL 1969, c. 221, is amended to read:

§ 4466. Otter or beam trawls, seining or netting prohibited

It is unlawful for any person to fish for, catch or take any lobsters by use of an otter or beam trawl, seine or net or to have in possession any lobsters on board of any boat rigged for otter or beam trawling, seining or netting regardless of their source.

1. **Exception.** This section shall not apply to any person who catches or takes lobsters by use of an otter or beam trawl, seine or net provided said lobsters are liberated immediately alive when caught. This section shall not apply to any person who uses an otter or beam trawl, seine or net and who desires to fish for lobsters or crabs by pots or traps, providing all nets or seines are removed from the boat before fishing for lobsters.

It is unlawful to discard or abandon into the coastal waters of the State any net made of monofilament or of other materials which are not biodegradable.

The penalty for violating this section is stated in section 4504.

Sec. 16. 12 MRSA § 4504, as last amended by PL 1973, c. 318, § 3, is further amended to read:

§ 4504. General penalty

Whoever violates any provision of chapters 401 to 417, or any regulation authorized by chapters 401 to 417, or any rule and regulation authorized by the Revised Statutes of 1954, chapter 38, or any regulation adopted by the commissioner by legislative directive, excepting only those violations for which specific penalties are provided in the section or regulation establishing the violation, shall be punished by a fine of not less than \$25 nor more than \$500, or by imprisonment for not more than 90 days one year, or by both.

Effective July 29, 1976

CHAPTER 744

AN ACT to Reform the Regulation of Watch, Guard and Patrol Agencies and of Private Detectives.

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

Sec. 1. 32 MRSA § 3804-A, as enacted by PL 1971, c. 582, § 1, is amended to read: