

MAINE STATE LEGISLATURE

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PART 4
SEA AND SHORE FISHERIES

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CHAPTER 401
GENERAL PROVISIONS

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§ 3401. Definitions

Each word or term defined in this section has the meaning indicated in this section for the purposes of chapters 401 to 417, unless a different meaning is plainly required by the context.

1. Angling. "Angling" means fishing with handline or rod with a live or artificially baited hook.

2. Atlantic salmon. "Atlantic salmon" means Atlantic sea run salmon.

3. Can, the verb. The verb "to can" means in all its moods and tenses to process or preserve food in hermetically sealed containers.

4. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide and the marine limits

of the jurisdiction of the State; but it does not include waters within or above any fishway or dam when that fishway or dam is normally the dividing line between tidewater and fresh water, nor does it include waters above any tidal bound that has been legally established in streams flowing into the sea.

5. Commissioner. "Commissioner" means Commissioner of Sea and Shore Fisheries.

6. Clam. "Clam" means a marine mollusk or shellfish commonly called a soft-shell clam.

7. Closed season. "Closed season" means the time during which a particular species may not be caught or taken.

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

9. Dealer. "Dealer" means any person who buys and sells or distributes any marine species.

10. Department. "Department" means Department of Sea and Shore Fisheries.

11. Division. "Division," when by the context it refers to part of chapters 401 to 417, means a part of a subparagraph. It is next in importance to a subparagraph. It is designated by a small letter in parenthesis.

12. Fish, the verb. The verb "to fish" in all of its moods and tenses means to take or attempt to take fish or other marine species by any method or means, whether or not the method or means results in their capture.

13. Fresh fish. "Fresh fish" means any fish which has not been smoked, pickled, cooked, canned or quick frozen.

14. Hard-shell clam. "Hard-shell clam" means that species of shellfish which is sometimes called a quahog.

15. Hermetically sealed. "Hermetically sealed" means a container which has been made airtight by or as by fusion so that no air, gas or spirits can either enter or escape, whether or not the can is sterilized by heat, but does not include friction cover containers.

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

17. Marine species. "Marine species" includes all fish which usually inhabit salt water, all shellfish, lobsters, crabs, shrimps and marine worms, but is limited to the number and type of those species indicated by the context of the particular section where it is used.

18. Marine worms. "Marine worms" means clam, sand and blood worms.

19. Open season. "Open season" means that time during which a particular species may lawfully be taken.

20. Paragraph. "Paragraph," when by the context it refers to part of chapters 401 to 417, means a part of a subsection as defined in this section. It is next in importance to a subsection. It is designated by a capital letter. It includes all subparagraphs, as defined in this section, which are directly under it.

21. Quahog. "Quahog" means a species of shellfish which is often called a hard-shell clam.

22. Resident and residence. "Resident and residence" each refer to domicile.

23. Salmon commission. "Salmon commission" means Atlantic Sea Run Salmon Commission.

24. Seed clam. "Seed clam" means a soft-shell clam which is less than 2 inches long in its longest diameter.

25. Seed quahog. "Seed quahog" means a hard-shell clam which is less than 2 inches long in its longest diameter.

26. Shellfish. "Shellfish" means all marine mollusks except lobsters, crabs and shrimps.

27. Ship, the verb. The verb "to ship" in any of its moods and tenses means to send by a common carrier.

28. Soft-shell clam. "Soft-shell clam" means that species of shellfish which is often called a clam, and it does not include a quahog.

29. Subparagraph. "Subparagraph," when by the context it refers to part of chapters 401 to 417, means a part of a paragraph as defined in this section. It is next in importance to a paragraph. It is designated by an Arabic numeral in parenthesis.

It includes all divisions, as defined in this section, which are directly under it.

30. Subsection. "Subsection," when by the context it refers to part of chapters 401 to 417, means a part of a section. It is next in importance to a section. It is designated by an Arabic numeral. It includes all paragraphs, as defined in this section, which are directly under it.

31. Territorial waters. "Territorial waters" means coastal waters as defined in this section.

32. Tidal waters. "Tidal waters" means coastal waters as defined in this section.

33. Transport, the verb. The verb "to transport" in all its moods and tenses means to move an object from one place to another by any means other than to ship as defined in this section.

34. Tuna. "Tuna" includes all species of fish known as tuna and includes that fish commonly called a horse mackerel.

35. Warden service. "Warden service" means coastal warden service which includes all coastal wardens regardless of rank, grade or position.

R.S.1954, c. 38, § 16; 1959, c. 331, § 1.

§ 3402. Rules of construction

The following rules of construction apply to chapters 401 to 417, unless a different construction is plainly required by the context:

1. Reference to any marine species includes any part of same. Any reference to the taking or possession of any particular marine species includes the taking or possession of any part of it.

2. Chapter generally applies only to marine species. Chapters 401 to 417 and the regulations authorized by it apply only to marine species, as distinguished from fresh water species, except where jurisdiction or concurrent jurisdiction over species which migrate between the coastal and inland waters is specifically given, or where jurisdiction over other species is specifically given.

3. General eligibility for resident licenses. Any person is eligible for any resident license which the commissioner is au-

thorized to issue under chapters 401 to 417, providing he has resided in Maine for 6 months next prior to the date of his application, unless a longer residence is specifically provided.

R.S.1954, c. 38, § 16; 1959, c. 331, § 1.

§ 3403. Application of general laws to domestic and foreign marine species

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, apply whether the same are taken from the waters of the State of Maine, or the waters of any other state, country or territory and brought into the 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.

R.S.1954, c. 38, § 18; 1959, c. 331, § 1.

§ 3404. Regulations of commissioner and salmon commission

The following provisions apply to all rules and regulations of the commissioner and of the salmon commission in effect immediately prior to September 12, 1959, to all regulations of the

commissioner and of the salmon commission which are adopted under chapters 401 to 417, and all regulations of the commissioner adopted by legislative directive.

1. Have force of law. They have the force of law.

2. Remain in force until changed. They remain in force until changed by further regulations, or by the Legislature.

3. Provision for penalties. Whoever violates any provision of them shall be punished by the penalties provided in section 4504, unless a specific penalty is otherwise authorized and provided.

4. Proof of regulation by certificate. A certified copy of any one of them is admissible in all courts to prove the regulation, subject to this subsection, and is prima facie evidence that the regulation was adopted in accordance with the statute authorizing it.

A. A regulation of the commissioner must be certified by him, and must be accompanied by his signed statement that it was in force on the date of the alleged violation.

B. A regulation of the salmon commission must be certified by either the Commissioner of Sea and Shore Fisheries or by the Commissioner of Inland Fisheries and Game, and must be accompanied by the signed statement of either that it was in force on the date of the alleged violation.

C. The certified copy is admissible in evidence in any court upon testimony of any coastal warden, or game warden, that he received the certified regulation after requesting the same by telephone, or otherwise, from the office of the Commissioner of Sea and Shore Fisheries, or the office of the Commissioner of Inland Fisheries and Game if the regulation is one adopted by the salmon commission.

(1) No further foundation is necessary for the admission of the certified copy of the regulation in evidence.

R.S.1954, c. 38, § 6; 1959, c. 331, § 1.

§ 3405. Concurrent jurisdiction

Sea salmon, shad, alewives and smelts, wherever found, that migrate from the ocean to fresh water are under the concurrent jurisdiction of the Commissioner of Sea and Shore Fisheries and the Commissioner of Inland Fisheries and Game.

1. Commissioners to cooperate. The commissioners shall cooperate in effectively supervising overlapping jurisdiction.

R.S.1954, c. 38, § 3; 1959, c. 331, § 1.