

MAINE STATE LEGISLATURE

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NINETY-SEVENTH LEGISLATURE

Legislative Document

No. 156

H. P. 165

House of Representatives, January 25, 1955.

Referred to the Committee on Sea and Shore Fisheries, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. McCluskey of Warren.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Clarifying Certain Sea and Shore Fisheries Laws.

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

Sec. 1. R. S., c. 38, § 39-A, additional. Chapter 38 of the revised statutes is hereby amended by adding thereto a new section to be numbered 39-A, to read as follows :

'Sec. 39-A. Procedure for propagation of quahogs. A person, firm or corporation, who holds a permit to cultivate shellfish granted by a town, may apply for sub-legal quahogs to the municipal officers of a town or city whose flats are occupied by a sub-legal population of hard-shelled clams or quahogs. Such application shall include a description of the discrete area from which seed quahogs or hard-shelled clams are to be obtained and a further description of the means by which said seed quahogs or hard-shelled clams shall be harvested for transplanting purposes. No municipal permit shall be granted 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 and description of the area occupied by said seed quahogs or hard-shelled clams. Notice shall also be given of said hearing to the Commissioner of Sea and Shore Fisheries. Following favorable action taken by the municipal officers in granting said transplanting permit to the applicant, the municipal officers shall notify the Commissioner of Sea and Shore Fisheries of the action taken. Following the grant of the municipal permit, the applicant shall then apply to the Commissioner of Sea and Shore Fisheries for a specific permit which shall include a description of said seed area, a description of means

and manner of harvesting and transporting and a description of the area where said seed will be planted. After the Commissioner has appraised himself of the conditions under which the transplanting will take place, the Commissioner shall grant said permit subject to the following conditions: Seed will be planted only in flats in the State of Maine which are either publically or privately controlled. Said permit shall contain a specified expiration date and a specified volume of seed stocks which during the permitted time may be transplanted. Said volume of seed quahogs to be transplanted under all private permits shall not exceed 25 per cent of the estimated population within said discrete area nor shall the total volume granted to any one permit holder exceed 5 per cent of said estimated population. Such estimate to be determined by research personnel of the Department of Sea and Shore Fisheries utilizing accepted survey methods.'

Sec. 2. R. S., c. 38, § 92, amended. The 3rd sentence of section 92 of chapter 38 of the revised statutes is hereby amended to read as follows:

'Provided, however, 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 authorized to grant, for replanting in waters or flats within the State or ~~any other purpose under the provisions of section 39-A.~~'

Sec. 3. R. S., c. 38, § 112, amended. The last paragraph of section 112 of chapter 38 of the revised statutes is hereby repealed.

Sec. 4. R. S., c. 38, § 127, amended. The 3rd and 4th paragraphs of section 127 of chapter 38 of the revised statutes are hereby amended to read as follows:

'When an appeal has been taken by any person from ~~a~~ **the decision or** 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 **or right thereto** 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~~ **may** issue such a license to said person ~~until 15 days have elapsed from~~ **at any time after** the date of final determination of any complaint or legal proceedings instituted as a result of the violation.'

Sec. 5. R. S., c. 38, § 138, amended. The 1st paragraph of section 138 of chapter 38 of the revised statutes is hereby amended to read as follows:

'It shall be unlawful for the operator of a boat, motor vehicle or other vehicle or conveyance of any kind to fail ~~to~~ **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.'