

MAINE STATE LEGISLATURE

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L.D. 1719

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-680)
110TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1734, L.D. 1719, Bill,
"AN ACT Relating to Emergency Closure of Contaminated Shell-
fish Areas."

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Amend the bill by inserting before the enacting clause
the following:

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'Emergency preamble. Whereas, Acts of the Legislature
do not become effective until 90 days after adjournment
unless enacted as emergencies; and

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Whereas, bacterial infection and paralytic shellfish
poisoning in contaminated shellfish can pose a grave and
immediate threat to the public health and safety; and

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Whereas, under present provisions it may take the
Department of Marine Resources up to 4 days to adopt emer-
gency rules closing contaminated shellfish areas; and

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Whereas, while that department is adopting rules to
close contaminated areas the public may be exposed to dan-
gerous levels of pollution; and

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Whereas, in the judgment of the Legislature, these
facts create an emergency within the meaning of the Consti-
tution of Maine and require the following legislation as
immediately necessary for the preservation of the public
peace, health and safety; now, therefore,

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Further amend the bill by striking out everything after
the enacting clause and inserting in its place the follow-
ing:

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'Sec. 1. 12 MRSA §6172, sub-§3, as enacted by PL 1977,
c. 661, §5, is amended by adding at the end the following:

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The commissioner shall use emergency regulatory procedures
to open areas or waters that have been closed under emer-
gency procedures of this section.

1 COMMITTEE AMENDMENT "A" to H.P. 1734, L.D. 1719

2 Sec. 2. 12 MRSA §6192, sub-§4, as enacted by PL 1977,
3 c. 661, §5, is repealed and the following enacted in its
4 place:

5 4. Effective date. Except as provided in this subsec-
6 tion, emergency regulations shall become effective immedi-
7 ately upon publication in a newspaper of general circulation
8 in the area of the State affected, provided it is submitted
9 to the Attorney General and filed with the Secretary of
10 State as required under the Maine Administrative Procedure
11 Act, Title 5, chapter 375, within the next business day fol-
12 lowing publication.

13 Notwithstanding any provisions of the Maine Administrative
14 Procedure Act, an emergency regulation authorized by section
15 6172, subsection 2 or 3 shall be effective immediately upon
16 signature by the commissioner or his authorized designee.
17 Upon promulgation of such an emergency regulation, the com-
18 missioner shall give oral notice of the emergency closure to
19 local governmental authorities and shall publish notice of
20 the closure as soon as possible in a newspaper of general
21 circulation in the area of the State affected. Marine
22 patrol officers shall take action to prevent taking of
23 shellfish from that area, including the embargo of contami-
24 nated shellfish under section 6856, subsection 6 and the
25 arrest of any person violating the emergency regulation.

26 Emergency clause. In view of the emergency cited in
27 the preamble, this Act shall take effect when approved.

28 STATEMENT OF FACT

29 This amendment provides for immediate closure or
30 reopening of shellfish areas that have been determined to be
31 polluted or contaminated. Immediate closure is necessary in
32 order to insure the protection of public health. The amend-
33 ment also adds an emergency preamble and emergency clause.

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Reported by the Committee on Marine Resources.
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of the House.

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