

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 648

H.P. 478

House of Representatives, February 11, 2003

An Act Clarifying Municipalities' Authority to Assign Mooring Permits

Reference to the Committee on Marine Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative EDER of Portland.
Cosponsored by Representatives: ASH of Belfast, SULLIVAN of Biddeford.

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

4 **Sec. 1. 38 MRSA §3**, as amended by PL 1991, c. 838, §16, is
further amended to read:

6 **§3. Mooring sites**

8 In all harbors wherein channel lines have been established
10 by the municipal officers, as provided in section 2, and in all
other coastal and tidal waters, harbors and great ponds where
12 mooring rights of individuals are claimed to be invaded and
protection is sought of the harbor master, the harbor master
14 shall assign and indicate only to the masters or owners of boats
and vessels and aquaculture lease holders, the location that they
16 may occupy for mooring purposes and shall change the location of
those moorings from time to time when the crowded condition of
18 that harbor or great pond, the need to conform to section 7-A or
other conditions render the change desirable.

20 Unless permitted by an ordinance adopted under section 3-A,
22 mooring assignments may not be transferred. Assignments may not
be rented unless the provision for rental was part of the
24 agreement when the mooring was assigned.

26 Assignment of these mooring privileges does not confer any
right, title or interest in submerged or intertidal lands owned
28 by the State. To the extent that there is any inconsistency
between this subchapter and any law ~~which~~ that establishes or
30 otherwise provides for a state agency, port authority, board of
harbor commissioners or ~~similar~~ other authority for any coastal
32 waters of the State, that inconsistency shall ~~must~~ be resolved in
favor of this subchapter.

34 Whenever practicable, the harbor master shall assign mooring
36 privileges in those waters where individuals own the shore rights
to a parcel of land, are masters or owners of a boat or vessel
38 and are complainants, and shall locate suitable mooring
privileges therefor for boats and vessels, temporarily or
40 permanently, as the case may be, fronting their land, if so
requested, but not to encroach upon the natural channel or
42 channels established by municipal officers; provided that not
more than one mooring may be assigned to any shore-front parcel
44 of land under this privilege. Notwithstanding section 11, persons
who, prior to January 1, 1987, owned shore rights of at least 100
46 feet of frontage regardless of the size of the lot shall have
mooring privileges assigned according to this section. The
48 limitation of one mooring assigned under this privilege shall
does not prevent the owner of a shore-front parcel from receiving
50 additional mooring assignments under the allocation system for
all other residents.

2 A harbor master may refuse to assign mooring privileges to
any vessel or boat owner or master or aquaculture lease holder
4 who has not paid any fee, charge for services, forfeiture or
penalty levied pursuant to this subchapter, or whose activities
6 are determined by the harbor master to unreasonably interfere
with existing uses.

8
10 **Sec. 2. 38 MRSA §7**, as amended by PL 1997, c. 89, §1, is
further amended to read:

12 **§7. Relation to other laws**

14 Nothing in this subchapter or in any other state law may be
construed to be a limitation on the authority of municipalities
16 to enact ordinances to regulate the assignment or placement of
moorings and other activities in their harbors. These ordinances
18 may include, but are not limited to: A process for assigning
mooring privileges and determining the location of moorings; a
20 waiting list for the assignment of mooring privileges; a fee
schedule; construction standards for moorings; time limits on the
22 mooring of vessels; a process for appeals from decisions of the
harbor master; provisions that recognize that mooring privileges
24 in lawful existence on the effective date of an ordinance may be
preserved or continued after adoption of that ordinance, the
26 location and use to be determined by the harbor master or other
appropriate local authority; and provisions that establish a
28 harbor commission or committee to administer the ordinance or
ordinances and oversee the duties of the harbor master.
30 Regulations adopted by the municipal officers under section 2
remain in effect unless the municipality's legislative body
32 enacts an ordinance pertaining to the same matter pursuant to the
Constitution of Maine, Article VIII, Part 2, and Title 30-A,
34 section 3001.

36
38 **SUMMARY**

40 This bill adds aquaculture to the list of activities that
require mooring permits from municipal harbor masters and
42 clarifies that municipalities with harbor masters may exercise
exclusive authority to assign mooring permits within waters under
their jurisdiction.