

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2303

H. P. 2200

House of Representatives, March 15, 1976

Reported by Mr. Webber from Committee on Marine Resources and
printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Establish a Program to Protect the Clam
Fishery from Green Crab Predation.**

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

Whereas, there has been a dramatic increase in numbers of green crabs which pose a serious threat to softshell clams and other intertidal bivalve molluscans; and

Whereas, these predators have caused a decimation of the replacement clam stocks in growing areas along $\frac{3}{4}$ of the Maine Coast from Kittery to Narraguagus Bay; and

Whereas, in 82 growing areas comprising 1,700 acres in different municipalities protection of the resources is feasible; and

Whereas, it is essential to provide sufficient time for careful planning so that the program can be established and implemented by May 1, 1976; and

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

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

Sec. 1. 12 MRSA § 4252, first ¶, as last amended by PL 1965, c. 33, § 6, is further amended by adding at the end a new sentence to read:

The ordinance may provide for enforcement, protection and evaluation of a green crab fencing program.

Sec. 2. 12 MRSA § 4252-A is enacted to read:

§ 4252-A. Green crab fencing program

1. Program established. There is established a fencing program to exclude green crabs from clam growing areas. This program shall be administered by the commissioner. When the commissioner has determined that a clam growing area is adversely affected by green crab predation, he shall provide funds, materials or expertise for the construction and installation of fencing to municipalities which have complied with the provisions outlined in subsection 4.

2. Regulations. The commissioner shall promulgate regulations in accordance with section 3505 concerning the establishment of a municipal program to:

A. Assure compliance with the requirements necessary to accomplish the purpose of the program, and

B. Provide criteria for determining which municipalities shall be awarded materials or funds, including but not limited to:

(1) the extent that the resource of a community has been adversely affected,

(2) the possible effectiveness of a program in a municipality, and

(3) a municipality's ability to evaluate the program by monitoring and comparing data.

3. Commissioner's powers and duties. The commissioner is authorized to enter into agreements with municipalities concerning the administration and evaluation of the effectiveness of green crab fencing programs carried out under this section. He shall notify each municipality which has clam growing areas of the program.

4. Application for inclusion in the program. Any municipality having an approved shellfish conservation ordinance as provided by sections 4251 and 4252, which desires to have a clam growing area included in this program, shall apply in writing to the commissioner on or before April 1st of each calendar year; except that for the calendar year 1976 applications may be made until June 1, 1976. The application shall contain the following information:

A. Description. The location and description, by metes and bounds as appropriate, of the area to be protected; and

B. Species. The species to be protected; and

C. Project. A description of the project in sufficient detail to enable the commissioner to determine:

- (1) The past and present status of the shellfish populations requiring protection, including whether these populations are natural or transplanted seed and whether or not they are near commercial sizes;
- (2) The effects of green crab predation;
- (3) Compatibility with navigational use; and
- (4) The estimated cost of the program; and

D. **Funding.** The funds that the municipality will obligate, as approved by its legislative body, as matching funds to the amounts obligated to that municipality's program by the commissioner according to subsection 7. In lieu of obligating funds, the municipality may, with the approval of the commissioner, provide in-kind contributions including, but not limited to, labor, equipment, materials, supervision, maintenance and monitoring the effectiveness of the program by record keeping.

5. **Completed application.** The commissioner shall notify the municipality that he has received a completed application or, if the application is incomplete or has insufficient information, what additional information is necessary.

6. **Notification of inclusion in the program.** The commissioner shall notify the municipality within 30 days of receiving a completed application that it will be included in the program or that it will not be included in the program and the reasons for this decision.

7. **Funding.** The commissioner shall disburse to a municipality funds, materials or services to provide 50% of the total expenditures necessary to carry out the program in that municipality. He shall obligate annually 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.

8. **Report to commissioner.** Any municipality, which has established a fencing program as provided in this section, shall annually by February 1st report to the commissioner giving a complete evaluation of the program in that municipality. Forms for these reports shall be provided by the commissioner.

9. **Report to Legislature.** The Commissioner of Marine Resources shall annually, by March 1st, report to the Legislature giving a complete evaluation of the program established by this section and whether the program should be continued.

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

STATEMENT OF FACT

The numbers of green crabs, a serious predator of softshell clams and other important intertidal molluscan shellfish, have increased dramatically along $\frac{3}{4}$ of the Maine Coast (Kittery to Narraguagus Bay). The increase is lower

in the northeast part of the coast but increases markedly southwest of Narragagus Bay.

Green crab predation has resulted in extreme decimation of replacement clam stocks (less than $\frac{1}{2}$ -inch clams) and to a lesser degree larger clams in most of the clam growing areas described above. Clam production is expected to drop dramatically during the next 7 to 10 years.

The increase of green crabs is associated with warm winter temperatures which have been optimal for green crab reproduction for the past 3 to 5 years.

Temperature cycles and long-range predictions indicate that a reversal of the temperature trend will occur in the near future. When the temperature decrease occurs, the probability is that it will be gradual for several years. This effect on green crab reproduction will require several years before the clam stocks recover from crab predation. Therefore, it will be necessary to protect clams throughout this period which may be 5 years or more.

Preliminary estimates indicate that there are 82 locations in the predator affected area where protection of clam stocks may be feasible. These locations comprise 1,700 acres of growing area with a production potential of 70,000 to 105,000 bushels and valued between \$980,000 to \$1,470,000 landed value. Community values are substantially higher depending on market use. Approximately 50,000 lineal feet of crab fencing at a low material cost of \$4 and a high of \$8 per 10-foot panel is the estimated need to protect the clams in these areas.

Massachusetts has the same predation problem. Maryland, the highest clam producing state in recent times, is experiencing catastrophic replacement stock failure due to ecological reasons.

The price of clams is expected to increase greatly because of low East Coast supply.

Because of the importance of the clam fishery to the coastal economy, the expected high price of clams and the cost-effectiveness of protecting the clam flats, this bill establishes a fencing program to combat the predation of the green crab.