

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-746)

COMMITTEE AMENDMENT "A" to H.P. 715, L.D. 851,
Bill, "AN ACT to Clarify and Limit the Authority of
Municipalities to Establish Shellfish Conservation Programs
and to License and Regulate the Taking of Shellfish."

Amend the Bill in section 1 by striking out all of the
last underlined sentence and inserting in its place the
following: 'The program shall include a program for assessment
of municipal shellfish stocks.'

Further amend the Bill in section 2 by striking out
everything after the amending clause and inserting in its
place the following:

'Any municipality which has raised or appropriated
money within 2 years next prior to acting under this section
for a shellfish conservation program approved by the commissioner
as authorized under section 4251 may enact municipal ordinances
regulating the taking of shellfish from any or all coastal
waters or flats within the municipality. The ordinances may
prohibit the taking of all shellfish or any species of
shellfish, may fix the times when shellfish may be taken,
may provide that municipal licenses be required for taking
shellfish, may provide limitations on the amount of each
species of shellfish that may be taken, may provide for the
size of soft-shell clams that may be taken or may fix
license fees. Each ordinance shall be based on a shellfish
conservation program, shall specify a total number of commercial

licenses to be issued annually, and shall provide that at least 1/3 of that number shall not be available to non-residents of the municipality. An ordinance may limit to digging by residents only, up to 1/3 of the shellfish flats that are open to the taking of shellfish, if the restricted flats are the least productive of the open flats in the municipality at the time of the adoption of the ordinance and if the digging effort on these flats must be reduced to conserve the shellfish stock. No ordinance, except an ordinance prohibiting the taking of all shellfish or any species of shellfish, shall require a license or otherwise restrict or regulate any person who takes shellfish for consumption by himself or his family and who takes or possesses less than 1/2 bushel in any one day; except an ordinance may restrict the taking of shellfish for personal consumption to residents of the State who own property in the municipality for one or more months during each year, if this restriction will prevent undue depletion of the shellfish stock during periods of potentially great recreational digging. No ordinance shall regulate those areas that are closed by regulation of the commissioner under section 3503 or section 3504. The license fees fixed in any ordinance shall not exceed the amount necessary to meet the municipal expenditures on the shellfish conservation program. The license fee for

nonresidents may exceed the fee for residents, if all license fees are expended only to enforce or carry out municipal and state shellfish conservation laws or programs and the difference between receipts of resident and nonresident fees is expended from general revenues of the municipality or is provided by services offered by residents. The license fee for nonresidents shall not exceed an amount equal to 2 1/2 times the resident fees. The ordinance shall have the written approval of the commissioner before adoption and that approval shall be filed with the municipal clerk prior to adoption. The ordinance may provide for enforcement, protection and evaluation of a green crab fencing program.'

Further amend the Bill by striking out all of section 3 and renumbering section 4 to be section 3.

Statement of Fact

The purpose of this amendment is to continue to allow municipalities to regulate shellfish flats and also to continue to differentiate between residents and nonresidents. This amendment provides in detail, requirements for municipal shellfish ordinances, in a manner that prevents abuse of this power and preserves the rights of nonresidents to dig for shellfish. It prohibits the general prohibition of nonresident digging and limits municipal exclusion of nonresidents.

Reported by Report "C" of the Committee on Marine Resources.

Reproduced and distributed under the direction of the Clerk of the House.

6/20/77

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