

MAINE STATE LEGISLATURE

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OF R.

L.D. 851

(Filing No. S-461)

STATE OF MAINE
SENATE
108TH LEGISLATURE
SECOND REGULAR SESSION

SENATE 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 by striking out all of the title and
inserting in its place the following:

'AN ACT Relating to Municipal Shellfish Conservation Programs.'

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

'Sec. 1. 12 MRSA §4251, as amended by PL 1965, c. 33,
§4, is repealed.

Sec. 2. 12 MRSA §4251-A is enacted to read:
§4251-A. Municipal shellfish conservation programs

1. Municipal funds. Any municipality may, by vote of
its legislative body, raise and appropriate money for the
implementation of a shellfish conservation program.

2. Municipal program and ordinance. Any municipality
may, by vote of its legislative body, adopt, amend or repeal
a shellfish conservation program and a shellfish conservation
ordinance regulating the taking of shellfish in any area in the
intertidal zone of the municipality as provided by this
section.

3. Shellfish conservation commission. A shellfish
conservation commission shall consist of at least 3 municipal
residents, appointed or elected, and shall have general

responsibility for the implementation of the shellfish conservation program.

4. Shellfish conservation program. A shellfish conservation program shall be in writing and shall include provisions for assessment of municipal shellfish stocks and for enforcement and conservation. The program shall be designed to protect and preserve the potential for a sustained yield of shellfish from the municipal intertidal zone or to restore the shellfish population in depleted areas. The program shall also include the duties of the shellfish conservation commission. The program may include provisions for a green crab fencing program.

5. Shellfish conservation ordinance. A shellfish conservation ordinance shall be based on a shellfish conservation program. Within any area in the intertidal zone in the municipality, the ordinance may regulate or prohibit the taking of shellfish, may fix the times shellfish may be taken, may limit the size of shellfish, may fix the qualifications for a license, including municipal residency, and may fix license fees. No program or ordinance shall regulate areas closed by regulation of the commissioner. The ordinance may also provide for enforcement, protection and evaluation of a green crab fencing program.

6. Recreational digging. No program or ordinance, except an ordinance prohibiting all persons from taking any shellfish, shall restrict or regulate any person who takes one peck or

less of shellfish in any one day for consumption by himself or his family, provided that an ordinance or program may require licenses for that activity at a nominal fee. Recreational digging may be limited to municipal residents for not more than 3 months, if the municipality can show this restriction is necessary to prevent undue depletion of or damage to the shellfish stock during periods of potentially great recreational digging. The number of recreational digging licenses issued shall only be restricted for conservation purposes.

7. Fees. Fees for licenses shall be reasonable and shall reflect the actual costs of the program. Expenditures of general tax revenues by the municipality may be considered in providing different fees for residents and nonresidents.

8. Adoption requirements. Prior to adopting an ordinance under this section, the municipality shall:

A. Raise or appropriate money for a shellfish conservation program within the 2 previous years; and

B. Receive the written approval of the commissioner for the program and proposed ordinance.

9. Approval. The commissioner may approve a shellfish conservation program and proposed shellfish conservation ordinance if he finds that they comply with this section and that any restrictions or limitations are valid, appropriate and reasonable conservation methods.

10. Commissioner's duty. The commissioner shall provide technical assistance to municipalities in the development and

SENATE AMENDMENT "A " to H.P. 715, L.D. 851

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implementation of their programs and ordinances.

11. Period of ordinance. Ordinances adopted under this section shall remain in effect for 3 years, unless sooner terminated or repealed. A certified copy of the ordinance shall be filed with the commissioner within 7 days of its adoption.

12. Municipality defined. For the purposes of this section, municipality includes a village corporation, and the combined towns of Yarmouth and North Yarmouth as one municipality.

13. Joint programs; reciprocal privileges. Municipalities may enter into joint conservation agreements with other municipalities and adopt joint programs. The agreements, and the programs and ordinances adopted under them, shall be subject to the same requirements as municipal programs and ordinances. Resident privileges of one municipality in a joint agreement may be extended to the residents of other municipalities in the agreement.

14. Local enforcement. A municipality that enacts an ordinance under this section shall be responsible to enforce it. The commissioner may also enforce any ordinance and shall assist the municipalities in their enforcement programs.

15. Penalty. Whoever takes or possesses shellfish contrary to a municipal ordinance authorized by this section shall be punished as provided under section 4504.

Sec. 3. 12 MRSA §4252, as last amended by PL 1975, c. 692, §1, is repealed.

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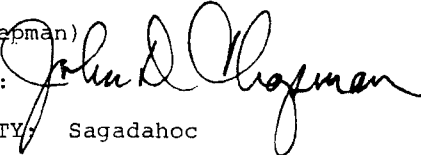
Sec. 4. Transition. All ordinances adopted under Title 12, sections 4251 and 4252 prior to the effective date of this Act shall remain in effect until they are repealed or terminate under the terms of those sections.

Sec. 5. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

		<u>1978-79</u>
MARINE RESOURCES, DEPARTMENT OF		
Personal Services	(3)	\$42,600
All Other		4,800
Capital Expenditures		<u>1,500</u>
	Total	\$48,900'

Statement of Fact

This amendment clarifies and removes certain objectionable provisions of the bill.

(Chapman)
 NAME: 
 COUNTY: Sagadahoc