

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 851

H. P. 715

House of Representatives, March 9, 1977

On motion of Mrs. Post of Owls Head, referred to Committee on Marine Resources. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Blodgett of Waldoboro.

Cosponsor: Mr. Howe of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish.

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

Sec. 1. 12 MRSA § 4251, 1st ¶, is amended by adding at the end the following new sentences:

A shellfish conservation program shall be designed to protect and preserve the potential for a sustained yield of shellfish from the coastal waters or flats within the municipality, or to restore depleted areas to a population sufficient to supply a sustained yield of shellfish. No conservation program shall restrict the taking of shellfish in a manner designed to discriminate against non-residents of the municipality.

Sec. 2. 12 MRSA § 4252, 1st ¶, as amended by PL 1975, c. 692, § 1, is repealed and the following enacted in its place:

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. No ordinance shall include any municipal residency requirement, grant exclusive privileges in taking shellfish to any one person or group or discriminate between municipal residents and non-residents. 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 $\frac{1}{2}$ bushel in any one day. No ordinance shall regulate those areas that are closed by regulation of the commissioner under section 3503 or section 3504. The license fee fixed in any ordinance shall not exceed the amount necessary to meet the municipal expenditures on the shellfish conservation program. 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.

Sec. 3. 12 MRSA § 4252, sub-§ 5, as enacted by PL 1965, c. 33, § 8, is repealed.

Sec. 4. Application. This Act shall not invalidate any ordinances in effect under the provisions of Title 12, section 4252 as in effect on January 1, 1977; but shall also not extend their validity beyond the expiration date set in that section.

STATEMENT OF FACT

The purpose of this bill is to remove the provisions of shellfish conservation ordinances that allow municipalities to exclude nonresidents from taking shellfish. The powers of municipalities to protect and restore shellfish beds are strengthened, but the authority to exclude nonresidents as part of a conservation program is removed.