

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1822

H. P. 1716

House of Representatives, January 18, 1980

Referred to the Committee on Marine Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Vose of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Clarify Provisions for Fish Weirs and Clam Ordinances in Unorganized Territories.

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

Sec. 1. 12 MRSA § 6671-A is enacted to read:

§ 6671-A. Shellfish conservation programs in unorganized and deorganized areas

1. Establishment. The commissioner shall establish shellfish conservation programs for waters adjacent to unorganized and deorganized areas.

2. Regulations. The commissioner may adopt or amend regulations to restrict or prohibit the taking of shellfish; may fix the amount of shellfish that may be taken; may limit the size of soft shell clams; may fix the qualifications for a license, including residency; and may fix license fees. Regulations may also provide for enforcement, protection and evaluation of a green crab fencing program. Prior to adopting regulations under this subsection, the commissioner shall consult with the inhabitants of the areas regulated.

3. Joint programs; reciprocal privileges. The commissioner may enter into joint conservation agreements with 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 area in a joint agreement may be extended to the residents of other areas in the agreement.

4. Enforcement. The county commissioners of Washington County are authorized on behalf of the inhabitants of unorganized and deorganized areas to enter into contracts with the sheriff to provide for enforcement of this section.

5. Report of costs. All costs incurred by the department in implementing this section shall be documented and included in the calculation of the municipal cost component, as defined in Title 36, chapter 115.

Sec. 2. 38 MRSA § 1024 is amended to read:

§ 1024. Waters between 2 towns

In any river, or tidewater or unorganized territory lying between 2 towns or cities, no such wharf or fish weir described in sections 1022 and 1023 shall be erected without the consent of the municipal officers of both. In no case shall any wharf be extended beyond any wharf lines heretofore legally established.

Sec. 3. Application. Notwithstanding Title 38, section 1024, permits issued by the Land Use Regulation Commission shall remain valid and effective as permission to place a weir in specified waters through December 31, 1985. Weirs under permits from the Land Use Regulation Commission shall be deemed to be licensed by a municipality under Title 38, section 1022.

STATEMENT OF FACT

This bill clarifies 2 aspects of fisheries management in the unorganized territories, regulation of local shellfish areas and permits for fish weirs.

The first section provides a mechanism for managing shellfish. The Commissioner of Marine Resources is required to establish a program, after consulting with local inhabitants. These provisions parallel municipal shellfish conservation programs described in Title 12, section 6671.

The 2nd and 3rd sections clarify the provisions regarding permission to place weirs in coastal waters. Present law provides that municipalities have authority to give permission to place weirs in the coastal waters adjacent to the municipality. This bill makes it clear that this jurisdiction extends to unorganized areas between 2 municipalities, except on islands. The present law gives this authority to the Commissioner of Marine Resources when the waters are adjacent to unorganized territory on islands.

Because the Land Use Regulation Commission has zoning authority in all unorganized territory in the State, its permission is required to place a weir in waters adjacent to unorganized territory. For the last several years, this is the only type of permit that has been issued for weirs in unorganized mainland areas. The commission, however, does not have the authority to issue leases for the land underlying coastal waters, or to grant particular fishing rights. This bill corrects that oversight by clarifying the authority of adjacent municipalities to issue these weir permits.