

1 2	SECOND REGULAR SESSION
3 4	ONE HUNDRED AND ELEVENTH LEGISLATURE
5 6	Legislative Document No. 1975
7 8 9	H.P. 1501 House of Representatives, January 19, 1984 Reported by Representative Crowley from the Committee on Marine Resources. Sent up for concurrence and ordered printed.
10	EDWIN H. PERT, Clerk Submitted by the Joint Standing Committee on Marine Resources pursuant to Joint Rule 18, as approved by the Legislative Council, on May 25, 1983.
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12 13	STATE OF MAINE
14 15 16	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-FOUR
17 18 19 20	AN ACT to Permit Possession of Soft-shell Clam Stocks 2 Inches or Greater in the Largest Diameter.
21 22	Be it enacted by the People of the State of Maine as follows:
23 24	Sec. 1. 12 MRSA §6651, sub-§§1 and 2, as enacted by PL 1977, c. 661, §5, are amended to read:
25 26 27 28 29	1. Fees to be paid into fund. Twenty-five Seventy-five percent of all fees from shellfish li- censes, shellfish transportation licenses and whole- sale seafood licenses shall be paid into the Shell- fish Fund.
30 31 32 33	2. <u>Uses of fund</u> . The commissioner may expend the money in the Shellfish Fund for <u>management</u> , <u>enforce</u> - <u>ment</u> , restoration, development and conservation of shellfish in the intertidal zone or coastal waters.

Sec. 2. 12 MRSA §6671, sub-§2, as enacted by PL
 1977, c. 661, §5, is amended to read:

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

9 10 Sec. 3. 12 MRSA §6671, sub-§3, as amended by PL 1979, c. 608, §1, is further amended to read:

11 3. Shellfish conservation ordinance. Within any 12 area in of the intertidal zone or coastal waters ±η 13 the municipality, a shellfish conservation ordinance 14 may regulate or prohibit the taking possession of 15 shellfish; may fix the amount of shellfish that may 16 be taken; may shall limit the size of soft shell 17 soft-shell clams in accordance with subchapter I, ar-18 ticle 5; may fix the qualifications for a license, 19 including municipal residency; may fix license fees; 20 and may authorize the municipal officers to open and 21 close flats under specified conditions. No A program or ordinance shell shall not regulate areas closed by 22 23 regulation of the commissioner. An ordinance may also 24 provide for enforcement, protection and evaluation of 25 green crab fencing program. No municipal commerа 26 cial license may be issued unless the applicant has a 27 current shellfish license, as provided in section 28 The municipality shall provide a minimum num-6601. 29 ber of commercial licenses for nonresidents of the municipality which shall be a number not less than 10% of the number provided for residents. The fee 30 31 32 for nonresident licenses shall be not more than 10 33 times the fee for resident licenses. Notice of the 34 number and the procedure for application shall be published in a trade or industry publication which the municipal officers consider effective in reaching 35 36 37 persons affected, not less than 10 days prior to the period of issuance and shall be posted in the munici-pal offices until the period concludes. Subsequent 38 39 40 to that period, the municipality shall make any resi-41 dent or nonresident permits not granted during the period available to residents or nonresidents. 42

Sec. 4. 12 MRSA §6671, sub-§8, as enacted by PL 1 1977, c. 661, §5, is repealed and the following en-2 3 acted in its place: 8. Local enforcement. The following provisions 4 5 shall apply to enforcement. 6 A. A municipality that enacts an ordinance under 7 this section shall be responsible jointly with 8 state and county wardens and enforcement officers 9 for enforcing it. 10 B. Any municipal shellfish conservation warden 11 appointed by a municipality to enforce the provi-12 sion of this article shall, within one year of 13 appointment, be certified by the commissioners. 14 The commissioner shall establish a program to 15 provide shellfish conservation training in prin-16 ciples of shellfish conservation, management, en-17 forcement and protection and shall establish 18 standards for certification of municipal conser-19 vation wardens upon their satisfactory completion 20 of the training program. The commissioner may establish by rule procedures for certification, 21 22 recertification and for revocation of certifica-23 tion. A certificate may be revoked for failure 24 of the warden to comply with the performance standards established by the commissioner. 25 26 Sec. 5. 12 MRSA §6671, sub-§9, as enacted by PL 27 1977, c. 661, §5, is amended to read: 28 9. Penalty. Notwithstanding the provisions of 29 Title 17-A, section 4-A, whoever takes or possesses 30 shellfish contrary to a municipal ordinance autho-31 rized by this section shall be guilty of a crime pun-32 ishable by a fine of not less than \$100 nor more than 33 \$1,000, except that fines for violation of subchapter I, article 5, shall be as provided in section 6681. 34 35 Sec. 6. 12 MRSA c. 623, sub-c. I, art. 5 is en-36 acted to read: 37 ARTICLE 5 38 SOFT-SHELL CLAM MANAGEMENT

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1 §6681. Soft-shell clam management

 Purpose. The Legislature finds that the conservation and wise use of the state's shellfish resource may be enhanced by a 2-inch minimum size limit
 on possession of soft-shell clam shell stock in combination with other management programs.

The Legislature further finds that management programs should be designed to meet local circumstances
as appropriate, but also finds that a minimum size
limit to be beneficial must be a uniform standard
statewide.

12 The Legislature intends by this Article to enhance 13 the value of the state's shellfish resource by the 14 institution of uniform standards which can be imple-15 mented and enforced statewide.

 2. Definition. For the purposes of this subchapter, "possess" means digging, taking, harvesting, shipping, transporting, holding, buying and selling retail and wholesale soft-shelled clam shell stock.

3. Minimum size. It is unlawful to possess
 soft-shelled clam shell stock whose shells are less
 than 2 inches in the largest diameter.

23 Tolerance. Any person may possess 4. 24 soft-shelled clams that are less than 2 inches if beginning in the calendar year 1985 they comprise less than 20% of any bulk pile, and beginning in calendar 25 26 27 year 1986 they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical 28 29 count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile 30 or by a count of the entire pile if it contains less 31 32 than one peck.

5. Enforcement. State, county and municipal
 wardens and enforcement officers shall enforce this
 subchapter.

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36 <u>6. Penalty. A minimum fine of \$100 and not more</u>
 37 <u>than \$1,000 shall be imposed for conviction of viola-</u>
 38 <u>tion of this Article.</u>

1 2 3 4 5 6	7. Sunset. This section shall be review the joint standing committee of the Legislatur ing jurisdiction over marine resources in the Regular Session of the 113th Legislature. Tha mittee shall report its findings no later than 1, 1988.	e hav- Second
7 8	8. Effective date. This Article shall take fect January 1, 1985.	ke ef-
9 10 11 12	Sec. 7. Allocation. The following funds a located from the Shellfish Fund to carry out the poses of the Revised Statutes, Title 12, se 6671, subsection 8, paragraph B.	re al- e pur- ection
13	<u>1</u> .	984 - 85
14 15	MARINE RESOURCES, DEPARTMENT OF	
16	Positions	(2)
17		(2)
18		35,000
19	Capital Expenditures	10,900 9,000
20	Total \$	54,900
21	The 2 positions will include one	
22	marine patrol sergeant and one	
23	volunteer marine patrol officer.	
24	STATEMENT OF FACT	
25	This bill limits the possession of soft-	-shell
26	clam stock to those of 2 inches in the largest of	diame-
27	ter. The limit and tolerance will become effe	ective
28	on January 1, 1985. A 10% tolerance will become error	
29	fective on January 1, 1986. This bill does not	
30	pose any new fees. Current provisions of mun:	
31	ordinances shall remain in effect until that day	
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