



# 114th MAINE LEGISLATURE

# FIRST REGULAR SESSION - 1989

Legislative Document

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H.P. 604

House of Representatives, March 17, 1989

Submitted by the Department of Marine Resources pursuant to Joint Rule 24. Reference to the Committee on Marine Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative MARSH of West Gardiner. Cosponsored by Representative LOOK of Jonesboro, Senator BRANNIGAN of Cumberland and Representative MITCHELL of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-NINE

An Act Concerning the Regulatory Authority of the Department of Marine Resources.

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

## 3 Sec. 1. 12 MRSA §6071, sub-§3 is enacted to read:

3. Products embargoed and condemned. The commissioner or 5 the commissioner's agent may indefinitely embargo, condemn or order to be destroyed any marine species or marine species 7 product imported and introduced to coastal waters in violation of 9 this section whenever it is determined that the product is of unsound quality; contains any filthy, decomposed or putrid 11 substance; may be poisonous or deleterious to health; or is otherwise unsafe. The commissioner shall cooperate with those 13 state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy. 15

17 If any marine species or marine species product is embargoed, condemned or ordered destroyed, the commissioner or the commissioner's agent shall, as soon as practical, notify the owner in writing of the amount and kind of marine species or 21 marine species product embargoed, condemned or destroyed.

Sec. 2. 12 MRSA §6076, sub-§1, as enacted by PL 1985, c. 784, §1, is amended to read:

 Purpose. A comprehensive Paralytic <u>Marine Toxins</u>
 Shellfish Poison Monitoring Program is established to protect the public health while providing for the harvest of susceptible
 species of marine mollusks in areas not shown to be affected by contamination.

Sec. 3. 12 MRSA §6172, as amended by PL 1985, c. 268, §1, is further amended to read:

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#### §6172. Contaminated or polluted flats

Commissioner's powers. The commissioner may examine the 37 1. coastal waters and the intertidal zone and adopt regulations 39 rules to close coastal waters or intertidal zone areas if he the commissioner determines that any marine mellusks species are or 41 may become contaminated or polluted. The commissioner may adopt amend regulations rules as he deems the commissioner or determines necessary, setting forth standards for closure of 43 contaminated or polluted areas, giving consideration to 45 established state water quality standards, the most recently adopted federal sanitation standards, or other state or federal 47 public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner so--as to protect the public health and safety while 49 allowing reasonable use of the state's-shellfish State's marine 51 species.

 2. Emergency rules. The commissioner may adopt or amend regulations rules under the emergency procedures, if immediate
 action is necessary to prevent the taking of polluted or contaminated marine mollusks species.

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3. Repeal. The commissioner shall repeal a regulation <u>rule</u>
7 closing an area or waters when the marine mollusks <u>species</u> are no longer contaminated or polluted or when the waters meet the
9 Sanitary Standards set forth in any department regulations <u>rules</u>. The commissioner may use emergency regulatory procedures
11 to open areas or waters that have been closed under emergency procedures of this section.

4. Procedure. The procedures of subchapter II shall be
 15 used in adopting or amending regulations rules authorized by this section.
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### STATEMENT OF FACT

Current law does not provide clear authority for 21 the Department of Marine Resources to gain control of any marine 23 species or marine species product illegally imported and placed in coastal waters in aquaculture lease sites. Embargo authority for shellfish, for instance, is limited to establishments which 25 cannot be construed to be coastal waters. Section 1 of the bill 27 provides specific authority to embargo, condemn or destroy any marine species or marine species product under specific 29 conditions.

31 Recent experiences both in Canada and the United States indicates that several naturally occurring toxins may be present 33 and thus may need to be monitored. Section 2 of the bill broadens the authority of the Department of Marine Resources to 35 establish monitoring programs as needed.

37 Current law provides authority to close coastal waters to the taking of marine mollusks only in the event that those waters 39 are or may become contaminated or polluted. If contamination may affect other species, no clear authority is provided to prohibit 41 the taking of affected species. Section 3 provides that authority.