

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 354,
L.D. 955, Bill, "An Act Concerning Municipal Regulation of
Shellfish Resources"

Amend the amendment by striking out all of section 2 and
inserting in its place the following:

'Sec. 2. 12 MRSA §6671, sub-§3, as amended by PL 1987, c. 867,
is repealed and the following enacted in its place:

3. Shellfish conservation ordinance. Within any area of
the municipality, a shellfish conservation ordinance may regulate
or prohibit the possession of shellfish; may fix the amount of
shellfish that may be taken; may provide for enforcement,
protection and evaluation of a green crab fencing program; and
may authorize the municipal officers to open and close flats
under specified conditions. An ordinance shall limit the size of
soft-shell clams in accordance with article 5. Except as
provided in section 6621, subsection 3, paragraph C, a program or
ordinance may not allow surveying, sampling or harvesting of
shellfish in areas closed by regulation of the commissioner.

Sec. 3. 12 MRSA §6671, sub-§3-A is enacted to read:

3-A. Shellfish conservation license; qualifications, fees,
procedures. A shellfish conservation ordinance may fix the
qualifications for a license, including municipal residency,
subject to the following provisions.

A. No municipal commercial license may be issued unless the
applicant has a current shellfish license, as provided in
section 6601. A municipality may issue licenses under this
section regardless of whether or not the area has been
closed by the commissioner.

1 B. A shellfish conservation ordinance may fix license
3 fees. The fee for a nonresident license shall be not more
5 than 10 times the fee for a resident license, provided that
 in no case may the fee for a nonresident license exceed \$150.

7 C. Application methods and procedures for licenses may be
9 determined by the shellfish conservation ordinance subject
11 to the provisions of this section. Notice of the number and
13 the procedure for application shall be published in a trade
15 or industry publication or in a newspaper or combination of
17 newspapers with general circulation which the municipal
19 officers consider effective in reaching persons affected not
 less than 10 days prior to the period of issuance and shall
 be posted in the municipal offices until the period
 concludes. The period of issuance for resident and
 nonresident licenses shall be the same. Subsequent to that
 period, the municipality shall make any resident or
 nonresident licenses not granted during the period available
 to residents or nonresidents.

21 D. Except as otherwise provided in this section, a
23 shellfish conservation ordinance shall not discriminate
25 between resident license holders and nonresident license
 holders.

27 E. The municipality shall provide and reserve a minimum
29 number of commercial licenses for nonresidents which shall
31 be a number not less than 10% of the number of commercial
33 licenses provided for residents. When the number of
35 resident commercial licenses is fewer than 10 but more than
 5, at least one nonresident commercial license shall be
 provided. When the number of resident commercial licenses
 is 5 or fewer, nonresident commercial licenses shall not be
 required.

37 F. When 2 or more municipalities have entered into an
39 agreement with one another for joint or cooperative action
41 under this subsection, the combined total number of
43 commercial licenses for nonresidents provided by those
45 municipalities shall be a number not less than 10% of the
47 combined total number of commercial licenses issued for
 residents. When the combined total number of resident
 commercial licenses is fewer than 10 but more than 5, at
 least one nonresident commercial license shall be provided.
 When the combined total number of resident commercial
 licenses is 5 or fewer, nonresident commercial licenses
 shall not be required.

49 Sec. 4. Effective date. The Maine Revised Statutes, Title 12,
51 section 6671, subsection 3-A, paragraphs E and F shall take
53 effect June 1, 1990.'

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STATEMENT OF FACT

This amendment adds 2 provisions concerning nonresident licenses to the committee amendment. It requires the total number of commercial licenses for nonresidents provided by those municipalities which have entered into an agreement with one another for joint or cooperative licensing action under their shellfish ordinances to be not less than 10% of the combined total number of licenses issued for residents. The amendment also prohibits shellfish conservation ordinances from discriminating between residents and nonresidents once they have obtained a shellfish license. These provisions will not take effect until January 1, 1990, to avoid interfering with the current clam season.

In addition, this amendment restructures the Maine Revised Statutes, Title 12, section 6671, subsection 3 into 2 subsections, subsections 3 and 3-A in order to clarify the current law.

Filed by Rep. Mitchell of Freeport
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