

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
FIRST REGULAR SESSION

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

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following to read:

Sec. 1. 12 MRSA §6621, sub-§3, ¶C is enacted to read:

C. Municipal officials, with express written authorization from the commissioner, who are engaging in activities authorized under section 6671. Requests for exception shall be submitted to the commissioner in writing stating the activities proposed and the name of the person designated by the municipal officials to supervise those activities. In addition, the municipality shall, at least 24 hours prior to engaging in the activity, notify the department of the time or times the activity authorized under this paragraph will be conducted.

Sec. 2. 12 MRSA §6671, sub-§3, as amended by PL 1987, c. 867, is repealed and the following enacted in its place: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. The following activities may be regulated by a shellfish conservation ordinance.

A. 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

1 size of soft-shell clams in accordance with article 5.  
2 Except as provided in section 6621, subsection 3, paragraph  
3 C, a program or ordinance may not allow surveying, sampling  
4 or harvesting of shellfish in areas closed by regulation of  
5 the commissioner.

7 B. A shellfish conservation ordinance may fix the  
8 qualifications for a license, including municipal residency,  
9 and may fix license fees. No municipal commercial license  
10 may be issued unless the applicant has a current shellfish  
11 license, as provided in section 6601. The municipality  
12 shall provide and reserve a minimum number of commercial  
13 licenses for nonresidents which shall be a number not less  
14 than 10% of the number provided for residents. When the  
15 number of resident licenses is less than 10 but more than 5,  
16 at least one nonresident license shall be provided. When  
17 the number of resident licenses is 5 or less, nonresident  
18 licenses shall not be required. The fee for a nonresident  
19 license shall be not more than 10 times the fee for a  
20 resident license, provided that in no case may the fee for a  
21 nonresident license exceed \$150. Notice of the number and  
22 the procedure for application shall be published in a trade  
23 or industry publication or in a newspaper or combination of  
24 newspapers with general circulation which the municipal  
25 officers consider effective in reaching persons affected not  
26 less than 10 days prior to the period of issuance and shall  
27 be posted in the municipal offices until the period  
28 concludes. The period of issuance for resident and  
29 nonresident licenses shall be the same. Subsequent to that  
30 period, the municipality shall make any resident or  
31 nonresident licenses not granted during the period available  
32 to residents or nonresidents. A municipality may issue  
33 licenses under this paragraph regardless of whether or not  
34 the area has been closed by the commissioner.'

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39 **STATEMENT OF FACT**

40 This amendment replaces the original bill and provides a  
41 procedure for municipal officials to obtain approval to manage  
42 their shellfish resources even though the area has been closed by  
43 regulation. It also makes it clear that a municipality may issue  
44 licenses under its shellfish conservation ordinance even though  
45 the area has been closed by regulation.

Reported by Senator Brannigan for the Committee on Marine  
Resources. Reproduced and Distributed Pursuant to Senate  
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