

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

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Legislative Document

No. 955

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S.P. 354

In Senate, March 28, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CLARK of Cumberland.

Cosponsored by Representative COLES of Harpswell, Representative RYDELL of Brunswick and Representative PRIEST of Brunswick.

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STATE OF MAINE

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

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An Act Concerning Municipal Regulation of Shellfish Resources.

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(EMERGENCY)  
(After Deadline)



1           **Emergency preamble.** Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
3 as emergencies; and

4           **Whereas,** compliance with the National Shellfish Sanitation  
5 Program will require that many of the classified shellfish  
6 growing areas in the State be temporarily closed to shellfish  
7 harvesting; and

8           **Whereas,** town meetings will soon be held in many  
9 municipalities that will be closed to shellfish harvesting; and

10           **Whereas,** in the judgment of the Legislature, these facts  
11 create an emergency within the meaning of the Constitution of  
12 Maine and require the following legislation as immediately  
13 necessary for the preservation of the public peace, health and  
14 safety; now, therefore,

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

16           **12 MRSA §6671, sub-§3,** as amended by PL 1987, c. 867, is  
17 further amended to read:

18           **3. Shellfish conservation ordinance.** Within any area of the  
19 municipality, a shellfish conservation ordinance may regulate or  
20 prohibit the possession of shellfish; may fix the amount of  
21 shellfish that may be taken; shall limit the size of soft-shell  
22 clams in accordance with article 5; may fix the qualifications  
23 for a license, including municipal residency; may fix license  
24 fees; and may authorize the municipal officers to open and close  
25 flats under specified conditions. ~~A program or ordinance shall~~  
26 ~~not regulate areas closed by regulation of the commissioner.~~ An  
27 ordinance may also provide for enforcement, protection and  
28 evaluation of a green crab fencing program. No municipal  
29 commercial license may be issued unless the applicant has a  
30 current shellfish license, as provided in section 6601. The  
31 municipality shall provide and reserve a minimum number of  
32 commercial licenses for nonresidents which shall be a number not  
33 less than 10% of the number provided for residents. When the  
34 number of resident licenses is less than 10 but more than 5, at  
35 least one nonresident license shall be provided. When the number  
36 of resident licenses is 5 or less, nonresident licenses shall not  
37 be required. The fee for a nonresident license shall be not more  
38 than 10 times the fee for a resident license, provided that in no  
39 case may the fee for a nonresident license exceed \$150. Notice  
40 of the number and the procedure for application shall be  
41 published in a trade or industry publication or in a newspaper or  
42 combination of newspapers with general circulation which the  
43 municipal officers consider effective in reaching persons  
44 affected not less than 10 days prior to the period of issuance  
45 and shall be posted in the municipal offices until the period  
46 concludes. The period of issuance for resident and nonresident

1 licenses shall be the same. Subsequent to that period, the  
2 municipality shall make any resident or nonresident licenses not  
3 granted during the period available to residents or nonresidents.

5 **Emergency clause.** In view of the emergency cited in the  
6 preamble, this Act shall take effect when approved.  
7

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#### 11 STATEMENT OF FACT

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12 Compliance with the National Shellfish Sanitation Program  
13 will require that many of the classified shellfish growing areas  
14 in the State be closed to shellfish harvesting, pending the  
15 completion of field evaluations. Under current law,  
16 municipalities with shellfish ordinances that will be subject to  
17 the harvesting closures would be unable to manage or regulate  
18 shellfish resources. This bill will permit municipalities to  
19 regulate shellfish growing areas that are closed by regulation of  
the commissioner.