

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

Legislative Document

No. 2404

H.P. 1719

House of Representatives, March 5, 1992

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 that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative SKOGLUND of St. George.

Cosponsored by Representative SPEAR of Nobleboro, Representative HEINO of Boothbay  
and Representative MAYO of Thomaston.

### STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Assist the State's Shellfish Industry.**

(AFTER DEADLINE)

(EMERGENCY)



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

Whereas, this Act must take effect immediately in order to be in effect for this year's shellfish harvesting season; and

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

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

Sec. 1. 12 MRSA §6671, sub-§3-A, ¶A, as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

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. A person taking shellfish from a closed area for depuration under a depuration certificate issued by the commissioner is not required to hold a municipal shellfish license.

Sec. 2. 12 MRSA §6671, sub-§4-C is enacted to read:

4-C. Depuration harvesting; jurisdiction. Notwithstanding any other provision of this section, the commissioner has sole jurisdiction over depuration harvesting in closed areas.

Sec. 3. 12 MRSA §6856, sub-§3, as amended by PL 1989, c. 770, §1, is further amended to read:

3. **Depuration certificate.** The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to assure the public safety. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning. ~~To ensure consistency with municipal shellfish conservation programs, established pursuant to section 6671, the commissioner must consult with a municipal shellfish conservation committee before taking action to open an area within that municipality for depuration digging.~~ Prior to opening an area for depuration digging, the commissioner shall advise the municipal shellfish

2 conservation committee of that action and of the conditions in  
3 the depuration certificate. The commissioner may continue to  
4 issue controlled purification certificates for areas that were  
5 restricted to depuration digging on September 1, 1989, without  
6 consulting municipalities.

7 A depuration certificate must require that the certificate holder  
8 make all reasonable efforts to employ at least one resident  
9 shellfish license holder from each municipality in which the  
10 depuration harvesting occurs as a member of the depuration crew.  
11 The depuration certificate holder shall determine the total  
12 number of diggers necessary at any time.

14 **Sec. 4. Application.** Notwithstanding the provisions of any  
15 shellfish conservation ordinance adopted by a municipality  
16 pursuant to the Maine Revised Statutes, Title 12, chapter 623,  
17 subchapter I, article 4, the Commissioner of Marine Resources has  
18 sole jurisdiction over the depuration harvesting of shellfish in  
19 closed areas. Municipal authority to regulate shellfish  
20 harvesting pursuant to Title 12, chapter 623, subchapter I,  
21 article 4 does not apply to areas closed by the commissioner.

22 **Emergency clause.** In view of the emergency cited in the  
23 preamble, this Act takes effect when approved.

#### 26 STATEMENT OF FACT

28 This bill clarifies that municipal authority to regulate  
29 shellfish harvesting is limited to open areas and does not extend  
30 to areas closed by the Commissioner of Marine Resources. The  
31 depuration harvesting of shellfish in closed areas is governed  
32 exclusively by the conditions of a depuration certificate issued  
33 by the commissioner.

34 This bill also requires that at least one member of a  
35 depuration crew be a person who holds a valid resident shellfish  
36 license issued by the municipality affected by the closed area.  
37