

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 298

H.P. 220

House of Representatives, January 14, 1999

**An Act to Allow Town and Municipal Governments to Add Periwinkles  
to Their Clam Ordinances.**

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.  
Cosponsored by Representatives: BAGLEY of Machias, DUGAY of Cherryfield, VOLENIK  
of Brooklin, Senator: CASSIDY of Washington.

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

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4       **Sec. 1. 12 MRSA §6671, sub-§2**, as amended by PL 1995, c. 531, §1, is further amended to read:

6       **2. Municipal program and ordinance.** Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance regulating the possession of shellfish or periwinkles in any area of the municipality as provided by this section. A municipal shellfish management committee comprised of residents of that municipality may be established to administer a municipal program.

14       **Sec. 2. 12 MRSA §6671, sub-§3**, as repealed and replaced by PL 1989, c. 257, §3, is amended to read:

16       **3. Shellfish conservation ordinance.** Within any area of the municipality, a shellfish conservation ordinance may regulate or prohibit the possession of shellfish or periwinkles; may fix the amount of shellfish or periwinkles 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 must 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 or periwinkles in areas closed by regulation of the commissioner.

30       **Sec. 3. 12 MRSA §6671, sub-§3-A, ¶A**, as amended by PL 1993, c. 456, §1, is further amended to read:

32       A. A person is not required to hold a shellfish license issued by the commissioner under section 6601 or a commercial fishing license issued by the commissioner under section 6501 in order to obtain a municipal commercial license. 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.~~

44       **Sec. 4. 12 MRSA §6671, sub-§4-A**, as enacted by PL 1983, c. 418, is amended to read:

46       **4-A. State parks.** The commissioner shall consult with the Commissioner of Conservation in review of any municipal ordinance that affects intertidal areas located within state parks. The commissioner may not approve any ordinance that threatens any

2 important resources or provides insufficient opportunity for  
3 recreational shellfish or periwinkle harvesting within state  
4 parks.

5 **Sec. 5. 12 MRSA §6671, sub-§6, ¶¶A and B**, as amended by PL  
6 1991, c. 390, §6, are further amended to read:

7 A. Village corporations; and

8 B. The combined towns of Yarmouth and North Yarmouth, and

9 **Sec. 6. 12 MRSA §6671, sub-§6, ¶D** is enacted to read:

10 D. Unorganized townships that have complied with the  
11 requirements of subsection 4, paragraph C.

12 **Sec. 7. 12 MRSA §6671, sub-§10, ¶A**, as amended by PL 1995, c.  
13 75, §1, is further amended to read:

14 A. For harvesting shellfish or periwinkles from a closed  
15 area or digging shellfish or harvesting periwinkles without  
16 a license:

17 (1) For the first offense, a fine of not less than  
18 \$300 and not more than \$1,500; and

19 (2) For subsequent offenses, a fine of not less than  
20 \$500 and not more than \$1,500.

21 The court may not suspend a fine imposed under this  
22 paragraph or impose a penalty other than the monetary  
23 payment of a fine as provided in this paragraph; or

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## 25 SUMMARY

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27 This bill permits a municipality to regulate the possession  
28 of periwinkles through the municipality's shellfish conservation  
29 ordinance. The bill also includes unorganized townships in the  
30 definition of "municipality" and permits unorganized townships to  
31 adopt regional shellfish management programs.

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