

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

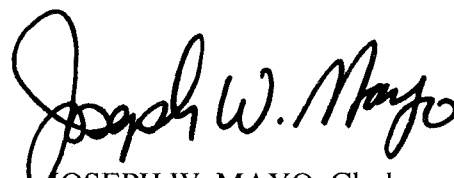
No. 1367

H.P. 969

House of Representatives, February 18, 1999

**An Act Regarding Notification to Parties Affected by Marine
Construction.**

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.

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

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3 **Sec. 1. 38 MRSA §1022, first ¶**, as affected by PL 1989, c. 890,
4 Pt. A, §40 and amended by Pt. B, §206, is further amended to read:

6 Any person intending to build or extend any wharf, fish weir
7 or trap in tidewaters, within the limits of any city or town, may
8 apply in writing to the municipal officers ~~thereof~~ of the city or
9 town, stating the location of the weir, the boundaries of the
10 cove in which the weir will be constructed as identified on a map
11 prepared by the Commissioner of Marine Resources, limits and
12 boundaries, as nearly as may be, of the intended erection or
13 extension, and asking license ~~therefor~~ for the intended erection
14 or extension. The application must provide proof to the
15 municipal officers that all parties that may be directly affected
16 by the proposed construction have been notified of the
17 application. Upon receiving an application, the officers shall
18 give at least 3 days' public notice ~~thereof~~ of the application in
19 a newspaper, published in the town, or, if there is no newspaper
20 published in the town, in a newspaper published within the
21 county, and shall ~~therein~~ designate in the notice a day and time
22 on which they or their designee will meet on or near the premises
23 described, to examine the same and hear all parties interested.
24 If, upon following such examination and hearing of all parties
25 interested, the officers decide that such erection or extension
26 would not be an obstruction to navigation or injury to the rights
27 of others, and determine to allow the same, they shall issue a
28 license under their hands to the applicant, authorizing the
29 applicant to make such an erection or extension, and to maintain
30 the same within the limits mentioned in such license. The
31 applicant for license to build or extend a fish weir or trap
32 shall first give bond to the town, with sureties, in the sum of
33 \$5,000, conditioned that upon the termination of such license the
34 applicant shall remove all stakes and brush from the location
35 therein described. The municipal officers shall, within 10 days
36 after the date of hearing, give written notice by ~~registered~~ mail
37 of their decision to all parties interested. Any person aggrieved
38 by the decision of the municipal officers, in either granting or
39 refusing to grant a license as provided, may appeal to the
40 Superior Court within 10 days after the mailing of such written
41 notice. The court shall set a time and place for hearing and give
42 notice thereof in the same manner as provided for a hearing
43 before the municipal officers. The decision of the court must be
44 communicated within 10 days after the date of hearing to the
45 appellant and to the municipal officers of the town in which the
46 proposed wharf, weir or trap is to be located. This decision is
47 binding on the municipal officers, who shall issue a license, if
48 so directed by the decision of the court, within 3 days after the
49 decision has been communicated to them. If the appeal is
50 sustained by the court in whole or in part, the appellant will
have costs against the appellee. If the appeal is not so

2 sustained, the appellee will have costs against the appellant. If
3 any owner to whom a license has been issued, or the owner's heirs
4 or assigns, fail to remove all stakes and brush within a period
5 of one year after the termination of the license, as provided in
6 section 1023, any person can remove the same without charge
7 against the owner or the owner's heirs or assigns.

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9 SUMMARY

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11 This bill provides that any person intending to build or
12 extend any wharf, fish weir or trap in tidewaters in a
13 municipality must provide proof to the municipal officers that
14 all parties that may be directly affected by the proposed
15 construction have been notified of the application. It permits
16 the municipal officers to name a designee to examine the premises
17 upon which construction is proposed and hear all interested
18 parties. It also permits the municipal officers to give written
19 notice by regular mail of their decision to all interested
20 parties. Current law requires this notice to be given by
21 registered mail.

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