

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

---

Legislative Document

No. 1581

H.P. 1122

House of Representatives, March 2, 1999

---

### An Act to Revise the Laws Regarding Shellfish.

---

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 COWGER of Hallowell.  
Cosponsored by Senator KILKELLY of Lincoln and  
Representatives: COLWELL of Gardiner, GREEN of Monmouth, O'NEAL of Limestone,  
STANLEY of Medway, Senator: NUTTING of Androscoggin.

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

2  
4       **Sec. 1. 12 MRSA §6671, sub§3-A**, as amended by PL 1997, c. 589, §1 and affected by §2, is further amended to read:

6       **3-A. Shellfish conservation license; qualifications, fees, procedures.** A shellfish conservation ordinance may fix the  
8 qualifications for a license, ~~including municipal residency,~~ subject to the following provisions.

10       A. A person is not required to hold a shellfish license  
12 issued by the commissioner under section 6601 in order to obtain a municipal commercial license. A municipality may  
14 issue licenses under this section regardless of whether or not the area has been closed by the commissioner. A person  
16 taking shellfish from a closed area for depuration under a depuration certificate issued by the commissioner is not  
18 required to hold a municipal shellfish license.

20       B. A shellfish conservation ordinance may fix license fees  
22 ~~as follows.~~

24               ~~(1) If the ordinance sets a fee of \$200 or less for a resident license, the fee for a nonresident license may not exceed twice the resident fee.~~

26               ~~(2) If the ordinance sets a fee of more than \$200 for a resident license, the fee for a nonresident license may not exceed 1 1/2 times the resident fee.~~

30       C. Application methods and procedures for licenses may be  
32 determined by the shellfish conservation ordinance subject to the provisions of this section. Notice of the number and  
34 the procedure for application shall must be published in a trade or industry publication or in a newspaper or  
36 combination of newspapers with general circulation which that the municipal officers consider effective in reaching  
38 persons affected not less than 10 days prior to the period of issuance and shall must be posted in the municipal  
40 offices until the period concludes. ~~The period of issuance for resident and nonresident licenses shall be the same. Subsequent to that period, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents.~~

42       D. ~~Except as otherwise provided in this section,~~ a A shellfish conservation ordinance shall may not discriminate  
44 between resident license holders and nonresident license holders.  
46  
48

2           ~~E. The municipality shall provide and reserve a minimum~~  
4           ~~number of commercial licenses for nonresidents which shall~~  
6           ~~be a number not less than 10% of the number of commercial~~  
8           ~~licenses provided for residents. When the number of~~  
10           ~~resident commercial licenses is fewer than 10 but more than~~  
                  5, at least one nonresident commercial license shall be  
                  provided. When the number of resident commercial licenses  
                  is 5 or fewer, nonresident commercial licenses shall not be  
                  required.

12           ~~F. When 2 or more municipalities have entered into a~~  
14           ~~regional shellfish management agreement pursuant to~~  
16           ~~subsection 7, the combined total number of commercial~~  
18           ~~licenses for nonresidents provided by those municipalities~~  
20           ~~must be a number not less than 10% of the combined total~~  
22           ~~number of commercial licenses issued for residents. When~~  
                  the combined total number of resident commercial licenses is  
                  fewer than 10 but more than 5, at least one nonresident  
                  commercial license must be provided. When the combined  
                  total number of resident commercial licenses is 5 or fewer,  
                  nonresident commercial licenses are not required.

24           **Sec. 2. 12 MRSA §6671, sub-§7, as amended by PL 1995, c. 531,**  
26           **§3, is further amended to read:**

28           **7. Joint programs; reciprocal privileges.** Municipalities  
30           may enter into regional shellfish management agreements with  
32           other municipalities and adopt regional shellfish management  
34           programs. The agreements, and the programs and ordinances adopted  
                  under them, are subject to the same requirements as municipal  
                  programs and ordinances. ~~Resident privileges of one municipality~~  
                  ~~in a regional shellfish management agreement may be extended to~~  
                  ~~the residents of other municipalities in the agreement.~~  
36           Notwithstanding subsection 2, a regional shellfish management  
38           committee comprised of at least one resident from each  
                  municipality named in the regional agreement may be established  
                  to administer a regional program.

40  
42

## SUMMARY

44           This bill prohibits municipal shellfish ordinances from  
                  establishing shellfish licenses based on residency.