

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 598

S.P. 207

In Senate, February 11, 2003

### An Act To Protect the Public from Paralytic Shellfish Poisoning

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LEMONT of York.

Cosponsored by Representatives: ANDREWS of York, KAELIN of Winterport, LEWIN of Eliot.

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

2  
3       **Sec. 1. 12 MRSA §6621, sub-§3,** as amended by PL 1995, c. 323,  
4 §1, is further amended to read:

6       **3. Exception.** This section does not apply to:

8       ~~A. The taking of shellfish under the authority of section~~  
9       ~~6856;~~

10       ~~B. Shellfish kept or washed in waters sterilized with a~~  
11       ~~system that has been approved in writing by the~~  
12       ~~commissioner, if the waters are also approved for that use;~~

13       ~~C. Municipal officials, with express written authorization~~  
14       ~~from the commissioner, who are engaging in activities~~  
15       ~~authorized under section 6671. Requests for exception must~~  
16       ~~be submitted to the commissioner in writing stating the~~  
17       ~~activities proposed and the name of the person designated by~~  
18       ~~the municipal officials to supervise these activities. In~~  
19       ~~addition, the municipality shall, at least 24 hours prior to~~  
20       ~~engaging in the activity, notify the department of the time~~  
21       ~~or times the activity authorized under this paragraph will~~  
22       ~~be conducted;~~

23       ~~D. The harvesting of shellfish from closed areas designated~~  
24       ~~for purposes of relaying when harvesting is approved in~~  
25       ~~writing by the commissioner consistent with regulations~~  
26       ~~promulgated under section 6856; or~~

27       E. The harvesting of marine mollusks from closed areas for  
28       the use of bait or other uses not meant for human  
29       consumption, if the harvesting takes place according to  
30       rules adopted by the commissioner. The commissioner may  
31       adopt rules that permit the taking, possession, shipping,  
32       transportation and selling of marine mollusks for bait or  
33       other uses not meant for human consumption, if the rules do  
34       not jeopardize certification of the State's shellfish  
35       according to the National Shellfish Sanitation Program.

36       **Sec. 2. 12 MRSA §6671, sub-§3, ¶C,** as enacted by PL 2001, c.  
37       188, §2, is amended to read:

38       ~~C. Except as provided in section 6621, subsection 3,~~  
39       ~~paragraph C, a A program or ordinance may not allow~~  
40       ~~surveying, sampling or harvesting of shellfish in areas~~  
41       ~~closed by regulation of the commissioner.~~

42       **Sec. 3. 12 MRSA §6671, sub-§3-A, ¶A-1,** as enacted by PL 2001,  
43       c. 188, §3, is amended to read:

2 A-1. The following exceptions apply.

4 (1) An individual is not required to hold a shellfish  
6 license issued by the commissioner under section 6601  
in order to obtain a municipal commercial license.

8 (2) A municipality may issue licenses under this  
10 section regardless of whether or not the area has been  
closed by the commissioner.

12 (3) An individual taking shellfish from a--closed an  
14 approved or restricted area for depuration under a  
deputation certificate issued by the commissioner is  
not required to hold a municipal shellfish license.

16 **Sec. 4. 12 MRSA §6743, sub-§3,** as enacted by PL 1981, c. 297,  
18 §4, is repealed.

20 **Sec. 5. 12 MRSA §6747, sub-§3,** as enacted by PL 1987, c. 328,  
22 §3, is repealed.

24 **Sec. 6. 12 MRSA §6856, sub-§3,** as amended by PL 1989, c. 770,  
§1, is further amended to read:

26 **3. Depuration certificate.** The commissioner may issue a  
28 depuration certificate to a wholesale seafood license holder that  
authorizes the holder to take shellfish from closed areas  
30 designated by the commissioner as approved or restricted for  
depuration, processing and transportation. The certificate must  
32 establish limits on harvesting, depurating and processing methods  
and any other provisions required to ~~assure~~ ensure the public  
34 safety. The commissioner may permit depuration of shellfish not  
contaminated by paralytic shellfish poisoning if, during  
36 depuration, a continual particle filtration process is used and  
it is established that the water used during depuration will not  
contaminate the shellfish with paralytic shellfish poisoning. To  
38 ensure consistency with municipal shellfish conservation  
programs, established pursuant to section 6671, the commissioner  
40 must consult with a municipal shellfish conservation committee  
before taking action to open an area within that municipality for  
42 depuration digging. The commissioner may continue to issue  
controlled purification certificates for areas that were  
44 restricted to depuration digging on September 1, 1989, without  
consulting municipalities.

46 **Sec. 7. 12 MRSA §6856, sub-§4, ¶D,** as amended by PL 2001, c.  
48 112, §3, is further amended to read:

2 D. The methods for taking, handling, shipping, transporting  
and processing of shellfish and whole scallops taken from  
4 ~~closed~~ approved or restricted areas;

6 **SUMMARY**

8 This bill requires that shellfish harvested for depuration  
purposes be taken only from restricted or approved areas.