

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1702

S.P. 634

In Senate, December 17, 2003

**An Act To Provide for Department of Marine Resources
Jurisdiction Over Certain Sections of the State's Endangered
Species Program**

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DAMON of Hancock.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 12 MRSA §6022, sub-§16** is enacted to read:

5 **16. Designation of endangered marine species.** The
6 following provisions govern the designation of endangered marine
7 species.

8 A. The commissioner shall recommend a marine species be
9 listed as endangered or threatened whenever the commissioner
10 finds one of the following exists:

11 (1) The present or threatened destruction,
12 modification or curtailment of the species' habitat or
13 range;

14 (2) Overutilization of the species for commercial,
15 sporting, scientific, educational or other purposes;

16 (3) Disease or predation;

17 (4) Inadequacy of existing regulatory mechanisms; or

18 (5) Other natural or artificial factors that affect
19 the species' continued existence within the State.

20 B. In recommending a marine species to be listed as
21 endangered or threatened pursuant to paragraph A, the
22 commissioner shall:

23 (1) Make use of the best scientific, commercial and
24 other data available; and

25 (2) Consult, as appropriate, with federal agencies,
26 other interested state agencies, other states having a
27 common interest in the species and interested persons
28 and organizations.

29 C. The Legislature, as sole authority, shall designate a
30 marine species as a state endangered or state threatened
31 species. Any marine species designated by the Legislature
32 must be included in the list of state endangered or state
33 threatened species under section 12803, subsection 3.

34 D. Prior to recommending an addition, deletion or other
35 change to the list of names of endangered and threatened
36 marine species included in section 12803, subsection 3, the
37 commissioner shall provide for public notice and public
38 hearings on that proposed recommendation in accordance with
39 the provisions of Title 5, chapter 375, subchapter 2.

2 E. The Legislature may not amend the list of endangered or
3 threatened marine species created pursuant to this
4 subsection except upon the recommendation of the
5 commissioner.

6 **Sec. 2. 12 MRSA §12805**, as enacted by PL 2003, c. 414, Pt. A,
7 §2 and affected by Pt. D, §7, is amended to read:

8 **§12805. Cooperative agreements**

9
10 The commissioner may enter into agreements with federal
11 agencies, other states, state agencies, political subdivisions of
12 this State or private persons for the establishment and
13 maintenance of programs for the conservation of endangered or
14 threatened species and may receive all federal funds allocated
15 for obligations to the State pursuant to these agreements.

16
17 Federal funds received for the conservation of endangered
18 marine species listed pursuant to section 6022, subsection 16
19 must be allocated directly to the Department of Marine Resources
20 to ensure compliance with any conditions of the listing.

21
22 **Sec. 3. Temporary authority.** Notwithstanding the Maine
23 Revised Statutes, Title 12, section 6022, subsection 16 and
24 section 12803, until 180 days after the adjournment of the Second
25 Regular Session of the 121st Legislature the Commissioner of
26 Marine Resources may designate a marine species found in the
27 State as a state endangered or state threatened species if that
28 species is listed as an endangered or threatened species by the
29 United States Secretary of the Interior, pursuant to the United
30 States Endangered Species Act of 1973, Public Law 93-205, as
31 amended.

32
33
34 **SUMMARY**

35
36 This bill gives the Commissioner of Marine Resources the
37 authority to recommend endangered or threatened marine species to
38 the Legislature for designation on the state endangered or state
39 threatened species list.

40
41 The bill also gives the commissioner temporary authority to
42 designate a marine species found in the State as a state
43 endangered or state threatened species if that species is listed
44 as an endangered or threatened species by the United States
45 Secretary of the Interior.