

MAINE STATE LEGISLATURE

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MARINE RESOURCES

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 412, L.D. 1184, Bill, "An Act To Adopt Recommendations of the Soft-shell Clam Advisory Council"

Amend the bill by striking out all of sections 2 to 4 and inserting in their place the following:

Sec. 2. 12 MRSA §6671, sub-§10, as amended by PL 2003, c. 284, §1, is further amended to read:

10. Criminal penalty. A person who violates a provision of a municipal ordinance adopted under this section commits a Class D crime punishable by the following fines:

A. For harvesting shellfish from a an area closed area for conservation purposes:

(1) For the first offense by a commercial license holder, a fine of not less than \$300; and

(2) For subsequent offenses by a commercial license holder, a fine of not less than \$500, and not more than \$1,500;

(3) For the first offense by a recreational license holder, a fine of not less than \$100; and

(4) For subsequent offenses by a recreational license holder, a fine of not less than \$100 and not more than \$500; or

The court may not suspend a fine imposed under this paragraph.

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2 B. For violating any other provision of a municipal
ordinance adopted under this section, a fine of not less
4 than \$100 and not more than \$1,500.

6 The court may not suspend a fine imposed under this subsection or
impose a penalty other than the monetary payment of a fine as
8 provided in this subsection. For purposes of this subsection,
"recreational license" means a license that authorizes a person
10 to take or possess shellfish only for personal use. A fine for a
violation of article 5 must be as provided by section 6681.

12 **Sec. 3. 12 MRSA §6671, sub-§10-A,** as enacted by PL 2003, c.
14 284, §2, is amended to read:

16 **10-A. Civil penalty.** A person who ~~digs--for~~ harvests
shellfish without a municipal shellfish license or in violation
18 of a license restriction commits a civil violation for which a
 ~~fine of not less than \$100 nor more than \$500~~ the following fines
20 may be adjudged-:

22 A. For harvesting shellfish without a municipal shellfish
license:

24 (1) For commercial purposes, a fine of not less than
\$300 and not more than \$1,500. Possession of more than
26 one peck of clams without a license is prima facie
evidence of a violation of this subparagraph; and

28 (2) For personal use, a fine of not less than \$100 and
30 not more than \$500; and

32 B. For harvesting shellfish in violation of a license
restriction:

34 (1) By a commercial license holder, a fine of not less
36 than \$300 and not more than \$1,500; and

38 (2) By a recreational license holder, a fine of not
40 less than \$100 and not more than \$500.

42 The court may not suspend a fine imposed under this subsection or
impose a penalty other than the monetary payment of a fine as
44 provided in this subsection. For the purposes of this
subsection, "recreational license" means a license that
46 authorizes a person to take or possess shellfish only for
personal use.'

48 **SUMMARY**

50 This amendment retains the substance of the bill. The

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2 amendment makes no change to the provision of the bill that
3 authorizes municipal shellfish wardens to enforce state laws that
4 prohibit the taking of shellfish from areas closed to harvesting
5 by state regulation. The amendment makes technical changes to
6 clarify the provisions of the bill regarding criminal and civil
7 penalties for municipal shellfish ordinance violations, for
8 harvesting without a license and for license violations. The
9 amendment clarifies the meaning of "commercial license holders"
10 and "recreational license holders" in the bill for the
11 application of different penalties to these 2 groups.

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FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



Approved: 04/22/05 *MAC*

122nd MAINE LEGISLATURE

LD 1184

LR 0861(02)

An Act To Adopt Recommendations of the Soft-shell Clam Advisory Council

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

Undetermined revenue increase - General Fund

Fiscal Detail and Notes

This bill makes several changes to the municipal shellfish conservation laws by increasing the range of allowable fines for certain violations. General Fund fine revenue collected as a result of these changes is likely to increase; the amounts can not be determined at this time.