MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1184

S.P. 412

In Senate, March 8, 2005

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

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

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator DAMON of Hancock.
Cosponsored by Representative SMITH of Monmouth and
Representatives: ADAMS of Portland, ASH of Belfast, EDER of Portland, FLETCHER of
Winslow, KAELIN of Winterport, PERCY of Phippsburg.

Sec. 1. 12 MRSA §6671, sub-§8, ¶C, as amended by PL 2001, c.
188, §8, is further amended to read:
C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipality
employing the warden and, if the warden is authorized by the
municipality and meets the training requirements of Title 25, section 2804-I, the warden may arrest all violators. The
warden may serve all process pertaining to the ordinance. The warden also has, within that warden's jurisdiction, the
powers of a marine patrol officer provided in section 6025, subsection 4 and the authority to enforce section 6621. All
of the powers conferred in this subsection are limited to the enforcement of a municipal shellfish conservation
ordinance and section 6621.
At the commissioner's request, a certified municipal
shellfish conservation warden may collect samples and otherwise assist the department in the detection of
pollutants and contaminants. The commissioner is not required to conduct tests on samples not requested by the
commissioner.
Sec. 2. 12 MRSA $\S6671$, sub- $\S10$, $\P\PA$ and B, as amended by PL 2003, c. 284, $\S1$, are further amended to read:
A. For harvesting shellfish from a <u>an area</u> closed area <u>for conservation purposes</u> :
(1) For the first offense by a commercial harvester, a fine of not less than \$300; and
(2) For subsequent offenses by a commercial harvester, a fine of not less than \$500. and not more than \$1,500;
(3) For the first offense by a recreational harvester, a fine of not less than \$100; and
(4) For subsequent offenses by a recreational harvester, a fine of not less than \$100 and not more than \$500.
The court may not suspend a fine imposed under this paragraph or impose a fine other than the monetary payment of a fine as provided in this paragraph; or
B. For violating any other provision of a municipal
ordinance adopted under this section a fine of not loss

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

than \$100 and not more than \$1,500. The court may not suspend a fine imposed under this paragraph or impose a fine other than the monetary payment of a fine as provided in this paragraph.

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

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10-A. Civil penalty for commercial harvesters. A person commercial harvester who digs for shellfish without a municipal shellfish license or harvests shellfish in violation of a license restriction commits a civil violation for which a fine of not less than \$100-ner \$300 and not more than \$500 \$1,500 may be adjudged. The court may not suspend a fine imposed under this subsection or impose a fine other than the monetary payment of a fine as provided in this subsection.

Sec. 4. 12 MRSA §6671, sub-§10-B is enacted to read:

10-B. Civil penalty for recreational harvesters. A recreational harvester who digs for shellfish without a municipal shellfish license or harvests shellfish in violation of a license restriction commits a civil violation for which a fine of not less than \$100 and not more than \$500 may be adjudged. The court may not suspend a fine imposed under this subsection or impose a fine other than the monetary payment of a fine as provided in this subsection.

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SUMMARY

This bill provides certified municipal shellfish conservation wardens with the authority to enforce prohibitions on taking shellfish from closed areas. The bill clarifies that the penalty for harvesting shellfish from a closed area applies to areas closed for conservation purposes and sets an upper limit of \$1,500 for the fine for subsequent offenses by commercial harvesters. The bill sets a separate fine for recreational harvesters of not less than \$100 for the first offense and not less than \$100 and not more than \$500 for subsequent offenses. The bill states that a court may not suspend a fine or impose a fine other than the fine specified for the violation. For violations of any other provision of a municipal ordinance, an upper limit of \$1,500 is set. persons who dig shellfish without a municipal shellfish license or harvest shellfish in violation of a license restriction, the fine is raised to not less than \$300 and not more than \$1,500 for commercial harvesters and set at not less than \$100 and not more than \$500 for recreational harvesters.

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