

MAINE STATE LEGISLATURE

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MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 319, L.D. 403, Bill, "An Act To Encourage Municipalities To Abate Coastal Pollution"

Amend the bill by striking out everything after the title and before the summary and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is important that coastal municipalities be allowed to manage their shellfish resources without the threat of losing their investments; and

Whereas, this Act needs to take effect before mud flats are again accessible for the harvest of shellfish in order to ensure coastal municipalities some measure of control over the management and conservation of the shellfish resources within their jurisdictions; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6856, sub-§3, as amended by PL 2003, c. 248, §11, is further amended to read:

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. A depuration plant operator maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection.

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1 The commissioner may permit depuration of shellfish not contaminated by paralytic
2 shellfish poisoning if it is established that the water used during depuration will not
3 contaminate the shellfish with paralytic shellfish poisoning. ~~To ensure consistency with
4 municipal shellfish conservation programs, established pursuant to section 6671, the
5 commissioner must consult with a municipal shellfish conservation committee before
6 taking action to open an area within that municipality for depuration digging. The
7 commissioner may continue to issue controlled purification certificates for areas that
8 were restricted to depuration digging on September 1, 1989, without consulting
9 municipalities.~~

10 **Sec. 2. 12 MRSA §6856, sub-§3-A** is enacted to read:

11 **3-A. Municipal consultation and approval; depuration harvesting.** Within a
12 municipality that has a municipal shellfish conservation committee established pursuant
13 to section 6671, the following provisions apply to shellfish growing areas that have been
14 downgraded after January 1, 2006 to a restricted classification for water quality as
15 defined in rule.

16 A. Unless the commissioner obtains the approval of the affected municipality, the
17 commissioner may not open an area downgraded to a restricted classification for
18 depuration harvesting for 2 years from the date of the reclassification to allow the
19 municipality to develop a pollution abatement plan under subsection 3-B.

20 B. Beginning April 1, 2007, a municipality must notify the commissioner within 8
21 weeks of the reclassification of an area whether or not it intends to develop a
22 pollution abatement plan. If the municipality does not wish to develop a pollution
23 abatement plan in accordance with subsection 3-B or if it fails to notify the
24 commissioner within the 8-week period, municipal approval is not required.

25 C. If a municipal shellfish conservation committee has a pollution abatement plan as
26 provided in subsection 3-B on file with the commissioner, the commissioner must
27 obtain the approval of the committee before taking action to open an area within that
28 municipality for depuration digging.

29 D. If a municipal shellfish conservation committee has a depuration management
30 plan as provided in subsection 3-C approved by the commissioner, the municipality
31 may manage the depuration harvesting over a shellfish growing area within that
32 municipality.

33 **Sec. 3. 12 MRSA §6856, sub-§3-B** is enacted to read:

34 **3-B. Municipal pollution abatement plan.** A pollution abatement plan must be
35 specific to a particular shellfish growing area and include at least:

36 A. A shoreline survey as defined by rule;

37 B. Hydrological and meteorological data pertaining to the area;

38 C. Pollution source identification;

39 D. Tasks to be undertaken to remediate the pollution problem; and

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1 E. A timeline for pollution remediation. If the timeline for remediation is longer
2 than 2 years, a scientific resource survey and a standing crop analysis as required by
3 the commissioner must be included in the plan.

4 **Sec. 4. 12 MRSA §6856, sub-§3-C** is enacted to read:

5 **3-C. Municipal depuration management plan.** A depuration management plan
6 must include but is not limited to:

7 A. A scientific shellfish survey approved by the commissioner;

8 B. A standing crop analysis with year classes as required by the commissioner;

9 C. Historical harvest data; and

10 D. Established annual harvest limits.

11 **Sec. 5. 12 MRSA §6856, sub-§7**, as enacted by PL 1991, c. 831, §2, is amended
12 to read:

13 **7. Resident depuration harvesters.** ~~When~~ Except for depuration activities
14 conducted under subsection 3-A, paragraph D, when harvesting soft-shelled clams under
15 a depuration certificate, the person holding the certificate shall, to the extent possible,
16 employ one person who is a resident of the municipality as harvester for every person
17 employed as harvester who is not a resident of that municipality.

18 **Sec. 6. Retroactivity.** That section of this Act that enacts Title 12, section 6856,
19 subsection 3-A applies retroactively to January 1, 2006.

20 **Emergency clause.** In view of the emergency cited in the preamble, this
21 legislation takes effect when approved.'

22 **SUMMARY**

23 This amendment adds an emergency preamble and clause to allow the bill to take
24 effect upon approval. It allows a town with a municipal shellfish conservation committee
25 2 years to develop a pollution abatement plan to manage a shellfish growing area within
26 its jurisdiction that has been downgraded to a restricted classification after January 1,
27 2006 before that area is opened to depuration harvesting. Beginning April 1, 2007, a
28 municipality must notify the commissioner within 8 weeks of the reclassification of an
29 area whether or not it intends to develop a pollution abatement plan. If a municipality
30 develops a pollution abatement plan within 2 years from the date of the reclassification,
31 the Commissioner of Marine Resources must obtain the permission of the municipality
32 before opening the area to depuration harvesting. If the municipality does not wish to
33 develop a pollution abatement plan or if it fails to notify the commissioner within the
34 8-week period, municipal approval is not required before opening the area to depuration
35 harvesting. This amendment allows a town to manage the depuration harvesting within
36 its jurisdiction if it has a depuration management plan approved by the Commissioner of
37 Marine Resources. It also requires a depuration plant operator to file a general
38 management plan with the Commissioner of Marine Resources that includes a timeline
39 for harvest, harvest limits and harvester selection.

COMMITTEE AMENDMENT