

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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**Legislative Document**

**No. 1604**

S.P. 611

In Senate, December 18, 2009

**An Act To Clarify the Marine Resources Laws To Provide for the  
Protection of Public Safety and Welfare**

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Submitted by the Department of Marine Resources pursuant to Joint Rule 204.  
Received by the Secretary of the Senate on December 18, 2009. Referred to the Committee  
on Marine Resources pursuant to Joint Rule 308.2 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 DAMON of Hancock.

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

2 Sec. 1. 12 MRSA §6171-D is enacted to read:

3 **§6171-D. Protection of public safety**

4 **1. Commissioner's powers.** The commissioner may, with the advice and consent of  
5 the Marine Resources Advisory Council, adopt or amend such rules as the commissioner  
6 considers necessary to protect public safety or welfare. Rules adopted in accordance with  
7 this section may include, but are not limited to, rules governing area closures when  
8 necessary to address conflicts among persons who fish commercially that may cause a  
9 threat of harm to any person.

10 **2. Emergency rules.** The commissioner may adopt or amend rules on an emergency  
11 basis when necessary to avoid an immediate threat to public safety or welfare in  
12 accordance with section 6192.

13 **3. Procedure.** The procedures of subchapter 2 must be used in adopting or  
14 amending rules authorized by this section.

15 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,  
16 chapter 375, subchapter 2-A.

17 Sec. 2. 12 MRSA §6192, sub-§1, ¶A, as amended by PL 2005, c. 44, §3, is  
18 further amended to read:

19 A. In an emergency adoption of a rule or amendment to a rule relating to the public  
20 health and safety, including rules authorized under sections 6171-C, 6171-D and  
21 6172, prior public notice and hearing is not required.

22 Sec. 3. 12 MRSA §6192, sub-§1, ¶B, as amended by PL 2003, c. 248, §5, is  
23 further amended to read:

24 B. In an emergency adoption of a rule or amendment to a rule relating to the  
25 general welfare, as authorized by ~~section~~ sections 6171 and 6171-D, the rule is  
26 effective immediately, as provided in subsection 4. A public hearing must be held in  
27 the affected area immediately ~~thereafter~~ after the rule takes effect if requested of the  
28 commissioner in writing by 5 persons. The hearing must be held within 30 days of  
29 the ~~commissioner~~ commissioner's receiving the written request. Notice of that  
30 hearing must be published once, not less than 5 days prior to the hearing, in a  
31 newspaper of general circulation in the affected area.

32 **SUMMARY**

33 This bill clarifies that the Commissioner of Marine Resources has the regulatory  
34 authority to close an area to fishing should it be necessary to protect the public safety and  
35 welfare.