

MAINE STATE LEGISLATURE

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MARINE RESOURCES

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STATE OF MAINE

SENATE

126TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 536, L.D. 1452, Bill, "An Act To Allow Municipalities with Shellfish Conservation Ordinances To Request Permission To Prohibit Marine Worm Harvesting"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Areas in Which Shellfish Conservation Gear Has Been Placed for Predator Control and Habitat Enhancement Purposes and Establish a Municipal Predator Control Pilot Program'

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, the soft shell clam and marine worm industries are vital to Maine's coastal economy; and

Whereas, cooperation of the soft shell clam and marine worm industries and other interested parties is needed to develop predator control strategies to mitigate the effects of green crabs; and

Whereas, the soft shell clam and marine worm industries have an economic interest in properly managing the intertidal zone in a way that does not disadvantage either user group; and

Whereas, green crabs are thought to exert adverse impact on juvenile soft shell clams and the intertidal zone and research is needed to understand and respond to the effects of green crabs on the intertidal zone; and

Whereas, green crabs are invasive and are causing immediate damage; 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

COMMITTEE AMENDMENT

1 immediately necessary for the preservation of the public peace, health and safety; now,
2 therefore,

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

4 **Sec. 1. 12 MRSA §6671, sub-§§10-B and 10-C** are enacted to read:

5 **10-B. Molesting municipal shellfish gear placed in protected areas.** A
6 municipality may, as part of a municipal shellfish conservation program, place protective
7 netting, fencing, traps or other gear in the intertidal zone to provide protection from
8 shellfish predators. Any netting, fencing, traps or other gear placed for this purpose must
9 be clearly marked with signs or tags that identify the municipality that placed the gear
10 and indicate the purpose of the gear.

11 A. A person may not tamper with, molest, disturb, alter, destroy or in any manner
12 handle gear placed by a municipality in accordance with this subsection.

13 B. A person who violates paragraph A commits a civil violation for which a fine of
14 not less than \$300 and not more than \$1,000 may be adjudged.

15 **10-C. Prohibition.** A person may not fish for or take any marine organism from
16 within a predator control project area that has been approved by the commissioner as part
17 of a municipal predator control project, except that the municipality may remove green
18 crabs from within the predator control project area. A person who violates this
19 subsection commits a civil violation for which a fine of not less than \$300 and not more
20 than \$1,000 may be adjudged.

21 This subsection is repealed February 28, 2015.

22 **Sec. 2. Municipal predator control pilot project.**

23 **1. Pilot project authorized.** The Commissioner of Marine Resources, referred to in
24 this section as "the commissioner," may solicit proposals from municipalities with
25 shellfish conservation ordinances approved pursuant to the Maine Revised Statutes, Title
26 12, section 6671, subsection 4-B to conduct a pilot project for the purpose of determining
27 the effectiveness of predator control in increasing the survival rate of soft shell clams and
28 marine worms. Municipalities must submit their proposals on forms provided by the
29 Department of Marine Resources. The area encompassed by a predator control proposal
30 from a municipality may include no more than 10% of the total area of the entire
31 municipal intertidal zone that is open to the taking of shellfish. In addition, the area
32 encompassed by a predator control proposal, when combined with any area under
33 municipal shellfish aquaculture permits under Title 12, section 6673, subsection 2-A,
34 paragraph B, may not include more than 25% of the entire municipal intertidal zone that
35 is open to the taking of shellfish under section 6671.

36 **2. Proposal selection.** The commissioner may approve predator control proposals to
37 participate in the pilot project under subsection 1 from up to 4 municipalities. If more
38 than 4 municipalities submit proposals, the commissioner shall consult the Shellfish
39 Advisory Council established pursuant to the Maine Revised Statutes, Title 12, section
40 6038 for advice on which proposals to approve. The commissioner may approve more
41 than 4 municipal proposals if the commissioner determines that the additional municipal

1 projects do not affect access to the municipal intertidal zone for the purpose of harvesting
2 marine worms.

3 **3. Marking.** A municipality with a predator control project approved by the
4 commissioner under subsection 2 shall clearly mark the boundaries of the predator
5 control project with green stakes and flags and post signs that include the words
6 "approved predator control project" and "no harvesting of marine organisms is allowed
7 within these boundaries."

8 **4. Maintenance of predator control gear.** A municipality must maintain all gear
9 approved as part of a predator control project under subsection 1 in good working
10 condition. In the proposal to the commissioner under subsection 1, the municipality must
11 provide a weekly maintenance plan. The commissioner may terminate the municipality's
12 predator control project and order the removal of all gear if the commissioner determines
13 that the municipality has failed to follow the weekly maintenance plan provided.

14 **5. Notice.** A municipality with a predator control project approved by the
15 commissioner under subsection 2 shall provide adequate public notice to harvesters of
16 soft shell clams or marine worms of the areas that have been closed to harvesting. This
17 notice must include, but is not limited to, notice in local newspapers and publicly
18 accessible websites of the municipality and posting signs as appropriate at water access
19 sites.

20 **6. Repeal.** This section is repealed February 28, 2015.

21 **Sec. 3. Predator control strategies.** The Commissioner of Marine Resources
22 shall, with the cooperation of the soft shell clam and marine worm industries and other
23 interested parties, develop predator control strategies to mitigate the effects of green
24 crabs. The strategies must identify the needs of the soft shell clam and marine worm
25 industries and recognize that both industries have an economic interest in properly
26 managing the intertidal zone in a way that does not disadvantage either user group. The
27 commissioner shall present those strategies for review and comment to the joint standing
28 committee of the Legislature having jurisdiction over marine resources matters no later
29 than January 31, 2015. After review of the strategies, the committee may report out a bill
30 related to the strategies to the First Regular Session of the 127th Legislature.

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

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SUMMARY

This amendment, which is the unanimous report of the committee, replaces the bill. The amendment makes it a civil violation to disturb or molest predator protection gear that has been placed in the intertidal zone as part of a municipal shellfish conservation program. This amendment also establishes a municipal predator control pilot project within the Department of Marine Resources to evaluate the effectiveness of predator control strategies in increasing the survival rate of soft shell clams and marine worms. The amendment establishes that harvesting marine organisms from within pilot project predator control areas, except for municipal removal of green crabs, is prohibited and is a civil violation. The amendment adds an emergency preamble and an emergency clause.

FISCAL NOTE REQUIRED

(See attached)



Approved: 03/05/14 *MCC*

126th MAINE LEGISLATURE

LD 1452

LR 334(02)

An Act To Allow Municipalities with Shellfish Conservation Ordinances To Request Permission To Prohibit Marine Worm Harvesting

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-434)

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The bill requires the Department of Marine Resources (DMR) to develop and initiate a predator control strategy in the intertidal zone. The DMR will establish a municipal predator control pilot project to evaluate the effectiveness of predator control strategies to increase survival of soft shell clams and marine worms. The pilot project will terminate on February 28, 2015. A report will be presented to the Legislature by January 31, 2015. The bill also creates new civil violations between \$300 and \$1,000 for those handling gear placed by a municipality for use in a municipal shellfish conservation program and for fishing or taking marine organisms from a predator control area. Any additional costs to the DMR can be absorbed within existing budgeting resources.