

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1687

H.P. 1210

House of Representatives, December 30, 2013

**An Act To Create Parity for Proprietary Information Submitted to
the Department of Marine Resources**

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BEAVERS of South Berwick.
Cosponsored by Senator LANGLEY of Hancock.

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

2 **Sec. 1. 12 MRSA §6072, sub-§10, ¶D**, as amended by PL 2009, c. 240, §8, is
3 further amended to read:

4 D. The lessee shall annually submit to the department a seeding and harvesting
5 report for the past year and a seeding and harvesting plan for the coming year. Upon
6 written request, the department shall provide a copy of the report to the municipality
7 or municipalities in which or adjacent to which the lease is located. The seeding and
8 harvesting reports submitted by a lessee under this paragraph are considered
9 ~~proprietary information~~ confidential statistics for the purposes of section ~~6077,~~
10 ~~subsection 4~~ 6173.

11 **Sec. 2. 12 MRSA §6072-A, sub-§17-A, ¶D**, as enacted by PL 2009, c. 240, §11,
12 is amended to read:

13 D. The lessee shall annually submit to the department a seeding and harvesting
14 report for the past year and a seeding and harvesting plan for the coming year. Upon
15 written request, the commissioner shall provide a copy of the report to the
16 municipality or municipalities in which or adjacent to which the lease is located. The
17 seeding and harvesting reports submitted by a lessee under this paragraph are
18 considered ~~proprietary information~~ confidential statistics for the purposes of section
19 ~~6077, subsection 4~~ 6173.

20 **Sec. 3. 12 MRSA §6173-B** is enacted to read:

21 **§6173-B. Special licenses; mandatory quality control program; shellfish sanitation**
22 **and depuration certificates; confidentiality of proprietary information**

23 Except as provided in subsections 1 and 2, information obtained by the department
24 under this section is a public record as provided by Title 1, chapter 13, subchapter 1.

25 **1. Confidential information.** Information submitted to the department pursuant to
26 provisions regarding special licenses for research, aquaculture or education under section
27 6074, surveillance and inspection of all segments of the State's fishing industries under
28 section 6102 or the shellfish sanitation certificate and the depuration certificate under
29 section 6856 may be designated by the submitter as proprietary information and as being
30 only for the confidential use of the department, its agents and employees, other agencies
31 of State Government, as authorized by the Governor, and the Attorney General. The
32 designation must be clearly indicated on each page or other unit of information. The
33 commissioner shall establish procedures to ensure that information so designated is
34 segregated from public records of the department. The department's public records must
35 include the indication that information so designated has been submitted to the
36 department, giving the name of the submitter and the general nature of the information.
37 Upon a request for information the scope of which includes information so designated,
38 the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the
39 submitter shall demonstrate to the satisfaction of the department that the designated
40 information should not be disclosed because the information is proprietary information.
41 Unless such a demonstration is made, the information must be disclosed and becomes a

1 public record. The department may grant or deny disclosure for all or any part of the
2 designated information requested and within 15 days shall give written notice of the
3 decision to the submitter and the person requesting the designated information. A person
4 aggrieved by a decision of the department under this subsection may appeal to the
5 Superior Court.

6 **2. Release information.** The commissioner may not release information designated
7 under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or
8 to the rendering of the decision on any appeal.

9 **3. Nonconfidential information.** Any information that is collected by any other
10 local, state or federal agency or information required by the department for the purpose of
11 obtaining a permit, license, certification or other approval may not be designated or
12 treated as confidential information under subsection 1.

13 **4. Definition.** For purposes of this section, "proprietary information" means
14 information that is a trade secret or production, commercial or financial information the
15 disclosure of which would impair the competitive position of the submitter and would
16 make available information not otherwise publicly available.

17 SUMMARY

18 This bill allows certain businesses licensed under the marine resource laws to request
19 that certain information submitted to the Department of Marine Resources be kept
20 confidential to protect proprietary business information. It also corrects 2 references to
21 confidential statistical landings information collected under aquaculture leases and
22 licenses.