

# MAINE STATE LEGISLATURE

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**MARINE RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 461, L.D. 647, Bill, "An Act Regarding Certain Shellfish Certificates and Permits Issued by the Department of Marine Resources"

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

**Sec. 1. 12 MRSA §6852, sub-§4**, as amended by PL 2013, c. 282, §11 and affected by §12, is further amended to read:

**4. Fee.** The fee for a retail seafood license under subsection 1 is \$100. The fee for an enhanced retail certificate under subsection 2-A is ~~\$28~~ \$100 and must be deposited in the Shellfish Fund under section 6651.

**Sec. 2. 12 MRSA §6856**, as amended by PL 2015, c. 68, §§10 and 11, is further amended to read:

**§6856. Shellfish sanitation; depuration certificate and permits**

**1. Shellfish sanitation certificate.** A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate unless authorized under section 6701 or 6702. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses. A shellfish sanitation certificate does not authorize a person to undertake any of the activities for which a permit is required pursuant to subsection 2-A. Beginning June 1, 2018, the fee for a shellfish sanitation certificate is \$50.

**2. Express authorizations.** The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation

1 operations, except that the operations may be limited to the extent required to protect the  
2 public health.

3 **2-A. Additional permits.** A person may not engage in an activity for which a  
4 permit is required pursuant to this subsection unless the person holds a shellfish sanitation  
5 certificate and the applicable permit as provided in this subsection.

6 A. A person may not store shellfish in containers or tanks containing recirculating  
7 water without a recirculating wet storage permit. Beginning August 1, 2018, the fee  
8 for a recirculating wet storage permit is \$200, except that the fee for a recirculating  
9 wet storage permit is \$100 if the holder of the permit accepts as a permit condition  
10 the duty to provide and provides the department weekly test results showing the  
11 recirculating wet storage facility's compliance with the most recently adopted federal  
12 sanitation standards.

13 B. A person may not store shellfish in containers or tanks where nonrecirculating  
14 water flows through the containers or tanks or in or on floats in a natural body of  
15 water without a flow-through wet storage permit. Beginning August 1, 2018, the fee  
16 for a flow-through wet storage permit is \$100.

17 C. A person may not handle, ship, transport or process shellfish in bulk, as defined  
18 by the department by rule, without:

19 (1) Attaching a tag to the shellfish in accordance with rules adopted by the  
20 department; and

21 (2) A bulk tagging permit. Beginning June 1, 2018, the fee for a bulk tagging  
22 permit is \$50.

23 D. A person may not use a vehicle to transport soft-shelled clam shell stock  
24 purchased at a location other than the establishment or vehicle authorized under the  
25 license without a shellfish buying station permit. Beginning June 1, 2018, the fee for  
26 a shellfish buying station permit is \$100.

27 **3. Depuration certificate.** A person may not take shellfish from closed areas for  
28 depuration, processing and transportation without a depuration certificate. The  
29 commissioner may issue a depuration certificate to a wholesale seafood license holder  
30 that authorizes the holder to take shellfish from closed areas for depuration, processing  
31 and transportation. The certificate must establish limits on harvesting, depurating and  
32 processing methods and any other provisions required to ensure the public safety. The  
33 commissioner may permit depuration of shellfish not contaminated by paralytic shellfish  
34 poisoning if it is established that the water used during depuration will not contaminate  
35 the shellfish with paralytic shellfish poisoning. Beginning May 1, 2018, the fee for a  
36 depuration certificate is \$200.

37 **3-D. Soft-shelled clam depuration harvesting in municipalities with municipal**  
38 **shellfish conservation programs.** Soft-shelled clam depuration activities conducted  
39 within a municipality that has a municipal shellfish conservation program pursuant to  
40 section 6671 are subject to the following provisions.

41 A. Using the following general guidelines to identify whether pollution abatement  
42 activities are likely to succeed in a shellfish growing area, the commissioner may

1 close a shellfish growing area pursuant to section 6172 for municipal pollution  
2 abatement activities.

3 (1) Pollution abatement activities are likely to succeed in shellfish growing areas  
4 affected by identified failing residential septic systems and other identified  
5 localized sources of human or animal fecal contamination when funding for  
6 abatement is available.

7 (2) Pollution abatement activities are not likely to succeed in shellfish growing  
8 areas affected by wastewater treatment plant outfall or other point sources of  
9 treated or partially treated sewage unless complete removal of pollution sources  
10 has been achieved.

11 (3) Abatement activities are not likely to succeed in shellfish growing areas  
12 affected by chronic nonpoint source contamination from rivers or streams.

13 At the request of the municipality, the commissioner may allow soft-shelled clam  
14 depuration harvesting in a shellfish growing area closed under this paragraph.

15 B. In conducting depuration harvesting activities under this subsection, a person  
16 holding a depuration certificate shall engage commercial harvesters holding valid  
17 municipal and state commercial shellfish licenses. If there are insufficient  
18 municipally licensed commercial harvesters, the depuration certificate holder may  
19 supplement with other commercial shellfish harvesters licensed in the State.

20 C. A depuration certificate holder shall maintain a generalized depuration  
21 management plan on file with the commissioner that sets forth methods for  
22 identifying harvest limits, operational procedures for harvest management and  
23 responsibilities of authorized representatives.

24 D. A depuration certificate holder shall pay each municipality an amount equal to  
25 50¢ for each bushel of soft-shelled clams taken in that municipality under the  
26 depuration certificate. When submitting payment to a municipality under this  
27 paragraph, the depuration certificate holder shall include a summary of reports  
28 submitted to the department pursuant to rules adopted under subsection 4.

29 **4. Rules.** The commissioner may adopt or amend rules concerning:

30 A. The procedures for issuing certificates and the required qualifications for each  
31 type of certificate;

32 B. The minimum sanitation standards for establishments and vehicles;

33 C. The sanitation and quality control standards for shellfish and whole scallops and  
34 their products;

35 D. The methods for taking, handling, shipping, transporting and processing of  
36 shellfish and whole scallops taken from closed areas;

37 E. The records and reports of takings, purchases, processing, sales, shipping and  
38 transporting of shellfish and whole scallops;

39 F. The labeling or marking of shipments of shellfish and whole scallops; and

40 G. Other rules necessary to the public health.

# COMMITTEE AMENDMENT

1 The rules must be based on the particular operational requirements of each activity, the  
2 most recently adopted federal sanitation standards and the most recent generally accepted  
3 research data, in a manner so as to protect the public health and safety while allowing  
4 reasonable use of the State's shellfish and whole scallops.

5 **5. Right of entry.** Whenever a certificate has been issued under this section, the  
6 commissioner, or the commissioner's agent, must have access to any establishment or part  
7 thereof for the purpose of inspection or collection of samples. Denial of access is  
8 grounds for suspension or revocation of any certificate or license under the provisions of  
9 section 6372.

10 **6. Products embargoed and condemned.** The commissioner, or the  
11 commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any  
12 shellfish, shellfish product or whole scallop in any establishment whenever it is  
13 determined that the product is of unsound quality, contains any filthy, decomposed or  
14 putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The  
15 commissioner and the commissioner's agent shall cooperate with those state and federal  
16 agencies having similar responsibility in the protection of public health and in enforcing  
17 the order to embargo, condemn or destroy.

18 In the event that any shellfish, shellfish product or whole scallop in any establishment is  
19 embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's  
20 agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and  
21 kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

22 **9. Disposition of fees.** The commissioner shall deposit fees collected under this  
23 section in the Shellfish Fund under section 6651.

24 **Sec. 3. Effective date.** That section of this Act that amends the Maine Revised  
25 Statutes, Title 12, section 6852, subsection 4 takes effect April 1, 2018.'

26 **SUMMARY**

27 This amendment replaces the bill. The bill establishes a fee of \$50 for a shellfish  
28 sanitation certificate and establishes additional permits for authorized activities under a  
29 shellfish sanitation certificate. The permits established are a recirculating wet storage  
30 permit, a flow-through wet storage permit, a bulk tagging permit and a shellfish buying  
31 station permit. A recirculating wet storage permit is \$200, unless the holder provides  
32 weekly test results showing compliance with federal sanitation standards, in which case  
33 the fee is \$100; a flow-through wet storage permit is \$100; a bulk tagging permit is \$50;  
34 and a shellfish buying station permit is \$100. The amendment increases the fee for a retail  
35 seafood license from \$28 to \$100. The amendment establishes a fee of \$200 for a  
36 depuration certificate. Like the bill, the amendment requires the fees collected to be  
37 deposited in the Shellfish Fund. The amendment provides specified dates on which the  
38 Department of Marine Resources may begin assessing fees established in the amendment.

39 **FISCAL NOTE REQUIRED**

40 **(See attached)**



# 128th MAINE LEGISLATURE

LD 647

LR 748(02)

## An Act Regarding Certain Shellfish Certificates and Permits Issued by the Department of Marine Resources

Fiscal Note for Bill as Amended by Committee Amendment *A (H-334)*  
 Committee: Marine Resources  
 Fiscal Note Required: Yes

### Fiscal Note

Minor cost increase - Other Special Revenue Funds

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$15,896	\$15,896	\$15,896

#### Fiscal Detail and Notes

This bill establishes or increases fees for certain wholesale and retail permits or certificates issued by the Department of Marine Resources. This will increase revenue to the Shellfish Fund by an estimated \$15,896 annually starting in fiscal year 2018-19. Any additional cost to the department from issuing these permits or certificates is anticipated to be minor and can be absorbed within existing budgeted resources.