

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

3. Cooperation with local health officer. The department and the Department of Environmental Protection, to the extent possible, shall notify and utilize the services of local health officers in collecting and evaluating information relating to actual or potential ground water contamination.

§2609. Recovery of testing costs

Whenever the cost of testing a private residential water supply exceeds \$150 and that testing is conducted pursuant to section 2602-A, the department shall seek to recover the costs of the testing above \$150 from the person responsible for contaminating the water supply, or from the recipient of any compensation for the contamination of the well.

Sec. 3. Report. The Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over natural resources on the operation of the drinking water testing program in situations with suspected contamination.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund for the fiscal year ending June 30, 1985, to carry out the purposes of this Act.

1984-85

HUMAN SERVICES, DEPARTMENT OF

Bureau of Health

Positions	(2)
Personal Services	\$34,779
All Other	17,721
Capital Expenditures	<u>35,000</u>
Total	\$87,500

Effective July 25, 1984.

CHAPTER 838

H.P. 1501 - L.D. 1975

AN ACT to Permit Possession of Soft-shell Clam Stocks 2 Inches or Greater in the Largest Diameter.

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

Sec. 1. 12 MRSA §6651, sub-§§1 and 2, as enacted by PL 1977, c. 661, §5, are amended to read:

1. Fees to be paid into fund. ~~Twenty-five~~ Fifty-three percent of all fees from shellfish licenses, shellfish transportation licenses and wholesale seafood licenses shall be paid into the Shellfish Fund.

2. Uses of fund. The commissioner may expend the money in the Shellfish Fund for management, enforcement, restoration, development and conservation of shellfish in the intertidal zone or coastal waters.

Sec. 2. 12 MRSA §6671, sub-§2, as enacted by PL 1977, c. 661, §5, is amended to read:

2. Municipal program and ordinance. Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance regulating the taking possession of shellfish in any areas in the intertidal zone or coastal waters area of the municipality as provided by this section.

Sec. 3. 12 MRSA §6671, sub-§3, as amended by PL 1979, c. 608, §1, is further amended to read:

3. Shellfish conservation ordinance. Within any area ~~in~~ of the intertidal zone or coastal waters in the municipality, a shellfish conservation ordinance may regulate or prohibit the taking possession of shellfish; may fix the amount of shellfish that may be taken; ~~may~~ shall limit the size of ~~soft shell~~ soft-shell clams in accordance with subchapter I, Article 5; may fix the qualifications for a license, including municipal residency; may fix license fees; and may authorize the municipal officers to open and close flats under specified conditions. ~~No~~ A program or ordinance ~~shall~~ shall not regulate areas closed by regulation of the commissioner. An ordinance may also provide for enforcement, protection and evaluation of a green crab fencing program. No municipal commercial license may be issued unless the applicant has a current shellfish license, as provided in section 6601. The fee for a nonresident license shall be not more than 10 times the fee for a resident license, provided that in no case may the fee for a nonresident license exceed \$150. Notice of the number and the procedure for application shall be published in a trade or industry publication which the municipal officers consider effective in reaching persons af-

fected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes. Subsequent to that period, the municipality shall make any resident or non-resident licenses not granted during the period available to residents or nonresidents.

Sec. 4. 12 MRSA §6671, sub-§8, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

8. Local enforcement. The following provisions shall apply to enforcement.

A. A municipality that enacts an ordinance under this section shall be responsible for enforcing it.

B. Any municipal shellfish conservation warden appointed by a municipality to enforce the provisions of this Article shall, within one year of appointment, be certified by the commissioner. The commissioner shall establish a program to provide shellfish conservation training in principles of shellfish conservation, management, enforcement and protection and shall establish standards for certification of municipal conservation wardens upon their satisfactory completion of the training program. The commissioner may establish by rule procedures for certification, recertification and for revocation of certification. A certificate may be revoked for failure of the warden to comply with the performance standards established by the commissioner.

C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipality employing him and may arrest all violators. The warden may serve all process pertaining to the ordinance. The warden shall also have, within his jurisdiction, the powers of a marine patrol officer provided in section 6025, subsection 4. All of the powers conferred in this subsection shall be limited to the enforcement of a municipal shellfish conservation ordinance.

Sec. 5. 12 MRSA §6671, sub-§9, as enacted by PL 1977, c. 661, §5, is amended to read:

9. Penalty. Notwithstanding the provisions of Title 17-A, section 4-A, whoever takes or possesses shellfish contrary to a municipal ordinance authorized by this section shall be guilty of a crime pun-

ishable by a fine of not less than \$100 nor more than \$1,000, except that fines for violation of subchapter I, Article 5, shall be as provided in section 6681.

Sec. 6. 12 MRSA c. 623, sub-c. I, Art. 5 is enacted to read:

ARTICLE 5

SOFT-SHELL CLAM MANAGEMENT

§6681. Soft-shell clam management

1. Purpose. The Legislature finds that the conservation and wise use of the State's shellfish resource may be enhanced by a 2-inch minimum size limit on possession of soft-shell clam shell stock in combination with other management programs.

The Legislature further finds that management programs should be designed to meet local circumstances as appropriate, but also finds that a minimum size limit to be beneficial must be a uniform standard statewide.

The Legislature intends by this Article to enhance the value of the State's shellfish resource by the institution of uniform standards which can be implemented and enforced statewide.

2. Definition. For the purposes of this subchapter, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.

3. Minimum size. It is unlawful to possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter.

4. Tolerance. Any person may possess soft-shelled clams that are less than 2 inches if, beginning on the effective date of this Article, they comprise less than 30% of any bulk pile; beginning in calendar year 1985, they comprise less than 20% of any bulk pile; and beginning in calendar year 1986, they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

5. Enforcement. State, county and municipal wardens and enforcement officers shall enforce this subchapter.

6. Penalty. A minimum fine of \$100 and not more than \$1,000 shall be imposed for conviction of violation of this Article.

7. Sunset. This section shall be reviewed by the joint standing committee of the Legislature having jurisdiction over marine resources in the Second Regular Session of the 113th Legislature. That committee shall report its findings no later than March 1, 1988.

Sec. 7. Allocation. The following funds are allocated from the Shellfish Fund to carry out the purposes of the Revised Statutes, Title 12, section 6671, subsection 8, paragraph B.

1984-85

MARINE RESOURCES,
DEPARTMENT OF

Positions	(1)
Personal Services	\$26,077
All Other	<u>3,923</u>
Total	\$30,000

Provides funding for one marine patrol sergeant.

Effective July 25, 1984.

CHAPTER 839

H.P. 1743 - L.D. 2297

AN ACT Making Appropriations from the General Fund to Implement Certain Recommendations of the Governor's Commission on the Status of Education in Maine for the Fiscal Years Ending June 30, 1984, and June 30, 1985.

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

Whereas, the 9-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the implementation of certain recommendations