

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

## CHAPTER 171

S.P. 412 - L.D. 1184

**An Act To Adopt Recommendations  
of the Soft-shell Clam Advisory  
Council**

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

**Sec. 1. 12 MRSA §6671, sub-§8, ¶C**, as amended by PL 2001, c. 188, §8, is further amended to read:

C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipality employing the warden and, if the warden is authorized by the municipality and meets the training requirements of Title 25, section 2804-I, the warden may arrest all violators. The warden may serve all process pertaining to the ordinance. The warden also has, within that warden's jurisdiction, the powers of a marine patrol officer provided in section 6025, subsection 4 and the authority to enforce section 6621. All of the powers conferred in this subsection are limited to the enforcement of a municipal shellfish conservation ordinance and section 6621.

At the commissioner's request, a certified municipal shellfish conservation warden may collect samples and otherwise assist the department in the detection of pollutants and contaminants. The commissioner is not required to conduct tests on samples not requested by the commissioner.

**Sec. 2. 12 MRSA §6671, sub-§10**, as amended by PL 2003, c. 284, §1, is further amended to read:

**10. Criminal penalty.** A person who violates a provision of a municipal ordinance adopted under this section commits a Class D crime punishable by the following fines:

A. For harvesting shellfish from a an area closed ~~area~~ for conservation purposes:

(1) For the first offense by a commercial license holder, a fine of not less than \$300; ~~and~~

(2) For subsequent offenses by a commercial license holder, a fine of not less than \$500- and not more than \$1,500;

(3) For the first offense by a recreational license holder, a fine of not less than \$100; and

(4) For subsequent offenses by a recreational license holder, a fine of not less than \$100 and not more than \$500; or

~~The court may not suspend a fine imposed under this paragraph; or~~

B. For violating any other provision of a municipal ordinance adopted under this section, a fine of not less than \$100 and not more than \$1,500.

The court may not suspend a fine imposed under this subsection or impose a penalty other than the monetary payment of a fine as provided in this subsection. For purposes of this subsection, "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use. A fine for a violation of article 5 must be as provided by section 6681.

**Sec. 3. 12 MRSA §6671, sub-§10-A**, as enacted by PL 2003, c. 284, §2, is amended to read:

**10-A. Civil penalty.** A person who  ~~digs for harvests~~ shellfish without a municipal shellfish license or in violation of a license restriction commits a civil violation for which ~~a fine of not less than \$100 nor more than \$500~~ the following fines may be adjudged:

A. For harvesting shellfish without a municipal shellfish license:

(1) For commercial purposes, a fine of not less than \$300 and not more than \$1,500. Possession of more than one peck of clams without a license is prima facie evidence of a violation of this subparagraph; and

(2) For personal use, a fine of not less than \$100 and not more than \$500; and

B. For harvesting shellfish in violation of a license restriction:

(1) By a commercial license holder, a fine of not less than \$300 and not more than \$1,500; and

(2) By a recreational license holder, a fine of not less than \$100 and not more than \$500.

The court may not suspend a fine imposed under this subsection or impose a penalty other than the monetary payment of a fine as provided in this subsection. For the purposes of this subsection, "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use.

See title page for effective date.