

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Marine Resources*

May 2004

Members:

Sen. Dennis Damon, Chair

Sen. Peggy A. Pendleton

Sen. Richard A. Bennett

Rep. Thomas D. Bull, Chair

Rep. Nancy B. Sullivan

Rep. Walter E. Ash, Jr.

Rep. Edward R. Dugay

Rep. Leila J. Percy

Rep. Kevin M. Muse

Rep. Deborah K. McNeil

Rep. Jeff Kaelin

Rep. Leonard Earl Bierman

Rep. Christopher Rector

Rep. Frederick J. Moore III

Staff:

Curtis C. Bentley, Legislative Analyst

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Maine State Legislature



*Office Of Policy And Legal Analysis
Office Of Fiscal And Program Review*

*121st Maine Legislature
Second Regular Session and
Second Special Session*

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla/billsumm.htm).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY	Ruled out of order by the presiding officers; bill died
INDEF PP	Bill Indefinitely Postponed
ONTP.....	Ought Not To Pass report accepted
OTP-ND	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Marine Resources

LD 1857

**An Act To Implement the Recommendations of the Task Force on
the Planning and Development of Marine Aquaculture in Maine**

PUBLIC 660

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-844
	OTP-AM MIN	H-847 BULL

LD 1857 proposed to implement the recommendations of the Task Force on the Planning and Development of Marine Aquaculture in Maine.

The bill proposed to do the following:

1. Clarify that the Commissioner of Marine Resources shall provide notice of a proposed lease renewal or transfer in the same manner as required for the original lease;
2. Give the commissioner authority to hold a public hearing on a proposed lease renewal or transfer;
3. Require the commissioner to hold a public scoping session if 5 or more persons request a hearing;
4. Expand a municipality's authority to grant a lease; and
5. List guidelines by which a municipality may approve a lease.

Committee Amendment "A" (H-844), the majority report, proposed to replace the bill. This amendment proposed to:

1. Remove the Department of Marine Resources as the primary agency responsible for the promotion and marketing of the aquaculture industry;
2. Define agricultural products to include aquaculture products;
3. Increase the number of lease acres a person may be a tenant of from 250 to 300 and authorize the Commissioner of Marine Resources to allow a person to exceed the 300-acre lease limit if that person provides a fallowing plan to the commissioner identifying lease sites that will remain fallow for at least 12 months. It also proposed to limit the total amount of active and fallowed lease acreage that may be held by one person to 500 acres, of which only 300 may be active;
4. Require the commissioner to consider as part of the criteria for granting a lease certain "conserved lands" that include governmental land held in fee to protect important ecological, recreational, scenic, cultural or historic attributes of that property;
5. Authorize the commissioner to consider more than one lease renewal application at a public hearing;
6. Make technical changes to reflect requirements in Maine Pollution Discharge Elimination System permits and to facilitate the transition from the finfish aquaculture monitoring program to the Maine Pollution Discharge

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Elimination System permit and to require finfish aquaculture leaseholders to get approval from the department of contractors to be used by leaseholders for data collection required by law;

7. Grant a municipality that has a shellfish conservation program the authority to issue a municipal shellfish aquaculture permit (“permit”) for mud flats within its jurisdiction. It would require the municipality to publish a summary of the proposed permit and would allow for public comment for 30 days after the publication of the application summary. It would also require a municipality to adopt ordinances that establish procedures for consideration of a permit and would require the municipality to hold a public hearing prior to the granting of the permit if requested by 5 or more people in writing. This amendment would provide the decision criteria a municipality must consider when making a decision on a proposed permit and would require the municipality put its findings in writing. Additionally, it would require the municipality to forward an approved permit to the department and would provide that a municipality may not charge more than \$50 an acre for a permit. It would give the municipality authority to put conditions and limits on a permit and would cap the length of a lease at 10 years, renewable upon application of the permitholder. Finally, it would require a municipality to hold a public hearing on a permit renewal application if requested in writing by 5 or more people and provide that a permit renewal must be granted if it continues to meet the decision criteria;
8. Establish the Aquaculture Management Fund to develop and manage water quality licensing and monitoring criteria for aquaculture and to analyze collected data, process license applications and make information about aquaculture available to the public;
9. Increase certain aquaculture fees and establish new fees related to aquaculture leases. Revenues raised pursuant to these fees would be dedicated to the Aquaculture Management Fund;
10. Repeal the tax of 1¢ per pound assessed on finfish;
11. Provide that municipalities may not charge a mooring fee for and do not have jurisdiction over siting or specifications of structural moorings used to secure aquaculture equipment. It would grant authority to municipalities for boat and vessel moorings inside the boundaries of an aquaculture lease site. It would prohibit a municipality from charging a mooring fee for such moorings that is inconsistent with other mooring fees for commercial vessels;
12. Require the Land and Water Resources Council to undertake a study of bay management. The intent of this study would be to explore and document potential new and innovative concepts for the management of Maine's embayments through a 2-year pilot initiative. It would require the council to begin this study no later than September 1, 2004 and to submit an interim report by January 15, 2006 and a final report by January 15, 2007 to the joint standing committee of the Legislature having jurisdiction over marine resources matters. The study would need to be carried out under the direction of the council with work performed by an interagency staff work group with input of a project steering committee consisting of members of the public with expertise in relevant fields of interest. It would also direct the council to create one or more pilot projects of limited duration in a representative region or regions of the State. The amendment would authorize the interagency staff work group to meet as necessary to fulfill its duties and specifies that meetings of the council are open to the public. It would further direct the Executive Department, State Planning Office and the Department of Marine Resources to provide staff services to the council and would require that the Director of the State Planning Office use funds from the State Planning Office's existing resources and other outside sources to cover the costs associated with this study; and
13. Set forth vision and principles statements as guidance for the future of aquaculture in Maine.

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Committee Amendment "B" (H-845), the minority report, proposed to replace the bill. This amendment mirrors the majority amendment except that it proposed to expand the decision criteria the Commissioner of Marine Resources must consider for a new lease to include private beaches, parks and docking facilities. It also proposed to require the commissioner to consider whether a proposed lease would interfere with certain "conserved lands" that include governmental land held in fee to protect important ecological, recreational, scenic, cultural or historic attributes of that property and land that has been protected through fee ownership or conservation easement with funding from the Land For Maine's Future Fund. (not adopted)

House Amendment "A" to Committee Amendment "A" (H-847) proposed to clarify that a municipality may issue a municipal shellfish aquaculture permit and not a lease for the exclusive use of shellfish aquaculture in a designated area in the intertidal zone within the municipality. Current law uses the term "lease," which does not accurately reflect the interest conveyed by a municipality to a person granted the authority to exclusively pursue shellfish aquaculture activities in a designated area within the intertidal zone. This amendment also proposed to make it a civil violation for a person to knowingly interfere with the ability of a person who holds a municipal shellfish aquaculture permit to conduct activities allowed under that permit.

Enacted Law Summary

Public Law 2003, chapter 660 implements the recommendations of the Task Force on the Planning and Development of Marine Aquaculture in Maine.

The bill does the following:

1. Removes the Department of Marine Resources as the primary agency responsible for the promotion and marketing of the aquaculture industry;
2. Defines agricultural products to include aquaculture products;
3. Increases the number of lease acres a person may be a tenant of from 250 to 300 and authorizes the Commissioner of Marine Resources to allow a person to exceed the 300-acre lease limit if that person provides a fallowing plan to the commissioner identifying lease sites that will remain fallow for at least 12 months. It also limits the total amount of active and fallowed lease acreage that may be held by one person to 500 acres, of which only 300 may be active;
4. Requires the commissioner to consider as part of the criteria for granting a lease certain "conserved lands" that include governmental land held in fee to protect important ecological, recreational, scenic, cultural or historic attributes of that property;
5. Authorizes the commissioner to consider more than one lease renewal application at a public hearing;
6. Makes technical changes to reflect requirements in Maine Pollution Discharge Elimination System permits and to facilitate the transition from the finfish aquaculture monitoring program to the Maine Pollution Discharge Elimination System permit and to require finfish aquaculture leaseholders to get approval from the department of contractors to be used by leaseholders for data collection required by law;
7. Grants a municipality that has a shellfish conservation program the authority to issue a municipal shellfish aquaculture permit ("permit") for mud flats within its jurisdiction. It requires the municipality to publish a summary of the proposed permit and allows for public comment for 30 days after the publication of the application summary. It also requires a municipality to adopt ordinances that establish procedures for

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consideration of a permit and requires the municipality to hold a public hearing prior to the granting of the permit if requested by 5 or more people in writing. This amendment provides the decision criteria a municipality must consider when making a decision on a proposed permit and requires that the municipality put its findings in writing. Additionally, it requires the municipality to forward an approved permit to the department and provides that a municipality may not charge more than \$50 an acre for a permit. It gives the municipality authority to put conditions and limits on a permit and caps the length of a permit at 10 years, renewable upon application of the permit holder. Finally, it requires a municipality to hold a public hearing on a permit renewal application if requested in writing by 5 or more people and provides that a permit renewal must be granted if it continues to meet the decision criteria;

8. Establishes the Aquaculture Management Fund to develop and manage water quality licensing and monitoring criteria for aquaculture and to analyze collected data, process license applications and make information about aquaculture available to the public;
9. Increases certain aquaculture fees and establishes new fees related to aquaculture leases. Revenues raised pursuant to these fees are dedicated to the Aquaculture Management Fund;
10. Repeals the tax of 1¢ per pound assessed on finfish;
11. Provides that municipalities may not charge a mooring fee for and do not have jurisdiction over siting or specifications of structural moorings used to secure aquaculture equipment. It grants authority to municipalities for boat and vessel moorings inside the boundaries of an aquaculture lease site. It prohibits a municipality from charging a mooring fee for such moorings that is inconsistent with other mooring fees for commercial vessels;
12. Requires the Land and Water Resources Council to undertake a study of bay management. The intent of this study is to explore and document potential new and innovative concepts for the management of Maine's embayments through a 2-year pilot initiative. It requires the council to begin this study no later than September 1, 2004 and to submit an interim report by January 15, 2006 and a final report by January 15, 2007 to the joint standing committee of the Legislature having jurisdiction over marine resources matters. The study must be carried out under the direction of the council with work performed by an interagency staff work group with input of a project steering committee consisting of members of the public with expertise in relevant fields of interest. It also directs the council to create one or more pilot projects of limited duration in a representative region or regions of the State and authorizes the interagency staff work group to meet as necessary to fulfill its duties and specifies that meetings of the council are open to the public. It further directs the Executive Department, State Planning Office and the Department of Marine Resources to provide staff services to the council and requires that the Director of the State Planning Office use funds from the State Planning Office's existing resources and other outside sources to cover the costs associated with this study;
13. Sets forth vision and principles statements as guidance for the future of aquaculture in Maine;
14. Clarifies that a municipality may issue a municipal shellfish aquaculture permit and not a lease for the exclusive use of shellfish aquaculture in a designated area in the intertidal zone within the municipality. Current law uses the term "lease," which does not accurately reflect the interest conveyed by a municipality to a person granted the authority to exclusively pursue shellfish aquaculture activities in a designated area within the intertidal zone; and
15. Provides that a person who knowingly interferes with the ability of a person who holds a municipal shellfish aquaculture permit to conduct activities allowed under that permit commits a civil violation.