

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed  
during the Second Regular or First Special Sessions of the 123<sup>rd</sup> Maine  
Legislature coming from the

**JOINT STANDING COMMITTEE ON MARINE RESOURCES**

May 2008

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND  
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123<sup>rd</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

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

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.<sup>1</sup> The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123<sup>rd</sup> Legislature.

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<sup>1</sup> The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

# Joint Standing Committee on Marine Resources

## Committee Amendment "A" (S-472)

This amendment conforms the prohibitions in the bill with the work of the Maine Criminal Justice Information System Policy Board to create a one-to-one relationship between each violation and a unique statutory citation.

### Enacted Law Summary

Public Law 2007, chapter 557 requires the suspension of a person's scallop fishing license if that person is convicted of 3 or more violations of the scallop fishing laws in Cobscook Bay. The bill also establishes mandatory fines and allows for the seizure of all scallops on board for violations of the scallop fishing laws in Cobscook Bay.

## LD 2006 An Act To Give Municipalities Control of Mussels Located in Intertidal Zones

PUBLIC 494

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| RAYE              | OTP-AM                  | S-434                     |

Under current law, a municipality may adopt shellfish conservation programs. This bill expands the definition of "shellfish" to include mussels.

## Committee Amendment "A" (S-434)

This amendment replaces the bill and allows a municipality to specify areas of the intertidal zone in which the dragging of mussels may be limited to the degree necessary to support the municipality's shellfish conservation program. It authorizes the Commissioner of Marine Resources, with the advice of the affected municipality, to issue a permit to a person holding a mussel boat license to harvest mussels from an area designated by the municipality as a limited mussel dragging area. It provides that the commissioner must limit the number of these permits to achieve the goals of a municipality's shellfish conservation program and may place other restrictions on the permit necessary for consistency with the conservation program.

### Enacted Law Summary

Public Law 2007, chapter 494 allows a municipality to specify areas of the intertidal zone in which the dragging of mussels may be limited to the degree necessary to support the municipality's shellfish conservation program. It authorizes the Commissioner of Marine Resources, with the advice of the affected municipality, to issue a permit to a person holding a mussel boat license to harvest mussels from an area designated by the municipality as a limited mussel dragging area. Public Law 2007, chapter 494 requires the commissioner to limit the number of these permits to achieve the goals of a municipality's shellfish conservation program and may place other restrictions on the permit necessary for consistency with the conservation program.

## LD 2038 An Act To Establish the Shellfish Advisory Council and To Improve the Process of Reopening Clam Flats

PUBLIC 606  
EMERGENCY

| <u>Sponsor(s)</u> | <u>Committee Report</u>  | <u>Amendments Adopted</u>                |
|-------------------|--------------------------|------------------------------------------|
| GERZOFKY          | OTP-AM MAJ<br>OTP-AM MIN | H-741<br>H-947 GERZOFKY<br>H-954 MAZUREK |

LD 2038 authorizes a municipality to contract with a private entity to conduct water sampling in an area closed by regulation to shellfish harvesting. The municipality may submit sampling results to the Commissioner of Marine Resources for consideration in determining whether or not to reopen the area to shellfish harvesting.

## *Joint Standing Committee on Marine Resources*

### **Committee Amendment "A" (H-741)**

This amendment is the majority report of the committee and replaces the bill with the following:

1. It establishes the Shellfish Advisory Council to advise the Commissioner of Marine Resources and the joint standing committee of the Legislature having jurisdiction over marine resources matters on matters of interest to Maine's shellfish industry, including how best to maintain the quality of coastal waters and to expedite the opening of closed shellfish flats;
2. It directs the Department of Marine Resources, working with the federal Food and Drug Administration, interested parties and the Shellfish Advisory Council, to implement the recommendations made pursuant to Resolve 2007, chapter 82;
3. It directs the Department of Marine Resources to undertake within one year 2 or more projects in which a municipality contracts with a private laboratory certified by the department to conduct water quality testing; and
4. It directs the Department of Marine Resources and the Shellfish Advisory Council to report to the joint standing committee of the Legislature having jurisdiction over marine resources matters by February 15, 2009 on activities undertaken pursuant to the directives in this amendment.

### **House Amendment "B" (H-947)**

This amendment delays the implementation of the review concerning additional staff to comply with the National Shellfish Sanitation Program model ordinance requirements. It requires the Department of Marine Resources to report by January 15, 2009 with a plan to implement that recommendation. The amendment also increases by 6 months the time during which the 2 or more water quality test projects must occur.

### **House Amendment "C" (H-954)**

This amendment requires the Department of Marine Resources to report by May 1, 2009 on the progress of any water quality test project undertaken for testing by private laboratories.

### **Enacted Law Summary**

Public Law 2007, chapter 606 does the following:

1. It establishes the Shellfish Advisory Council to advise the Commissioner of Marine Resources and the joint standing committee of the Legislature having jurisdiction over marine resources matters on matters of interest to Maine's shellfish industry, including how best to maintain the quality of coastal waters and to expedite the opening of closed shellfish flats;
2. It directs the Department of Marine Resources, working with the federal Food and Drug Administration, interested parties and the Shellfish Advisory Council, to implement the recommendations made pursuant to Resolve 2007, chapter 82, except the recommendation of the review requiring additional staff to comply with the National Shellfish Sanitation Program model ordinance requirements. The Department of Marine Resources must provide a plan to the joint standing committee of the Legislature having jurisdiction over marine resource matters to implement that recommendation by January 15, 2009;
3. It directs the Department of Marine Resources to undertake within 18 months 2 or more projects in which a municipality contracts with a private laboratory certified by the department to conduct water quality testing; and
4. It directs the Department of Marine Resources to report to the joint standing committee of the Legislature having jurisdiction over marine resources matters by May 1, 2009 on the progress of any water quality test project undertaken for testing by private laboratories.

## *Joint Standing Committee on Marine Resources*

Public Law 2007, chapter 606 was enacted as an emergency measure effective April 14, 2008.

**LD 2039     Resolve, To Protect Public Health and Promote a Healthy Soft-shell Clam Industry     RESOLVE 222**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u>  |
|-------------------|-------------------------|----------------------------|
| GERZOFSKY         | OTP-AM                  | H-723<br>S-678     ROTUNDO |

This resolve directs the Department of Marine Resources to institute a system by rule for the sale of soft-shell clams at landings by holders of commercial shellfish licenses to holders of wholesale seafood licenses and holders of retail seafood licenses.

**Committee Amendment "A" (H-723)**

This amendment replaces the resolve and directs the Commissioner of Marine Resources to adopt rules necessary to allow the holder of a commercial shellfish license to safely sell shellstock to a wholesale seafood license holder at locations in addition to a permanent facility. The Department of Marine Resources must report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the activities related to the resolve by October 15, 2008.

**Senate Amendment "A" (S-678)**

This amendment amends Committee Amendment "A" by removing the appropriations and allocations section.

**Enacted Law Summary**

Resolve 2007, chapter 222 directs the Commissioner of Marine Resources to adopt rules necessary to allow the holder of a commercial shellfish license to safely sell shellstock to a wholesale seafood license holder at locations in addition to a permanent facility. It provides that the Department of Marine Resources must report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the activities related to the resolve by October 15, 2008.

**LD 2071     An Act To Amend Maine's Scallop Laws     PUBLIC 607**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u>                   |
|-------------------|-------------------------|---------------------------------------------|
| PERCY             | OTP-AM                  | H-863<br>H-889     PERCY<br>S-597     DAMON |

Current law specifies that a boat must carry a scallop boat license before a person may engage in scalloping activities.

LD 2071 creates a requirement that a person hold a scallop dragging license and be present on the boat named on the license when the boat is engaged in dragging for scallops. It also restricts the issuance of scallop licenses in 2009 and thereafter to persons who had a scallop license in either the 2006 license year or the 2007 license year prior to April 15, 2007. The Commissioner of Marine Resources is required to establish a limited entry system for persons who did not possess a scallop license in the prior calendar year. This bill also increases the ring size used in the scallop fishery to 4 inches and expands the uses of the Scallop Research Fund to include the implementation of scallop management measures.

**Committee Amendment "A" (H-863)**