

Date: (Filing No. S-)

MARINE RESOURCES

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 312, L.D. 992, Bill, "An Act To Amend the Depuration Laws"

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

Sec. 1. 12 MRSA §6856, sub-§3, as amended by PL 2007, c. 15, §1, is further amended to read:

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. A depuration plant operator shall maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

Sec. 2. 12 MRSA §6856, sub-§3-A, as amended by PL 2009, c. 561, §32, is repealed.

Sec. 3. 12 MRSA §6856, sub-§3-B, as enacted by PL 2007, c. 15, §3, is repealed.

Sec. 4. 12 MRSA §6856, sub-§3-C, as enacted by PL 2007, c. 15, §4, is repealed.

Sec. 5. 12 MRSA §6856, sub-§3-D is enacted to read:

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

1 A. Using the following general guidelines to identify whether pollution abatement
2 activities are likely to succeed in a shellfish growing area, the commissioner may
3 close a shellfish growing area for municipal pollution abatement activities.

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

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

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

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

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

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

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

30 **Sec. 6. 12 MRSA §6856, sub-§7**, as amended by PL 2007, c. 15, §5, is repealed.

31 **Sec. 7. 12 MRSA §6856, sub-§8**, as enacted by PL 1991, c. 831, §2, is repealed.'

32 SUMMARY

33 This amendment does the following.

34 1. It eliminates the requirement that municipalities with municipal shellfish
35 conservation committees contact the Commissioner of Marine Resources by specific
36 deadlines in regards to pollution abatement plans in reclassified shellfish growing areas.
37 Instead, responsibility for municipal pollution abatement activities is given to the
38 commissioner, who may close a shellfish growing area for municipal pollution abatement
39 activities based on whether or not the commissioner finds pollution abatement activities

1 will succeed. General guidelines for identifying whether pollution abatement activities
2 are likely to succeed in a shellfish growing area are included.

3 2. It allows a municipality to request the commissioner to allow soft-shelled clam
4 depuration harvesting in a closed area.

5 3. It moves the requirement that a depuration certificate holder maintain a
6 generalized management plan on file with the commissioner from the Maine Revised
7 Statutes, Title 12, section 6856, subsection 3 to a new subsection 3-D that governs soft-
8 shelled clam depuration harvesting in municipalities with municipal shellfish
9 conservation programs.

10 4. It moves provisions governing payments to municipalities from Title 12, section
11 6856, subsection 8 to a new subsection 3-D and requires the depuration certificate holder
12 to include a summary of reports submitted to the Department of Marine Resources when
13 submitting payment to a municipality.

14 5. It eliminates the requirement in the bill that the person holding the depuration
15 certificate not employ more than 3 nonresidents of the municipality in which depuration
16 harvesting will take place, as long as 15 or more resident harvesters are available. It also
17 eliminates language that the certificate holder employ one resident harvester for every
18 nonresident harvester to the extent possible if fewer than 15 resident harvesters are
19 available. It adds language that the certificate holder shall engage commercial harvesters
20 holding valid municipal and state commercial shellfish licenses, and it allows the
21 depuration certificate holder to supplement with other commercial shellfish harvesters
22 licensed in the State if insufficient municipally licensed commercial harvesters are
23 available.

24 **FISCAL NOTE REQUIRED**

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26 **(See attached)**
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