

**TESTIMONY OF
Patrick Keliher, Commissioner**

**The Department of Marine Resources (DMR) is testifying
In Opposition to**

**LD 1416, An Act Regarding Interstate Shellfish Depuration
Before the Committee on Marine Resources
Sponsored by Representative Beavers
Date of Hearing: May 20, 2015**

Senator Baker, Representative Kumiega, and members of the Joint Standing Committee on Marine Resources, my name is Patrick Keliher, Commissioner for the Department of Marine Resources, and I am testifying on behalf of the Department in opposition to LD 1416.

LD 1416 provides that the Commissioner of Marine Resources may only enter into a Memorandum of Agreement for the interstate transport of shellfish for depuration if the agreement is reciprocal among the states involved (e.g., if we are shipping Maine shellfish to Massachusetts for depuration, Massachusetts must allow Massachusetts shellfish to be shipped to Maine for depuration). There is nothing in current law that would prevent Massachusetts from sending its shellfish to Maine, nor is any restriction in Maine from sending product to Massachusetts.

We are concerned that the bill would specify that the depuration may only occur “in a facility certified for depuration by the USDA”. Understanding the background that led to the introduction of this legislation, it seems clear that this provision seeks to eliminate the possibility that the Shellfish Purification Plant located on Plum Island in Newburyport, Massachusetts could depurate Maine shellfish on behalf of Maine dealers.

This facility currently provides depuration services for shellfish harvested from restricted and conditionally restricted areas in Massachusetts. The Newburyport Shellfish Purification Plant is the oldest and largest continually operating depuration facility in the country, having been in operation since 1928. Their operation is based on providing depuration services to harvesters for a fee. Because the facility does not buy the shellfish from the harvesters, they are not required to be a certified dealer. They do have on-site an FDA certified laboratory, which provides the necessary validation of their processing, testing both the shellfish and the tank water.

This model has previously been evaluated by the Interstate Shellfish Sanitation Conference (ISSC) and has been found to be in compliance with the National Shellfish Sanitation Program (NSSP). It does not create a risk to public health, and therefore the Department sees no basis to be more restrictive than the NSSP requires.

It is important to understand that the Department will have mechanisms to ensure strict oversight of this activity. In order for a Maine dealer to be authorized to depuration harvest in Maine for processing in Massachusetts, the Department would require two things. First, the dealer would have to obtain a depuration certificate, as provided in 12 MRS 6856 sub-section 3. This certificate authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate establishes the limits on harvesting, as well as any other provisions required to ensure the public safety. In addition, the Department would enter into a Memorandum of Understanding with the state of Massachusetts, which would outline procedures, notification, and other requirements to ensure the safe, secure and sanitary handling of the product.

Across our fisheries, the Department works to provide the greatest amount of sustainable harvesting opportunity, to ensure the maximum economic benefit to the citizens of our state. The Department recognizes that there is significant shellfish resource that is not being fully utilized. The majority of this resource is in Hancock and Washington counties, which as you know, have limited economic opportunity. In addition, most municipalities with shellfish programs strictly limit the number of municipal licenses available for commercial harvest. Depuration digging does not require a municipal license, so provides an opportunity for those individuals who may not have been able to obtain a municipal license, but who need access to shellfish harvesting for their livelihood.

Thank you for your time, and I would be happy to try to answer any questions you may have.

Amendment to LD 1416:

If the Commissioner enters into a memorandum of agreement regarding interstate transport of shellfish for depuration pursuant to the ~~United States Food and Drug Administration's~~ National Shellfish Sanitation Program, the agreement must be reciprocal among the states involved and provide that the depuration of shellfish may occur only in a facility certified for depuration ~~by the United States Food and Administration,~~ listed on the Interstate Certified Shellfish Shipper's List, and require that fees charged for the depuration and ancillary services not be less than the actual costs of such services.