



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1419

H.P. 1032

House of Representatives, March 28, 2019

**An Act To Improve Commercial Production of Shellfish by
Allowing Municipalities To Establish Active Municipal Shellfish
Management Areas**

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.

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

2 **Sec. 1. 12 MRSA §6671, sub-§3, ¶A,** as amended by PL 2017, c. 350, §1, is
3 further amended to read:

4 A. Within any area of the intertidal zone within the municipality, a shellfish
5 conservation ordinance may:

6 (1) Regulate or prohibit the possession of shellfish;

7 (2) Fix the amount of shellfish that may be taken;

8 (3) Provide for protection from shellfish predators;

9 (4) Authorize the municipal officials to open and close flats under specified
10 conditions; ~~and~~

11 (5) Specify areas of the intertidal zone in which the dragging of mussels may be
12 limited to the degree necessary to support a municipal shellfish conservation
13 program; and

14 (6) In accordance with subsection 3-B, establish active municipal shellfish
15 management areas within the intertidal zone where a person licensed under this
16 section is permitted by the municipality to employ and develop methods that
17 enhance commercial production of shellfish, including but not limited to the use
18 of protective netting, traps, cages and boxes.

19 **Sec. 2. 12 MRSA §6671, sub-§3-B** is enacted to read:

20 **3-B. Active municipal shellfish management areas.** A municipality that
21 establishes active municipal shellfish management areas in its shellfish conservation
22 ordinance shall ensure the following:

23 A. Active municipal shellfish management areas do not encompass more than 10%
24 of the intertidal zone within the municipality that is regulated by a shellfish
25 conservation ordinance;

26 B. Only a person authorized by the municipality to engage in permitted activities in
27 an active municipal shellfish management area may harvest marine organisms in the
28 area;

29 C. Each person licensed under this section and authorized by the municipality to
30 engage in permitted activities in an active municipal shellfish management area is
31 limited to engage in those permitted activities on no more than 2 acres of the
32 intertidal zone;

33 D. An active municipal shellfish management area is not established in areas closed
34 by the commissioner;

35 E. Any shellfish harvested in an active municipal shellfish management area
36 complies with minimum size requirements;

37 F. An active municipal shellfish management area is clearly marked with signs that
38 identify that it has been designated as an active municipal shellfish management area

1 and that harvesting of marine organisms is restricted to only those persons that have
2 been authorized by the municipality; and

3 G. Any gear used, such as protective netting, traps, cages and boxes, is no more than
4 18 inches above the sediment.

5 On an annual basis, a person authorized by the municipality to engage in permitted
6 activities in an active municipal shellfish management area shall report any findings and
7 landings data to the department.

8 **Sec. 3. 12 MRSA §6671, sub-§10, ¶A**, as amended by PL 2005, c. 171, §2, is
9 further amended to read:

10 A. For harvesting shellfish from an area closed for conservation purposes or for
11 harvesting marine organisms in violation of the requirements of an active municipal
12 shellfish management area:

13 (1) For the first offense by a commercial license holder, a fine of not less than
14 \$300;

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

17 (3) For the first offense by a recreational license holder, a fine of not less than
18 \$100; and

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

21 **SUMMARY**

22 This bill allows a municipality in its municipal shellfish conservation ordinance to
23 establish active municipal shellfish management areas where a person licensed under the
24 ordinance may employ and develop methods that enhance commercial production of
25 shellfish, which include but are not limited to protective netting, traps, cages and boxes.
26 This bill requires that:

27 1. Active municipal shellfish management areas do not encompass more than 10% of
28 the intertidal zone;

29 2. Only a person authorized by the municipality to engage in permitted activities in
30 an active municipal shellfish management area may harvest any marine organisms;

31 3. Each person authorized to engage in permitted activities in an active municipal
32 shellfish management area is limited to engage in those activities on no more than 2 acres
33 of the intertidal zone;

34 4. An active municipal shellfish management area may not be established in areas
35 closed by the Commissioner of Marine Resources;

36 5. Any shellfish harvested in an active municipal shellfish management area must
37 comply with minimum size requirements;

1 6. An active municipal shellfish management area is clearly marked with signs that
2 identify that it has been designated as an active municipal shellfish management area and
3 that harvesting of marine organisms is restricted to only those persons that have been
4 authorized by the municipality;

5 7. Any gear used in an active municipal shellfish management area is no more than
6 18 inches above the sediment; and

7 8. A person engaged in permitted activities in an active municipal shellfish
8 management area report any findings and landing data to the Department of Marine
9 Resources.

10 This bill specifies that a person that harvests any marine organisms from an active
11 municipal shellfish management area in a manner that is not in accordance with law or a
12 municipal shellfish conservation ordinance commits a Class D crime and the fines that
13 are to be applied are the same as those imposed on a person that harvested shellfish from
14 an area closed for conservation purposes that is in current law.