



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 992

S.P. 312

In Senate, March 10, 2011

### An Act To Amend the Depuration Laws

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

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator LANGLEY of Hancock.

Cosponsored by Senator: GERZOFKY of Cumberland, Representatives: PARRY of Arundel,  
TILTON of Harrington.

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

2 **Sec. 1. 12 MRSA §6856, sub-§3-A**, as amended by PL 2009, c. 561, §32, is  
3 further amended to read:

4 **3-A. Municipal consultation and approval; depuration harvesting.** The  
5 following provisions apply within a municipality that has a municipal shellfish  
6 conservation committee established pursuant to section 6671. Paragraphs A and B apply  
7 to shellfish growing areas that have been reclassified ~~after~~ before January 1, ~~2006~~ 2011  
8 from an approved to a restricted classification for water quality as defined in rule.  
9 Paragraph B-1 applies to shellfish growing areas reclassified ~~after~~ before January 1, ~~2010~~  
10 2011 from a prohibited to restricted classification. Paragraphs C and D apply to all  
11 growing areas that have been reclassified from an approved to a restricted classification  
12 or from a prohibited to a restricted classification after January 1, 2011.

13 A. Unless the commissioner obtains the approval of the affected municipality, the  
14 commissioner may not open an area reclassified from an approved to a restricted  
15 classification for depuration harvesting ~~for 2 years from the date of the~~  
16 ~~reclassification~~ prior to January 1, 2013 to allow the municipality to develop a  
17 pollution abatement plan under subsection 3-B.

18 B. A municipality must notify the commissioner ~~within 8 weeks of a reclassification~~  
19 ~~from an approved to a restricted classification of an area~~ by June 30, 2012 whether or  
20 not it intends to develop a pollution abatement plan that includes an area that was  
21 reclassified from approved to restricted classification before January 1, 2011. If the  
22 municipality does not wish to develop a pollution abatement plan in accordance with  
23 subsection 3-B or if it fails to notify the commissioner ~~within the 8-week period~~ by  
24 June 30, 2012, municipal approval is not required.

25 B-1. Unless the commissioner obtains the approval of the affected municipality, the  
26 commissioner may not open an area reclassified from a prohibited to a restricted  
27 classification for depuration harvesting. A municipality must document to the  
28 commissioner ~~within 4 weeks of the reclassification from a prohibited to a restricted~~  
29 ~~classification~~ before June 30, 2012 that the municipality intends to take significant  
30 measures following the reclassification to be incorporated in its pollution abatement  
31 plan. If the municipality fails to provide sufficient documentation or does not wish to  
32 develop a pollution abatement plan or if it fails to notify the commissioner ~~within the~~  
33 ~~4-week period~~ by June 30, 2012, municipal approval is not required. ~~The~~ After  
34 notifying the commissioner, the municipality must provide the commissioner a  
35 progress report on activities under its abatement plan every 6 months.

36 C. If a ~~municipal shellfish conservation committee~~ municipality has a pollution  
37 abatement plan as provided in subsection 3-B on file with the commissioner or has  
38 notified the commissioner of its intent to develop a pollution abatement plan within 3  
39 months of a reclassification from an approved to a restricted classification or from a  
40 prohibited to a restricted classification, the commissioner must obtain the approval of  
41 the ~~committee~~ municipality before taking action to open an area within that  
42 municipality for depuration digging.

1 D. If a ~~municipal shellfish conservation committee~~ municipality has a depuration  
2 management plan as provided in subsection 3-C approved by the commissioner, the  
3 municipality may manage the depuration harvesting over a shellfish growing area  
4 within that municipality.

5 **Sec. 2. 12 MRSA §6856, sub-§7**, as amended by PL 2007, c. 15, §5, is further  
6 amended to read:

7 **7. Resident depuration harvesters.** Except for depuration activities conducted  
8 under subsection 3-A, paragraph D, when harvesting soft-shelled clams under a  
9 depuration certificate, the person holding the certificate shall employ no more than 3  
10 people who are not residents of that municipality as long as there are at least 15  
11 harvesters who are residents of that municipality available to be employed in the  
12 depuration harvest. If there are not at least 15 harvesters who are residents of that  
13 municipality, to the extent possible, the person holding the depuration certificate shall  
14 employ one person who is a resident of the municipality as harvester for every person  
15 employed as harvester who is not a resident of that municipality.

16 **SUMMARY**

17 This bill amends the depuration laws. It changes the date when a municipality must  
18 inform the Commissioner of Marine Resources whether it intends to develop a pollution  
19 abatement plan. It amends the conditions that apply to when the commissioner needs to  
20 get approval from a municipality before the commissioner can open an area within a  
21 municipality for depuration digging. It also requires that a person holding a depuration  
22 certificate may not employ more than 3 people who are not residents of a municipality if  
23 there are at least 15 harvesters who are residents of the municipality available for  
24 employment in the depuration harvest area.