

## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

—  
H.P. 1210 - L.D. 1687

**An Act To Create Parity for Proprietary Information Submitted to the  
Department of Marine Resources**

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

**Sec. 1. 12 MRSA §6072, sub-§10, ¶D**, as amended by PL 2009, c. 240, §8, is further amended to read:

D. The lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the department shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph are considered ~~proprietary information~~ confidential statistics for the purposes of section ~~6077, subsection 4~~ 6173.

**Sec. 2. 12 MRSA §6072-A, sub-§17-A, ¶D**, as enacted by PL 2009, c. 240, §11, is amended to read:

D. The lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the commissioner shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph are considered ~~proprietary information~~ confidential statistics for the purposes of section ~~6077, subsection 4~~ 6173.

**Sec. 3. 12 MRSA §6173-B** is enacted to read:

**§6173-B. Special licenses; mandatory quality control program; shellfish sanitation and depuration certificates; confidentiality of proprietary information**

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1.

**1. Confidential information.** Information submitted to the department pursuant to provisions regarding special licenses for research, aquaculture or education under section 6074, surveillance and inspection of all segments of the State's fishing industries under section 6102 or the shellfish sanitation certificate and the depuration certificate under section 6856 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

**2. Release information.** The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

**3. Definition.** For purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.