

**TESTIMONY OF  
Patrick Keliher  
Department of Marine Resources**

**The Department of Marine Resources (DMR) is testifying  
In Opposition to  
LD 1823 An Act to Respect and Protect the Right to Food  
Before the Committee on Agriculture, Conservation and Forestry  
Sponsored by Senator Hickman  
Date of Hearing: May 10, 2023**

Senator Ingwersen, Representative Pluecker, and members of the Joint Standing Committee on Marine Resources, my name is Patrick Keliher, Commissioner of the Department of Marine Resources, and I am testifying on behalf of the Department in opposition to LD 1823.

DMR's concerns regarding the changes proposed by LD 1823 relate to the Department's ability to effectively manage Maine's marine resources, and the Department's ability to enforce the laws and regulations intended to ensure the conservation and propagation of those resources, as well as public health.

Section 6 provides a definition for "traditional foodways" which includes "customs of food production, preservation, preparation and presentation: hunting, gathering, fishing, foraging, buying and selling food; uses of food products other than eating; and food folklore." Section 12 then gives authority to local municipalities to adopt ordinances regarding traditional foodways, and direct producer-to-consumer transactions. Section 15 requires that any ordinance regarding traditional foodways and direct producer-to-consumer transactions be liberally construed. Collectively, these changes could significantly impact DMR's administration of fisheries management and food safety laws.

The new definition of "traditional foodways" could allow the adoption of ordinances relating to commercial fishing that are without restriction and which could conflict with state laws intended to comply with federal fisheries management requirements. Under existing law (Title 12 Section 6671) municipalities are already given specific authority to develop shellfish conservation programs, and adopt ordinances to govern specific aspects of shellfish harvest. For species that are managed through interstate (Atlantic States Marine Fisheries Commission) or federal (New England Fisheries Management Council) bodies, Maine could lose its compliance with fisheries management plans, which would affect Maine's ability to participate in those fisheries and to engage in interstate commerce for those species.

Maine DMR ensures the safety of consumption of shellfish through multiple programs within its Bureau of Public Health. The Biotoxin Monitoring Program monitors levels of Paralytic Shellfish Poisoning (PSP) and other marine biotoxins in shellfish and implements closures to the harvest of shellfish when toxin is found at levels near or above where human illness may occur. The

Shellfish Growing Area Classification Program monitors the water quality at Maine shellfish flats and conducts shoreline surveys to identify sources of pollution. The Maine Shellfish Dealer Certification and Inspection Program uses the standards outlined by the National Shellfish Sanitation Program (NSSP) to evaluate and certify all wholesale shellfish dealers in Maine. These dealers must be certified under the NSSP to ship, or process shellfish for shipment, within and outside of the state of Maine. By making sure that wholesale shellfish dealers meet these standards, the safety and wholesomeness of the shellfish being purchased by consumers is ensured. Collectively, these programs have earned Maine shellfish a national reputation for high quality and safety. Any incidents resulting from deviations from these requirements negatively impact the Maine brand and the value of our fisheries.

Finally, Section 21 adds a definition of “harvest” to that Part of Title 12 pertaining to Marine Resource statute. Harvest is not a term that is commonly used within those statutes, but including this term in this Part may be aimed at clarifying that the right to harvest in the right to food constitutional amendment (Article I, Section 25) includes fishing for marine resources. This could impact the ability of DMR to enforce applicable fishing laws statewide, including laws relating to licensing, resource management, and food safety.

In closing, LD 1823 introduces significant ambiguity that would negatively impact the State’s ability to appropriately manage marine resources and protect public health. Thank you for your consideration, and I would be happy to answer any questions you might have.