

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

—
S.P. 536 - L.D. 1452

**An Act To Protect Areas in Which Shellfish Conservation Gear Has Been
Placed for Predator Control and Habitat Enhancement Purposes and
Establish a Municipal Predator Control Pilot Program**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the soft shell clam and marine worm industries are vital to Maine's coastal economy; and

Whereas, cooperation of the soft shell clam and marine worm industries and other interested parties is needed to develop predator control strategies to mitigate the effects of green crabs; and

Whereas, the soft shell clam and marine worm industries have an economic interest in properly managing the intertidal zone in a way that does not disadvantage either user group; and

Whereas, green crabs are thought to exert adverse impact on juvenile soft shell clams and the intertidal zone and research is needed to understand and respond to the effects of green crabs on the intertidal zone; and

Whereas, green crabs are invasive and are causing immediate damage; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6671, sub-§§10-B and 10-C are enacted to read:

10-B. Molesting municipal shellfish gear placed in protected areas. A municipality may, as part of a municipal shellfish conservation program, place protective netting, fencing, traps or other gear in the intertidal zone to provide protection from shellfish predators. Any netting, fencing, traps or other gear placed for this purpose must be clearly marked with signs or tags that identify the municipality that placed the gear and indicate the purpose of the gear.

A. A person may not tamper with, molest, disturb, alter, destroy or in any manner handle gear placed by a municipality in accordance with this subsection.

B. A person who violates paragraph A commits a civil violation for which a fine of not less than \$300 and not more than \$1,000 may be adjudged.

10-C. Prohibition. A person may not fish for or take any marine organism from within a predator control project area that has been approved by the commissioner as part of a municipal predator control project, except that the municipality may remove green crabs from within the predator control project area. A person who violates this subsection commits a civil violation for which a fine of not less than \$300 and not more than \$1,000 may be adjudged.

This subsection is repealed February 28, 2015.

Sec. 2. Municipal predator control pilot project.

1. Pilot project authorized. The Commissioner of Marine Resources, referred to in this section as "the commissioner," may solicit proposals from municipalities with shellfish conservation ordinances approved pursuant to the Maine Revised Statutes, Title 12, section 6671, subsection 4-B to conduct a pilot project for the purpose of determining the effectiveness of predator control in increasing the survival rate of soft shell clams and marine worms. Municipalities must submit their proposals on forms provided by the Department of Marine Resources. The area encompassed by a predator control proposal from a municipality may include no more than 10% of the total area of the entire municipal intertidal zone that is open to the taking of shellfish. In addition, the area encompassed by a predator control proposal, when combined with any area under municipal shellfish aquaculture permits under Title 12, section 6673, subsection 2-A, paragraph B, may not include more than 25% of the entire municipal intertidal zone that is open to the taking of shellfish under section 6671.

2. Proposal selection. The commissioner may approve predator control proposals to participate in the pilot project under subsection 1 from up to 4 municipalities. If more than 4 municipalities submit proposals, the commissioner shall consult the Shellfish Advisory Council established pursuant to the Maine Revised Statutes, Title 12, section 6038 for advice on which proposals to approve. The commissioner may approve more than 4 municipal proposals if the commissioner determines that the additional municipal projects do not affect access to the municipal intertidal zone for the purpose of harvesting marine worms.

3. Marking. A municipality with a predator control project approved by the commissioner under subsection 2 shall clearly mark the boundaries of the predator control project with green stakes and flags and post signs that include the words

"approved predator control project" and "no harvesting of marine organisms is allowed within these boundaries."

4. Maintenance of predator control gear. A municipality must maintain all gear approved as part of a predator control project under subsection 1 in good working condition. In the proposal to the commissioner under subsection 1, the municipality must provide a weekly maintenance plan. The commissioner may terminate the municipality's predator control project and order the removal of all gear if the commissioner determines that the municipality has failed to follow the weekly maintenance plan provided.

5. Notice. A municipality with a predator control project approved by the commissioner under subsection 2 shall provide adequate public notice to harvesters of soft shell clams or marine worms of the areas that have been closed to harvesting. This notice must include, but is not limited to, notice in local newspapers and publicly accessible websites of the municipality and posting signs as appropriate at water access sites.

6. Repeal. This section is repealed February 28, 2015.

Sec. 3. Predator control strategies. The Commissioner of Marine Resources shall, with the cooperation of the soft shell clam and marine worm industries and other interested parties, develop predator control strategies to mitigate the effects of green crabs. The strategies must identify the needs of the soft shell clam and marine worm industries and recognize that both industries have an economic interest in properly managing the intertidal zone in a way that does not disadvantage either user group. The commissioner shall present those strategies for review and comment to the joint standing committee of the Legislature having jurisdiction over marine resources matters no later than January 31, 2015. After review of the strategies, the committee may report out a bill related to the strategies to the First Regular Session of the 127th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.