

*Joint Standing Committee on Marine Resources*

**LD 70**

**Resolve, to Provide for the Effective Implementation of Anadromous Fish Restoration on the Upper Kennebec River System**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER WESTON	ONTP	

LD 70 proposed to direct the Department of Marine Resources to update and review the current status of the shad and alewives restoration effort on the upper Kennebec River system and to develop a comprehensive plan regarding continued restoration efforts. The resolve proposed to direct the department to conduct an assessment of the impacts and benefits of the reintroduction of anadromous alewives and to hold public information meetings in affected Kennebec River and Sebasticook River communities. The resolve also proposed to require the department to complete its duties under this resolve and report its findings to the Joint Standing Committee on Marine Resources no later than January 15, 2004.

**LD 81**

**An Act To Set the Minimum Legal Shell Size for Scallops**

**PUBLIC 63**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HONEY LEMONT	OTP-AM	H-58

LD 81 proposed to increase the minimum ring size of scallops from 3 1/2 inches in diameter to 4 inches in diameter.

**Committee Amendment "A" (H-58)** proposed to replace the bill and change the title. It proposed that beginning on December 1, 2003, the statewide minimum shell size for scallops would be 3-3/4 inches, and on December 1, 2004 it would increase that minimum size to 4 inches. It would require the immediate release of all scallops that do not meet the size requirements and would provide for prima facie evidence of the possession of illegal scallops. It would also provide the Commissioner of the Department of Marine Resources with the authority to increase the shell size minimum and would make violations of shell size restrictions civil violations.

***Enacted Law Summary***

Public Law 2003, chapter 63 sets a statewide minimum shell size for scallops of 3-3/4 inches beginning on December 1, 2003, and on December 1, 2004 it increases that minimum shell size to 4 inches. It requires the immediate release of all scallops that do not meet the size requirements and provides for prima facie evidence of the possession of illegal scallops. It also authorizes the Commissioner of the Department of Marine Resources, after December 1, 2004, to increase the shell size minimum.

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**LD 169**                      **An Act to Waive the Apprenticeship Requirement for a Lobster and Crab Fishing License**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES NASS	ONTP	

LD 169 proposed to provide that a person who held a lobster and crab fishing license within the previous 5 years and fished for lobster under a lobster and crab fishing license for at least 5 years was eligible for a lobster license without meeting the requirements of the lobster apprentice program.

**LD 207**                      **An Act to Limit Lobster Management Zones to State Coastal Waters**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERCY	ONTP      MAJ OTP      MIN	

LD 207 proposed to limit lobster management zones to the 3-mile nautical line as described on nautical charts. A lobster license holder would not be required to fish a majority of that person's traps within the license holder's declared lobster management zone when fishing beyond the 3-mile nautical line.

LD 207 proposed that a license holder would be subject to the most restrictive rules regarding the number of lobster traps allowed on a trawl and the time of day when lobster fishing could occur adopted for any zone in which the license holder fished only when fishing inside the 3-mile nautical line. The bill also proposed that a license holder would be subject to the most restrictive rules regarding the number of lobster traps fished adopted for any zone in which the license holder fished when that license holder was fishing inside the 3-mile nautical line and would be subject to the rules for the license holder's own zone when fishing beyond the 3-mile nautical line.

**LD 271**                      **An Act To Improve Guidance to the Commissioner of Marine Resources for Granting Marine Aquaculture Leases**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEMOINE	ONTP	

LD 271, a concept draft pursuant to Joint Rule 208, proposed to make changes in the conditions for granting aquaculture leases under the Maine Revised Statutes, Title 12, section 6072, subsection 7-A and section 6072-A, subsection 10. Such changes would have provided additional and specific conditions that needed to be met by a project applicant in order for the Commissioner of Marine Resources to grant an aquaculture lease.

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**LD 272**                      **An Act to Expand Aquaculture Site Location Criteria to Include Aesthetic Impact and Property Value Changes**                      **ONTP**

<u>Sponsor(s)</u> LEMOINE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 272 proposes to require that the Department of Marine Resources to include an assessment of aesthetic impact and property value impact in its site review of aquaculture lease applications.

**LD 276**                      **An Act to Allow the Sale of Lobster and Crab Fishing Licenses**                      **CARRIED OVER**

<u>Sponsor(s)</u> ASH LEMONT		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 276 proposed to allow a person to sell that person's lobster and crab fishing license to a person approved by the Department of Marine Resources to purchase that license.

**LD 277**                      **An Act to Amend the Eligibility Requirements for a Lobster and Crab Fishing License**                      **ONTP**

<u>Sponsor(s)</u> ASH		<u>Committee Report</u> ONTP      MAJ OTP-AM    MIN		<u>Amendments Adopted</u>
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LD 277 proposed to provide that a person who previously held a lobster and crab fishing license was eligible for the same license without meeting the requirements of the apprentice program.

**Committee Amendment "A" (H-331)**, the minority report of the Committee on Marine Resources proposed to replace the bill and allow the commissioner to waive the apprenticeship requirements for purchasing a lobster and crab fishing license for a person who held such a license in the past if the Lobster License Appeal Committee determined that the person failed to renew the previous license due to extraordinary circumstances, such as poor health, military service, financial hardship or inability to find work under the apprentice program. This amendment included a sunset provision that repealed these provisions on July 1, 2008. (Not adopted)

**House Amendment "A" to Committee Amendment "A" (H-343)** proposed to do the following.

1. Specify that a person for whom the apprenticeship requirement was waived by the Commissioner of Marine Resources would be placed at the end of the waiting list for the lobster fishing zone and behind any person currently in the apprentice program.
2. Amend the membership of the Lobster License Appeal Committee established in Committee Amendment "A" to allow former Legislators who were members of the joint standing committee of the Legislature having jurisdiction over marine resources matters to be members of the Lobster License Appeal Committee.

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3. Establish the procedure that would be followed by a person appealing to the Lobster License Appeal Committee and by the committee, including the meeting dates, notice to the appellant and the standard of proof that would be met by the appellant.
4. Require the Commissioner of Marine Resources to make a final determination regarding the recommendation of the Lobster License Appeal Committee within 72 hours of notice of the decision of the committee.
5. Specify that meetings of the Lobster License Appeal Committee were not public meetings. (Not adopted)

**House Amendment "B" to Committee Amendment "A" (H-344)** proposed to change the eligibility for a successful appeal to require that the person had served at least 6 years in the military and maintained the lobster and crab fishing license for at least 4 years or 50% of the time spent in the military, whichever was shorter. (Not adopted)

Current law allows a person who was prevented from renewing that person's Class I, Class II or Class III lobster and crab fishing license due to service in the military to obtain a license upon appeal to the Commissioner of Marine Resources. A person who serves more than 6 years in the military is not eligible to appeal.

**LD 364**                      **An Act To Provide Funding for the Downeast Institute for Applied Marine Research and Education**                      **P & S 29**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KAELIN	OTP-AM    MAJ	H-33
DAMON	ONTP      MIN	S-294    CATHCART

LD 364 proposed to appropriate \$15,000 to the Department of Marine Resources in each of fiscal years 2003-04 and 2004-05 for the establishment of a grant to the Maine Aquaculture Innovation Center for operating costs at the Downeast Institute for Applied Marine Research and Education, formerly the Beals Island Regional Shellfish Hatchery.

**Committee Amendment "A" (H-33)** is the majority report, proposed to provide the grant directly to the Downeast Institute for Applied Marine Research and Education.

**Senate Amendment "A" to Committee Amendment "A" (S-294)** proposed to clarify that the appropriations provided in Committee Amendment "A" were intended to be one-time appropriations for the 2004-2005 fiscal biennium.

***Enacted Law Summary***

Private and Special Law 2003, chapter 29 appropriates \$15,000 to the Maine Aquaculture Innovation Center for operating costs at the Downeast Institute for Applied Marine Research and Education, formerly the Beals Island Regional Shellfish Hatchery, for the 2004-2005 fiscal biennium.

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**LD 402**                      **An Act To Reduce the Tax Paid on Mahogany Quahogs**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	ONTP      MAJ	
KAELIN	OTP      MIN	

LD 402 proposed to reduce the tax on mahogany quahogs landed in the State from \$1.20 per bushel to 50¢ per bushel. Additionally, the bill proposed to require that all revenues received from this tax would be credited to the Toxin Monitoring Fund and that any money not used for monitoring the level of paralytic shellfish toxin in mahogany quahogs would be used for research, population studies and support of the mahogany quahog fishery.

**LD 544**                      **An Act To Improve Rights to Marine Resources**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENNETT R	ONTP	

LD 544, a concept draft pursuant to Joint Rule 208, proposed to grant owners of property adjacent to marine resources a right to intervene in state policy decisions regarding the use of those resources.

**LD 591**                      **An Act Regarding Requirements for Obtaining a Lobster Fishing License**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROMLEY	ONTP	
DUGAY		

LD 591 proposed to provide that a person who held a lobster and crab fishing license within the previous 10 years and fished for lobster under a lobster and crab fishing license for at least 10 years was eligible for a lobster and crab fishing license without meeting the requirements of the lobster apprentice program.

**LD 598**                      **An Act To Protect the Public from Paralytic Shellfish Poisoning**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEMONT	ONTP	

LD 598 proposed to require that shellfish harvested for depuration purposes be taken only from restricted or approved areas.

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**LD 648**

**An Act Clarifying Municipalities' Authority to Assign Mooring Permits**

**ONTP**

<u>Sponsor(s)</u> EDER		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 648 proposed to add aquaculture to the list of activities that required mooring permits from municipal harbor masters and clarified that municipalities with harbor masters could exercise exclusive authority to assign mooring permits within waters under their jurisdiction.

**LD 703**

**An Act To Change the Options for a Lobster Management Zone and To Change Entry Criteria for Noncommercial Licensees**

**PUBLIC 466**

<u>Sponsor(s)</u> HONEY HALL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-375
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LD 703 proposed to expand the authority of the Zone E council authority and require that noncommercial lobster and crab license entry criteria be the same as commercial license entry criteria. It also proposed to set the number of noncommercial traps at 10 per vessel and caps the number of noncommercial lobster and crab licenses that can be issued at 2002 license year levels.

**Committee Amendment "A" (H-375)** proposed to replace the original bill and require that the holder of or applicant for a noncommercial lobster and crab fishing license declare both the lobster management zone in which that person will fish and the vessel that will be used to conduct fishing operations. It also proposed to limit the number of noncommercial traps that can be fished from a vessel to 10, regardless of the number of noncommercial license holders that fish from that vessel. Additionally, it proposed to expand the authority of the Zone E lobster management policy council and repeal that expanded authority on June 1, 2006.

### ***Enacted Law Summary***

Public Law 2003, chapter 466 requires that the holder of or the applicant for a noncommercial lobster and crab fishing license declare both the lobster management zone in which that person will fish and the vessel that will be used to conduct fishing operations. It limits the number of noncommercial traps that can be fished from a vessel to 10, regardless of the number of noncommercial license holders that fish from that vessel. The bill also expands the authority of the Zone E lobster management policy council and repeals that expanded authority on June 1, 2006.

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**LD 835**                      **An Act To Allow a Select Group of Former Lobstermen To Obtain Lobster Fishing Licenses**                      **ONTP**

<u>Sponsor(s)</u> PELLON PENDLETON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 835 proposed to allow the issuance of a lobster and crab-fishing license if the applicant had held a lobster and crab-fishing license for at least 3 years at any time within the last 10 years.

**LD 871**                      **An Act To Amend the Shellfish Harvesting Laws Regarding Closed Areas for Clam Digging**                      **ONTP**

<u>Sponsor(s)</u> TRAHAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 871 proposed to change the policy for areas of rivers that were closed to the harvesting of shellfish due to poor test results that closed the entire river. Only the areas that tested poorly would be closed under this bill. It also proposed to require the Department of Conservation to post water test results for clam flats on its publicly accessible site on the Internet.

**LD 882**                      **An Act To Transfer Certain Authority from the Department of Marine Resources to the Department of Agriculture, Food and Rural Resources**                      **ONTP**

<u>Sponsor(s)</u> KAELIN SHOREY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 882 proposed to include products of aquaculture as agricultural or farm products for the purposes of marketing and promotional assistance by the Department of Agriculture, Food and Rural Resources. It proposed to transfer responsibility for the destruction of and indemnification for diseased fish and shellfish that were the products of aquaculture from the Commissioner of Marine Resources to the Commissioner of Agriculture, Food and Rural Resources.

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**LD 900**                      **An Act Regarding Eligibility for a License To Harvest Marine Organisms for a Person Who Served in the United States Armed Forces or United States Coast Guard**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE MCNEIL	ONTP	

LD 900 proposed to amend the eligibility requirements for the issuance on appeal of a Class I, Class II or Class III lobster and crab fishing license to a person who served in the United States Armed Forces or the United States Coast Guard to include that if a person held one of these licenses while in the service, that person was entitled to a license on a successful appeal. The bill also proposed to allow the service member who had won the appeal to choose a zone in which to fish regardless of the zone restrictions and to purchase not more than 300 trap tags for the first year with the normal increase of 100 trap tags per year up to the zone maximum limit of trap tags.

**LD 939**                      **An Act To Repeal the Fee on Aquacultural Salmon Production**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KAELIN		

LD 939 proposes to repeal the Salmon Aquaculture Monitoring, Research and Development Fund, including the 1¢ per pound fee on whole fish harvested paid by the salmon aquaculture industry, and to require the commission to refund any remaining balance in the fund to persons who have paid money into the fund since January 1, 2001. Additionally, it proposes to repeal the Maine Salmon Aquaculture Advisory Council, whose purpose is to provide guidance on expenditures from the Salmon Aquaculture Monitoring, Research and Development Fund.

**LD 1001**                      **An Act To Modify the Criteria for Approval of Aquaculture Leases**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS KOFFMAN	ONTP	

LD 1001 proposed to broaden the criteria for approval of aquaculture leases to include consideration of upland conservation lands, public parks and residential uses. The Commissioner of Marine Resources would be required to adopt quantifiable impact standards and visual impact criteria to protect upland conservation lands, public parks and residential uses. This would increase predictability for all parties in the lease application process.

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**LD 1003**                      **An Act To Protect the Public from Floodwater Contamination in Shellfish**                      **ONTP**

<u>Sponsor(s)</u> LEMONT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1003 proposed to establish conditions under which shellfish depuration certificate holders could be exempt from shellfish emergency rainfall closures.

**LD 1088**                      **Resolve, To Create a Study Committee To Consider Bay Management Planning**                      **ONTP**

<u>Sponsor(s)</u> EDMONDS SULLIVAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1088 proposed to direct the Commissioner of Marine Resources to establish a committee to study bay management planning for siting aquaculture facilities, which would hold 3 public hearings and analyze the data given and issue a report and recommendations and suggested legislation to the Second Regular Session of the 121st Legislature.

**LD 1134**                      **Resolve, Establishing a Study Group To Improve the Planning and Management for Multiple Uses of Marine Waters**                      **ONTP**

<u>Sponsor(s)</u> LEMOINE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1134 proposed to direct the Land and Water Resources Council to undertake a study to develop and implement a marine bay planning and management program in Maine. This program would improve the planning and management of multiple uses of estuarine and marine waters in Maine.

**LD 1279**                      **Resolve, Related to Aquaculture Leases in Blue Hill Bay**                      **CARRIED OVER**

<u>Sponsor(s)</u> DAMON		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1279 proposes to direct the Commissioner of Marine Resources to establish a zone in Blue Hill Bay in which finfish aquaculture leases would be excluded.

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**LD 1368**

**An Act Concerning Age Requirements for Student, Apprentice and Noncommercial Lobster Licenses**

**PUBLIC 468**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL	OTP-AM MAJ	H-276
DAMON	ONTP MIN	S-299 CATHCART

LD 1368 proposed to amend the laws concerning age requirements for student, apprentice and noncommercial lobster license holders by proposing to set a minimum age for licensure of 8 years and an age-based graduated trap limit for student license holders.

**Committee Amendment "A" (H-276)** is the majority report and proposed exempt those individuals who hold a student or noncommercial lobster and crab fishing license on October 31, 2003 from the age and trap limits proposed in the bill. This amendment also proposed to prohibit a person who holds a student license and is less than 8 years of age on October 31, 2003 from submerging more than 10 traps at any given time and upon reaching 8 years of age, that person would be required to comply with the trap limits proposed in the bill.

**Senate Amendment "A" to Committee Amendment "A" (S-299)** proposed to add an appropriation section to the bill.

***Enacted Law Summary***

Public Law 2003, chapter 468 amends the laws concerning age requirements for student, apprentice and noncommercial lobster license holders by setting a minimum age for licensure of 8 years and by establishing an age-based graduated trap limit for student license holders. It exempts those individuals who hold a student or noncommercial lobster and crab fishing license on October 31, 2003 from the age and trap limits. Public Law 2003, chapter 486 prohibits a person who holds a student license and is less than 8 years of age on October 31, 2003 from submerging more than 10 traps at any given time and upon reaching 8 years of age, requires that person to comply with the graduated trap limits established by this chapter.

**LD 1382**

**An Act To Increase the Trap Limit for Swan's Island to the Maximum Lobster Traps Allowed in Federal Waters of Zone B**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	ONTP	

LD 1382 proposed to allow a person who fished for lobsters in the Swan's Island Lobster Conservation Area to fish outside that area in other areas of federal waters of Zone B with the number of traps that, combined with the number of traps that person had submerged in the Swan's Island Lobster Conservation Area, equaled the trap limit for federal waters of Zone B.

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**LD 1387**

**An Act Concerning the Renewal of Commercial Harvester and Dealer Licenses**

**PUBLIC 170**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON BULL	OTP-AM	S-70

LD 1387 proposed to authorize the Commissioner of Marine Resources to refuse to renew a license to harvest or sell marine organisms if that license holder failed to substantially comply with requirement to submit certain data regarding fisheries until that license holder complies with the reporting requirement.

**Committee Amendment "A" (S-70)** proposed to clarify the Commissioner of Marine Resources' authority to refuse to renew a license if that license holder fails to provide certain information regarding marine fisheries. It also proposed to remove duplicative language currently in statute.

***Enacted Law Summary***

Public Law 2003, chapter 170 provides that if a holder of a license to harvest or sell marine organisms fails to submit required statistics concerning the fisheries, the Commissioner of Marine Resources may refuse to renew the holder's license until the holder complies with the reporting requirement.

**LD 1388**

**An Act To Expand the Mission of the Marine Patrol**

**PUBLIC 60  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON MCNEIL	OTP-AM	S-28

LD 1388 proposed to authorize the Department of Marine Resources to provide safety and security services in the coastal waters when conditions warrant, and to coordinate with local, state and federal agencies when such services are provided.

**Committee Amendment "A" (S-28)**, proposed to replace the bill and is the majority report. It proposed to do the following:

1. Authorize the Department of Marine Resources to provide safety and security services in the coastal waters of the State and require the department to coordinate these services with local, state and federal agencies;
2. Authorize marine patrol officers to assist the United States Coast Guard in enforcing federal safety and security zones;
3. Require the Department of Marine Resources, Bureau of Marine Patrol to enter into a memorandum of agreement with the United States Coast Guard before providing assistance in enforcing safety and security zones;

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4. Dedicate federal funds received as reimbursement for the assistance of marine patrol officers in enforcing federal safety and security zones to the watercraft fund of the Department of Marine Resources; and
5. Add an emergency preamble and emergency clause to the bill.

### ***Enacted Law Summary***

Public Law 2003, chapter 60 authorizes the Department of Marine Resources to provide safety and security services in the coastal waters when conditions warrant, and coordinate these services with local, state and federal agencies. It requires the department to enter into a memorandum of agreement with the United States Coast Guard before providing assistance in enforcing federal safety and security zones and dedicates any federal funds received as reimbursement for providing assistance to the department's watercraft fund.

Public Law 2003, chapter 60 was enacted as an emergency measure effective April 18, 2003.

**LD 1389**

**An Act To Create a Marine Harvesting Demonstration License**

**PUBLIC 169**

Sponsor(s)  
DAMON  
BULL

Committee Report  
OTP-AM

Amendments Adopted  
S-69

LD 1389 proposed to create a new license to permit individuals to engage in limited fishing activities in order to demonstrate marine harvesting techniques as part of a commercial operation. It would not allow any portion of the catch to be sold, given away or transported. It would require that all organisms be liberated alive into the area from which they were taken. Additionally, it would require that in order to be eligible for this license, an individual must demonstrate knowledge of the lobster fishery by passing the lobster and crab fishing written examination or have held a Class I, Class II or Class III lobster and crab fishing license and landed lobster under that license.

**Committee Amendment "A" (S-69)** proposed to replace the bill. It proposed to create a new marine harvesting demonstration license to permit individuals to engage in limited fishing activities in order to demonstrate marine harvesting techniques as part of a commercial operation. It would not allow any portion of the catch to be sold, given away or transported and would require that all organisms be liberated alive into the area from which they were taken. It also proposed to clarify that the person who actually handles lobster gear pursuant to this license must be the holder of the license. Additionally, it would prohibit a person from using a different vessel than the vessel named for use under a marine harvesting license or from conducting commercial harvesting activities with that boat unless otherwise provided by the Department of Marine Resources. In order to demonstrate the harvest of lobster and crabs under this license, a person would have to pass a lobster and crab fishing written examination or have held a Class I, Class II or Class III lobster and crab fishing license and landed lobster under that license. The proposed amendment would take effect on January 1, 2004 and would require the department to report to the Joint Standing Committee of Marine Resources by January 1, 2006 regarding the implementation and effectiveness of this license.

### ***Enacted Law Summary***

Public Law 2003, chapter 169 creates a new license to permit individuals to engage in limited fishing activities in order to demonstrate marine harvesting techniques as part of a commercial operation. It requires that all organisms captured pursuant to this license be released alive into the area from which they were taken. Additionally, it

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requires that an applicant for the license must pass a written examination or have held a Class I, Class II or Class III lobster and crab fishing license and landed lobster under that license.

**LD 1396**                      **Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations, a Major Substantive Rule of the Department of Marine Resources**                      **RESOLVE 20 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-206
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LD 1396 proposed to provide for legislative review of portions of Chapter 2: Aquaculture Lease Regulations, a major substantive rule of the Department of Marine Resources.

**Committee Amendment "A" (H-206)** proposed to remove the requirement from the Department of Marine Resources' rules that harbor masters provide information on ecologically significant flora and fauna in areas near proposed aquaculture lease sites.

### *Enacted Law Summary*

Resolve 2003, chapter 20 provides for legislative review of portions of Chapter 2: Aquaculture Lease Regulations, a major substantive rule of the Department of Marine Resources and amends those rules to remove the requirement that harbor masters provide the Department of Marine Resources with information on ecological significant flora and fauna in areas near proposed aquaculture lease sites.

Resolve 2003, chapter 20 was passed as an emergency measure effective May 15, 2003.

**LD 1415**                      **An Act To Decriminalize Unlicensed Shellfish Digging**                      **PUBLIC 284**

<u>Sponsor(s)</u> BULL	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-264
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LD 1415 proposed to change a violation of digging shellfish without a municipal shellfish license from a criminal to a civil violation and proposed to impose a fine of not less than \$100 nor more than \$500 for the offense.

**Committee Amendment "A" (H-264)** proposed to clarify that harvesting shellfish from a closed area is a Class D crime. It also proposed allow for the maximum fine and period of incarceration possible under a Class D crime for harvesting shellfish in closed areas.

### *Enacted Law Summary*

Public Law 2003, chapter 284 changes the penalties for digging shellfish without a municipal shellfish license from a criminal to a civil violation and imposes a fine of not less than \$100 or more than \$500 for each violation. It also clarifies that harvesting shellfish from a closed area is a Class D crime and allows for the maximum fine and period of incarceration possible for harvesting shellfish in closed areas.

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LD 1416

### An Act To Create the Scallop Advisory Council and the Scallop Research Fund

PUBLIC 319

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-374
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LD 1416 proposed to change the licensing for scallop dragging by licensing individuals rather than licensing the activities of a boat. It proposed to add an owner-operator provision to the scallop license, requiring that the owner of the vessel or a family member of the owner must be on board when that vessel is being used to harvest scallops. It also proposed to make exemptions for temporary illness or disability on the part of the owner or temporary changes due to a boat accident or mechanical failure. Additionally, it proposed to allow for a person who currently holds more than one scallop dragging license to continue to do so, and to allow other individuals to use the vessel for scallop harvesting without the owner on board.

Finally, it proposed to create the Scallop Research Fund, which could be used for research and development of the scallop resource and would be funded by a surcharge to the scallop draggers license, the hand fishing scallop license and the scallop diving tender license. It proposed to create the Scallop Advisory Council that would make recommendations to the Commissioner of Marine Resources on expenditures from the fund and other matters of interest to the scallop fishery.

**Committee Amendment "A" (H-374)** proposed to strike provisions of the bill regarding the proposed owner-operator requirement for scallop draggers and to remove law enforcement as one of the activities supported by the Scallop Research Fund.

#### *Enacted Law Summary*

Public Law 2003, chapter 319 creates the Scallop Research Fund, which may be used for research and development of the scallop resource and is funded by a surcharge to the scallop draggers license, the hand fishing scallop license and the scallop diving tender license. The bill creates the Scallop Advisory Council to make recommendations to the Commissioner of Marine Resources on expenditures from the fund and other matters of interest to the scallop fishery.

LD 1417

### An Act To Make Changes to the Laws Governing Aquaculture Leasing

PUBLIC 247

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-282
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LD 1417 proposed to make changes to several sections of the marine resources laws that regulate the leasing and monitoring of public waters for aquaculture. The proposed changes would affect the issuance of standard and limited-purpose aquaculture leases. It proposed to:

1. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark includes all types of equipment to be located within a standard aquaculture lease. It also proposed to allow qualified staff to sign lease documents following the approval of a standard lease by the commissioner;

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2. Repeal a provision on municipal approval and would enact new language concerning municipal participation in the standard aquaculture lease process;
3. Create a new section that would outline the role of municipalities in the review and issuance of standard aquaculture leases, including preapplication meetings, submission of comments to the Department of Marine Resources on all decision criteria and establishing conditions on leases. It would also clarify that the issuance of a mooring permit by a municipality would not be preempted by the Commissioner of Marine Resources' exclusive authority to grant aquaculture leases;
4. Create a requirement for a preapplication meeting to be held with the Department of Marine Resources to guide an applicant in preparing an application for a standard lease;
5. Remove language that would require the Department of Marine Resources to determine financial and technical capacity prior to conducting a public hearing on a standard lease application so that public comment could be received on this approval criterion. It also proposes to delete language on municipal involvement that has been moved to the Maine Revised Statutes, Title 12, section 6072, subsection 3-A.
6. Change language to expand the factors considered by the Department of Marine Resources in the site review of proposed standard aquaculture leases to conform with current practice;
7. Repeal a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
8. Delete language regarding Department of Environmental Protection certification of water quality and proposed to list the current requirement for a discharge permit to be obtained for affected lease applications;
9. Change language on the notification of granted leases that would remove a requirement on public notice in a local paper and would add a requirement that the Department of Marine Resources notify riparian landowners, the municipality and interested parties that a lease has been granted;
10. Amend language on the revocation of standard aquaculture leases to allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings;
11. Repeal current language on the renewal of standard leases;
12. Enact new language on the renewal of standard leases that would require earlier notice of intent to renew and would add a requirement that leases not routinely used must be determined to still meet all of the approval criteria in the Maine Revised Statutes, Title 12, subsection 6072, subsection 7-A;
13. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark would include all types of equipment to be located within a limited-purpose aquaculture lease. Language is also proposed to allow qualified professional staff to sign decision documents and leases;
14. Change language to require the Department of Marine Resources to notify riparian landowners when the department is reviewing a complete limited-purpose aquaculture lease application. It also proposed to require applicants to submit the names and addresses of the riparian landowners;

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15. Require the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
16. Repeal a provision on municipal approval and would enact new language concerning municipal participation in the limited-purpose aquaculture lease process;
17. Create a new section that would outline the role of municipalities in the review and issuance of limited-purpose aquaculture leases, including preapplication meetings, submission of comments to the Department of Marine Resources on all decision criteria and establishing conditions on leases. It also proposed to clarify that the Commissioner of Marine Resources' exclusive authority to grant aquaculture leases would not preempt a municipality from issuing a mooring permit;
18. Remove the requirement to record the lease in the registry of deeds and publish notice in the paper and would add a requirement that the Department of Marine Resources notify riparian landowners, interested persons and the municipality;
19. Repeal existing language on monitoring limited-purpose aquaculture leases;
20. Allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings for limited-purpose aquaculture leases;
21. Add the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources;
22. Authorize a dedicated fund that would receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture. These fees would be determined by the Department of Marine Resources through rulemaking and would be derived from the weight of harvested fish, application fees and lease rents; and
23. Rename the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and would alter its membership to include members from both shellfish and finfish aquaculture.

**Committee Amendment "A" (H-282)** proposed to replace the bill. It proposed to make changes to several sections of the marine resources laws that regulate the leasing and monitoring of public waters for marine aquaculture. These changes would affect the issuance of standard and limited-purpose aquaculture leases. It proposed to:

1. Allow qualified professional staff to sign lease documents following the approval of a standard lease by the Commissioner of Marine Resources, and would allow the commissioner or deputy commissioner to delegate the approval of limited-purpose leases to qualified professional staff;
2. Repeal a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
3. Delete language regarding Department of Environmental Protection certification of water quality;
4. Remove a requirement of public notice in a local paper for the notification of granted leases and would add a requirement that the Department of Marine Resources notify riparian landowners, intervenors and the municipality that a lease has been granted;

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5. Amend language on the revocation of standard aquaculture leases that would allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings;
6. Enact new language on the renewal of standard leases that requires earlier notice of intent to renew and would add a requirement that leases not routinely used must be determined to still meet all of the approval criteria in the Maine Revised Statutes, Title 12, section 6072, subsection 7-A;
7. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark would include all types of equipment to be located within a limited-purpose aquaculture lease. It also proposed to allow qualified professional staff to sign decision documents and leases;
8. Require the Department of Marine Resources to notify riparian landowners when the department reviews a complete limited-purpose aquaculture lease application. It also proposed to require the applicant to submit the names and addresses of the riparian landowners;
9. Require the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
10. Delete a provision on municipal approval and would add language concerning municipal participation in the limited-purpose aquaculture lease process.
11. Remove the requirement to record the lease in the registry of deeds and publish notice in the paper and would add a requirement that the Department of Marine Resources notify riparian landowners, interested persons and the municipality;
12. Allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings on limited-purpose aquaculture;
13. Add the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources.
14. Authorize a dedicated fund that would receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture. These fees would be determined by rulemaking by the Department of Marine Resources and are derived from the weight of harvested fish, application fees and lease rents;
15. Renames the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and would alter its membership to include members from both shellfish and finfish aquaculture; and
16. Add unreasonable noise and visual impacts to conditions the Commissioner of Marine Resources would have to consider when granting an aquaculture lease and would make any rules adopted to quantify these impacts major substantive rules.

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### ***Enacted Law Summary***

Public Law 2003, chapter 247 makes the following changes to marine resource laws that regulate the leasing and monitoring of public waters for marine aquaculture:

1. It allows qualified professional staff to sign lease documents following the approval of a standard lease by the Commissioner of Marine Resources, and allows the commissioner or deputy commissioner to delegate the approval of limited-purpose leases to qualified professional staff;
2. It repeals a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
3. It changes language on the notification of granted leases to remove a requirement of public notice in a local paper and adds a requirement that the Department of Marine Resources notify riparian landowners, intervenors and the municipality that a lease has been granted;
4. It grants the Commissioner of Marine Resources discretion in determining when to initiate revocation proceedings for standard and limited purpose aquaculture leases;
5. It requires applicants when renewing a standard lease to provide earlier notice of intent to renew and adds a requirement that leases not routinely used must be determined to still meet certain statutory criteria;
6. It clarifies that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark includes all types of equipment to be located within a limited-purpose aquaculture lease;
7. It requires the Department of Marine Resources to notify riparian landowners when a limited-purpose aquaculture lease application is being reviewed by the department;
8. It changes requires the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
9. It deletes a provision on municipal approval and adds new language concerning municipal participation in the limited-purpose aquaculture lease process;
10. It adds the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources;
11. It authorizes a dedicated fund to receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture;
12. It renames the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and alters its membership to include members from both shellfish and finfish aquaculture; and
13. It adds unreasonable noise and visual impacts to conditions the Commissioner of Marine Resources must consider when granting an aquaculture lease and makes any rules adopted to quantify these impacts major substantive rules.

*Joint Standing Committee on Marine Resources*

**LD 1437**

**An Act To Amend Marine Resources Special License Requirements for Educational Programs**

**PUBLIC 104**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON BULL	OTP	

LD 1437 provided that teachers in primary or secondary schools did not need approval by the Marine Resources Advisory Council but could obtain a special license for research, aquaculture or education directly from the Commissioner of Marine Resources.

***Enacted Law Summary***

Public Law 2003, chapter 104 provides that the Commissioner of Marine Resources may issue a special license for research, aquaculture or education to teachers in primary or secondary schools without obtaining the permission of the Advisory Council.

**LD 1440**

**An Act To Establish the Commercial Fishing Safety Council**

**PUBLIC 90  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	H-126 TWOMEY S-32

LD 1440 proposed to establish the Commercial Fishing Safety Council as an advisory body to the Commissioner of Marine Resources.

**Committee Amendment "A" (S-32)** proposed to add an emergency preamble and emergency clause to the bill.

**House Amendment "A" (H-126)** proposed on behalf of the Committee on Engrossed Bills that would clarify the definition of "quorum."

***Enacted Law Summary***

Public Law 2003, chapter 90 establishes the Commercial Fishing Safety Council as an advisory body to the Commissioner of Marine Resources.

Public Law 2003, chapter 90 was enacted as an emergency measure effective April 25, 2003.

*Joint Standing Committee on Marine Resources*

LD 1451

An Act To Manage the Sea Urchin Fishery

**PUBLIC 200  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON BULL	OTP-AM	S-99

LD 1451 proposed to make it a Class D crime to possess small sea urchins and would establish a minimum fine of \$500 for a first offense and \$1,000 for a 2nd offense and a mandatory one-year suspension for a 3rd or subsequent offense. It proposed to expand the allowable uses of the Sea Urchin Research Fund to include safety education and training and the implementation of management measures, following consultation by the Commissioner of Marine Resources with the Sea Urchin Zone Council. It also proposed to allow the Commissioner of Marine Resources to prohibit new entry into the urchin fishery in years when it is necessary to protect the fishery from imminent depletion.

**Committee Amendment "A" (S-99)** proposed to add an emergency preamble and clause to the bill and would replace section 2 of the bill with language that would authorize the Commissioner of Marine Resources to adopt rules regarding the culling requirements for sea urchins harvested under a hand-fishing license in Zone 1. It proposed to impose minimum fines for violations of sea urchin harvesting requirements. Additionally, it proposed to require the Department of Marine Resources to report to the Joint Standing Committee of Marine Resources on the status of the implementation of the proposed requirements no later than January 1, 2005.

***Enacted Law Summary***

Public Law 2003, chapter 200 requires the Commissioner of Marine Resources to suspend, for at least 1 year and up to 3 years, the sea urchin fishing license of any license holder convicted of a 3<sup>rd</sup> or subsequent offense of possessing sea urchins smaller than the minimum size. It also authorizes the commissioner to adopt rules regarding the culling requirements for sea urchins harvested under a hand-fishing license in Zone 1. Additionally, it allows the commissioner to adopt rules to establish a sea urchin limited entry system to prevent new entries into the fishery when it is necessary to protect the urchin fishery for imminent depletion. Public Law 2003, chapter 200 expands the allowable uses of the Sea Urchin Research Fund to include safety education and training and the implementation of management measures, following consultation by the Commissioner of Marine Resources with the Sea Urchin Zone Council. Finally, it requires the department to report back to the Joint Standing Committee of Marine Resources on the status of the implementation of these new requirements no later than January 1, 2005.

Public Law 2003, chapter 200 was enacted as an emergency measure effective May 16, 2003.

*Joint Standing Committee on Marine Resources*

**LD 1471**

**An Act To Correct Certain Errors and Inconsistencies in Laws  
Relating to Marine Resources**

**PUBLIC 248**

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP		<u>Amendments Adopted</u> H-247 BULL
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LD 1471 proposed to:

1. Correct a reference to a federal agency;
2. Eliminate a reference to shrimp in the laws relating to emerging fisheries;
3. Clarify that the violation of a rule adopted by the Commissioner of Marine Resources would be a civil violation for which a fine of not less than \$100 may be adjudged;
4. Correct an inconsistency with regard to the processing of scallops. It proposed to clarify that scallop harvesters may process, possess, ship, transport or sell only shucked scallops. It also proposed to require that a person, except a person authorized by either of the scallop harvester licenses who processes, possesses, buys, ships, transports or shucks shellfish or whole scallops, to have a shellfish sanitation certificate to process, sell, ship, transport or shuck shellfish or whole scallops;
5. Make a violation of the laws relating to sea urchins is a criminal violation, unless otherwise specified;
6. Clarify that the commercial shrimp license would pertain only to the northern shrimp species;
7. Stipulate that it would be a violation of law to engage in certain shellfish and whole scallop activities without a shellfish sanitation certificate or a depuration certificate; and
8. Change all references to regulations to conform to the rule-making process provided in the Maine Revised Statutes, Title 5, chapter 375.

**House Amendment "A" (H-247)** proposed to change a reference to a "regulation" to a reference to a "rule" consistent with changes made in the bill.

***Enacted Law Summary***

Public Law 2003, chapter 248 makes changes to the laws relating to marine resources as follows:

1. It corrects a reference to a federal agency;
2. It eliminates a reference to shrimp in the laws relating to emerging fisheries;
3. It clarifies that the violation of a rule adopted by the Commissioner of Marine Resources is a civil violation for which a fine of not less than \$100 may be adjudged;
4. It corrects an inconsistency with regard to the processing of scallops. It clarifies that scallop harvesters may process, possess, ship, transport or sell only shucked scallops. It requires that a person, except a person

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authorized by either of the scallop harvester licenses who processes, possesses, buys, ships, transports or shucks shellfish or whole scallops, must have a shellfish sanitation certificate to process, sell, ship, transport or shuck shellfish or whole scallops;

5. It provides that, unless otherwise specified, a violation of the laws relating to sea urchins is a criminal violation;
6. It clarifies that the commercial shrimp license pertains only to the northern shrimp species;
7. It stipulates that it is a violation of law to engage in certain shellfish and whole scallop activities without a shellfish sanitation certificate or a depuration certificate; and
8. It changes all references to regulations to conform to the rule-making process provided in the Maine Revised Statutes, Title 5, chapter 375;

**LD 1519**

**Resolve, To Establish a Task Force on the Planning and Development of Marine Aquaculture in Maine**

**RESOLVE 40  
EMERGENCY**

Sponsor(s)  
BULL

Committee Report  
OTP-AM

Amendments Adopted  
H-281  
H-327 BULL

LD 1519 proposed to establish the Task Force on the Planning and Development of Marine Aquaculture in Maine to develop recommendations on how to balance the range of potential uses of state waters and plan for the growth of marine aquaculture while considering all reasonable constraints and opportunities.

**Committee Amendment "A" (H-281)** proposed to create the 11-member Stakeholder Advisory Panel, which would be charged with reviewing the draft report of the task force on the Planning and Development of Marine Aquaculture in Maine and making recommendations to the task force on that draft report before the task force submits its final report to the Joint Standing Committee on Marine Resources. Additionally, the task force would be required to periodically consult with the advisory panel regarding the issues identified in the resolve. It proposed that the Speaker of the House of Representatives and the President of the Senate would appoint members of the advisory panel.

It also proposed to add 3 additional items to be considered by the task force. It amends the resolve to allow the task force to submit legislation to the Second Regular Session of the 121st Legislature to implement the recommendations in its final report.

Finally, it proposed to require the task force to consider all pertinent scientific data in developing its report and would require the Commissioner of Marine Resources to use funds from existing department resources for costs associated with this resolve.

**House Amendment "A" to Committee Amendment "A" (H-327)** proposed to clarify that the municipal appointee for the Stakeholder Advisory Panel be a "municipal official."

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### ***Enacted Law Summary***

Resolve 2003, chapter 40 establishes the Task Force on the Planning and Development of Marine Aquaculture in Maine to develop recommendations on how to balance the range of potential uses of state waters and plan for the growth of marine aquaculture while considering all reasonable constraints and opportunities. It also creates the 11-member Stakeholder Advisory Panel charged with reviewing the draft report of the task force on the Planning and Development of Marine Aquaculture in Maine and making recommendations to the task force on that draft report before the task force submits its final report to the Joint Standing Committee on Marine Resources. Additionally, it also requires the task force to periodically consult with the advisory panel regarding the issues identified in this resolve.

Resolve 2003, chapter 40 was passed as an emergency measure effective May 21, 2003.

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