

## §6681. Soft-shell clam management

**1. Purpose.** The Legislature finds that the conservation and wise use of the State's shellfish resource may be enhanced by a 2-inch minimum size limit on possession of soft-shell clam shell stock in combination with other management programs.

The Legislature further finds that management programs should be designed to meet local circumstances as appropriate, but also finds that a minimum size limit to be beneficial must be a uniform standard statewide.

The Legislature intends by this Article to enhance the value of the State's shellfish resource by the institution of uniform standards which can be implemented and enforced statewide.

[PL 1983, c. 838, §6 (NEW).]

**2. Definition.** For the purposes of this subchapter, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.

[PL 1983, c. 838, §6 (NEW).]

**3. Minimum size.** A person may not possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter:

A. If the soft-shelled clams comprise more than 10% but less than 20% of a bulk pile as determined under subsection 4; [PL 2003, c. 452, Pt. F, §18 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. If the soft-shelled clams comprise 20% or more of a bulk pile as determined under subsection 4; or [PL 2003, c. 452, Pt. F, §18 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. If the soft-shelled clams comprise 20% or more of a bulk pile as determined under subsection 4 and the person has one or more prior convictions for violating paragraph B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2003, c. 452, Pt. F, §18 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. F, §18 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Tolerance.** Any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

[PL 2003, c. 452, Pt. F, §18 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

**5. Enforcement.** State, county and municipal wardens and enforcement officers shall enforce this subchapter.

[PL 1983, c. 838, §6 (NEW).]

### **6. Penalty.**

[PL 1993, c. 281, §5 (RP).]

**6-A. Penalty.** A person who violates this article commits a Class D crime. The following minimum penalties apply:

A. For possession of a bulk pile of shellfish of which 20% or more of the shellfish are smaller than the minimum size established in subsection 3:

(1) For the first offense, a fine of not less than \$300; and

(2) For subsequent offenses within 10 years from the date of conviction for the first violation, a fine of not less than \$500.

The court may not suspend a fine imposed under this paragraph; and [PL 1997, c. 628, §2 (AMD).]

B. For possession of a bulk pile of shellfish of which more than 10% but less than 20% of the shellfish are smaller than the minimum size established in subsection 3, a fine not less than \$100 and not more than \$1,000. [PL 1993, c. 281, §6 (NEW).]

[PL 1997, c. 628, §2 (AMD).]

**7. Sunset.** This section shall be reviewed by the joint standing committee of the Legislature having jurisdiction over marine resources in the Second Regular Session of the 113th Legislature. That committee shall report its findings no later than April 1, 1988.

[PL 1987, c. 580, §1 (AMD).]

#### SECTION HISTORY

PL 1983, c. 838, §6 (NEW). PL 1985, c. 9 (AMD). PL 1985, c. 737, §A30 (AMD). PL 1987, c. 580, §1 (AMD). PL 1993, c. 281, §§5,6 (AMD). PL 1997, c. 628, §2 (AMD). PL 2003, c. 452, §F18 (AMD). PL 2003, c. 452, §X2 (AFF).

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