

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Clarify the Marine Resources Laws To Provide for the Protection of Public Safety and Welfare

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

Sec. 1. 12 MRSA §6171-D is enacted to read:

§ 6171-D. Protection of public safety

1. Commissioner's powers. The commissioner may, with the advice and consent of the Marine Resources Advisory Council, adopt or amend such rules as the commissioner considers necessary to protect public safety or welfare. Rules adopted in accordance with this section may include, but are not limited to, rules governing area closures when necessary to address conflicts among persons who fish commercially that may cause a threat of harm to any person.

2. Emergency rules. The commissioner may adopt or amend rules on an emergency basis when necessary to avoid an immediate threat to public safety or welfare in accordance with section 6192.

3. Procedure. The procedures of subchapter 2 must be used in adopting or amending rules authorized by this section.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 12 MRSA §6192, sub-§1, ¶A, as amended by PL 2005, c. 44, §3, is further amended to read:

A. In an emergency adoption of a rule or amendment to a rule relating to the public health and safety, including rules authorized under sections 6171-C, 6171-D and 6172, prior public notice and hearing is not required.

Sec. 3. 12 MRSA §6192, sub-§1, ¶B, as amended by PL 2003, c. 248, §5, is further amended to read:

B. In an emergency adoption of a rule or amendment to a rule relating to the general welfare, as authorized by ~~section~~sections 6171 and 6171-D, the rule is effective immediately, as provided in subsection 4. A public hearing must be held in the affected area immediately ~~thereafter~~after the rule takes effect if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the ~~commissioner~~commissioner's receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area.

SUMMARY

This bill clarifies that the Commissioner of Marine Resources has the regulatory authority to close an area to fishing should it be necessary to protect the public safety and welfare.