

**TESTIMONY OF  
Patrick Keliher  
Commissioner**

**The Department of Marine Resources (DMR) is testifying  
Neither For Nor Against**

**LD 255, An Act to Preserve the Integrity of Maine's Shellfish Industry by  
Increasing the Penalty for Interfering with Permitted Harvest**

**Before the Committee on Marine Resources  
Sponsored by Senator Gerzofsky  
Date of Hearing: February 25, 2015**

Senator Baker, Representative Kumiega, and members of the Joint Standing Committee on Marine Resources, my name Patrick Keliher, Commissioner of the Department of Marine Resources, and I am testifying on behalf of the Department neither for nor against LD 255.

In principle, the Department could support aspects of this bill if the issue were limited to what is in front of the Committee today. Certainly any aquaculture permit or lease holder should have assurance that the product they are culturing should not only be protected from illegal take, but also from disturbance or molestation which may cause damage to the product that they have worked to cultivate. We would suggest that the language of "take" also remain (instead of struck as the drafting would suggest) in order to protect the exclusive right of the permittee to harvest product from the site.

The Department's concern is that we do not have a full understanding of how this bill relates to another piece of legislation that is also proposed this session and appears to be geared toward amending the municipal leasing process (An Act To Promote Municipal Aquaculture). We would want to see how the two bills relate to one another before we could take a final position on this proposed change.

On a more technical note, under the Maine Rules of Civil Procedure Rule 80H, civil violations must be no more than \$1000 if filed as a uniform summons and complaint, as a typical traffic ticket would be, for example. This is the form used for marine resources violations, and it is more efficient than filing a complaint. A fee higher than \$1000 will create a procedural deficiency for civil violations if this form is used. Those of you who have previously served on this committee may recall that we asked you to address a number of sections of our title in the second session of the previous legislature to ensure that our cases would not be dismissed, as several of our cases that were written before unlicensed elver fishing became a criminal offense were dismissed on these grounds. To prevent a potential procedural issue, the Department would ask the Committee to restrict the upper limit of the fine to no more than \$1000.

Thank you for your consideration, and I would be happy to answer any questions you may have.