

**TESTIMONY OF
Deirdre Gilbert
Director, State Marine Policy**

**The Department of Marine Resources (DMR) is testifying
In Support of**

L.D. 669 An Act To Create a Spat Collection License

**Sponsored by Representative Devin
Date of Hearing: March 25, 2015**

Senator Baker, Representative Kumiega, and members of the Joint Standing Committee on Marine Resources, my name is Deirdre Gilbert, Director of State Marine Policy for the Department of Marine Resources, and I am testifying on behalf of the Department in support of LD 730.

This bill would create a new license type that would authorize the collection of spat (by which we mean, larval marine organisms) mainly for the purpose of placement on aquaculture lease sites, but also potentially for wild stock enhancement activities. The Department believes it is necessary to create a licensing framework for this activity, because it is currently conducted either under the authority of special licenses (in the case of scallop spat), or without any license at all (in the case of mussel spat collected off lease sites).

As you will see, this bill creates the authority for the license, but then leaves many of the specifics regarding the activity to be developed through regulation. These specifics include:

- What species a license holder would be authorized to collect
- Maximize size of “spat”, specified for each species
- The method of take, specified for each species
- The amount of gear, specified for each species

We have left the development of these details to the regulatory process because we had received earlier feedback from the Aquaculture Advisory Council that while they supported the development of a licensing framework, it would be important to retain the potential for flexibility as the needs of this sector change over time. The regulatory process allows this type of adaptation, where species or gear could be added or amended as new information comes forward.

To give you a further understanding of how this activity has been permitted to date, the Commissioner has been issuing a group of individuals a “special license” to collect scallop spat, as authorized under 12 MRS 6074. A Special License is a mechanism through which the Commissioner may exempt the holder from one or more marine resources’ laws as to the time, place, length, condition, amount, and manner of taking or possessing a marine organism. They are issued for the purposes of research, aquaculture, or education. Special licenses authorizing the collection of spat have been issued since at least 2000, and the current license has 23 people on it, all collecting scallop spat for various purposes. Over time, the laws from which this Special License exempts its holders have also changed – it began by exempting people from the minimum scallop size requirements, but now also exempts them from a variety of other laws as well, in order to provide for the possibility of selling whole, or “roe-on” scallops.

Generally speaking, the Department is not comfortable with indefinitely permitting an activity through the issuance of a Special License. At some point, it is appropriate to transition to an actual licensing framework,

which is the purpose of creating this license. We would argue that 15 years is not an unreasonable timeframe at which to make this shift. In the future, instead of getting a Special License, these individuals would be able to obtain a spat collection license. From a policy perspective, we feel that the creation of a license is also important for transparency reasons, in the sense that, if this activity is to be allowed, it should be evident to anyone who may be interested how they could participate. Right now, if an individual was not aware of the existence of the Special License, they would not have any way of knowing that this is an option. It is also important to understand that the issuance of a Special License is at the sole discretion of the Commissioner, so in and of itself, does not provide any assurance of its availability to the individuals who are relying on it to obtain spat for their businesses.

If this bill is passed and the license type created, the Department will work with the interested parties to develop the regulatory proposal that we will take to public hearing. Commissioner Keliher has consistently approached all marine resources issues in this way – by providing a forum for discussion outside of the public hearing process, before advancing to the regulatory arena. This topic would be approached no differently.

In closing, we have heard a concern expressed from the Maine Aquaculture Association that aquaculturists should not be required to obtain this license in order to collect spat on their lease or license site, for use on a lease or license than they hold. We are certainly not opposed to adding that exemption as an amendment, as our intent was always to address the current gap that exists for collection of spat off of lease or license sites.

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