

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

Amend the bill by inserting after the enacting clause and before section 1 the following:

## PART A

**Sec. A-1. 12 MRSA §6073-B** is enacted to read:

### **§ 6073-B. Harvester license exemption; scallop aquaculture**

The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement under sections 6701, 6702 and 6703 to hold a separate license for the removal, possession, transport or sale of scallops from the leased area or the licensed gear when the final product form is the adductor muscle only. This exemption does not apply to scallops in any other form.'

Amend the bill in section 1 in §6702 in subsection 4 in the 2nd line (page 1, line 29 in L.D.) by striking out the following: "2 bushels of shell scallops or 4 quarts" and inserting the following: '2 bushelsone bushel of shell scallops or 4 quarts2 quarts'

Amend the bill by inserting after section 1 the following:

**'Sec. 2. 12 MRSA §6703, sub-§3,** as amended by PL 2003, c. 452, Pt. F, §19 and affected by Pt. X, §2, is further amended to read:

**3. License limitation; quantity.** In any one day, the holder of a noncommercial scallop license may not take or possess more than 2 bushelsone bushel of shell scallops or 4 quarts2 quarts of shucked scallops.'

Amend the bill in section 2 in §6706 in subsection 1 by striking out all of paragraph A and inserting the following:

'A. The 2005, 2006 or 2007 license year; or'

Amend the bill in section 2 in §6706 in subsection 1 by striking out all of paragraph B and inserting the following:

'B. The 2008 license year prior to March 3, 2008.'

Amend the bill by striking out all of sections 5 and 6 and inserting the following:

**'Sec. 5. 12 MRSA §6723,** as amended by PL 1981, c. 91, is repealed and the following enacted in its place:

### **§ 6723. Drag limits in Blue Hill Bay**

**1. Drag limit.** Except as provided by rule pursuant to section 6727-A, subsection 2, a person may not fish for or take scallops with any one combination of scallop drags in excess of 8 feet, 6 inches in width, measured from the extreme outside edge of the mouth of the drag or drags, in Blue Hill Bay above or north of a line drawn from Bass Harbor Head in the Town of Tremont westerly to Pond Island and thence to Naskeag Point in the Town of Brooklin.

**2. Violation.** A person who violates this section commits a civil violation for which the following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. 6. 12 MRSA §6726, sub-§1,** as amended by PL 2001, c. 272, §15, is further amended to read:

**1. Minimum size.** ~~It is unlawful to utilize~~The minimum ring size is 3 1/2 inches except as provided by rule. The commissioner shall establish by rule a minimum ring size that may not be smaller than 4 inches in diameter. A person may not use a drag to fish for or take scallops in the territorial waters with rings that measure less than:~~the ring size provided pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.~~

- ~~B. From December 1, 1999 to April 15, 2000, 3 1/4 inches in diameter; and~~
- ~~C. On December 1, 2000 and thereafter, 3 1/2 inches in diameter.~~

**Sec. 7. 12 MRSA §6727,** as amended by PL 2001, c. 272, §16, is repealed.

**Sec. 8. 12 MRSA §6727-A** is enacted to read:

### **§ 6727-A. Drag width**

**1. Width limit.** Except as provided in subsection 2, a person may not possess on any vessel fishing for scallops in the territorial waters, or use when fishing for or taking scallops in the territorial waters, a drag or any combination of drags that measures in excess of 10 feet, 6 inches across from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge.

**2. Rules to reduce size limits.** The commissioner shall adopt by rule the maximum width of a drag or combination of drags used to fish for scallops that is no more than 5 feet, 6 inches across from one extreme outside edge of the mouth of the drag or combination of drags to the opposite extreme outside edge. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Possession of oversized drag.** A person may not possess on any vessel fishing for scallops in the territorial waters, or use when fishing for or taking scallops in the territorial waters, a drag or any combination of drags that measures in excess of the limit set pursuant to this section.

**4. Violation.** A person who violates this section commits a civil violation for which the following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. 9. 12 MRSA §6728, sub-§3,** as enacted by PL 2001, c. 192, §1, is repealed.

**Sec. 10. 12 MRSA §6728, sub-§3-A** is enacted to read:

**3-A. Violation.** A person who violates this section commits a civil violation. The following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; and
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized and the scallop dragging license may be suspended for one year. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. 11. 12 MRSA §6729, sub-§1,** as enacted by PL 2003, c. 319, §2, is amended to read:

**1. License surcharges.** The following surcharges are assessed on licenses issued by the department:

- A. For a hand fishing scallop license, \$100;
- B. For a scallop draggers license, \$100; and
- C. For a scallop diving tender license, \$50.; and

D. For a noncommercial scallop license, \$40.'

Amend the bill by inserting after section 7 the following:

**'Sec. 8. Development of a strategic plan to rebuild and manage Maine's scallop resource.** The Scallop Advisory Council, referred to in this section as "the council," and the Department of Marine Resources, referred to in this section as "the department," shall develop a comprehensive strategic plan that will rebuild Maine's scallop resource and create a sustainable scallop fishery. Maine's scallop stocks are in sharp decline, and the plan must propose steps that are commensurate with the dire status of the fishery. The plan must provide short-term and long-term bench marks for measuring progress in rebuilding the scallop stock over the entire coastline of the state. The council and the department shall use the following as a guide for discussion in the development of the strategic plan:

1. Entry restrictions to reduce fishing efforts, including, but not limited to, limited entry or a moratorium on the issuance of scallop licenses;

2. Management options for consideration, including, but not limited to:

A. The complete closure of the scallop fishery to allow the resource to recover;

B. Closure of the scallop fishery except for Cobscook Bay to allow for resource recovery outside of Cobscook Bay with measures to protect scallops in Cobscook Bay from overfishing;

C. Rotational management in which a significant portion of the coast is closed on a 3-year or 4-year rotation until a biological target is achieved;

D. Management of the scallop and urchin fishery, together with potential for using the current sea urchin assessment zones;

E. Creation of scallop seed conservation areas to allow scallops to mature and spawn for the benefit of the entire coast, taking into consideration all cable areas and the size of the areas needed to be effective and enforceable;

F. Size restrictions, including a maximum and minimum shell size that will enhance fecundity rates; and

G. Gear restrictions that include but are not limited to changes in drag configuration to minimize impacts on habitat and damage to undersized and oversized scallops, reduction in drag cable size and ring size and larger minimum mesh size for the upper bag; and

3. Other options for consideration, including, but not limited to, adjustments to the scallop fishing season, a ban on Sunday fishing or weekend fishing and daily catch and possession limits for commercial and noncommercial fisheries.

The council and department shall jointly report the strategic plan, including findings, recommendations and necessary implementing legislation and rules to be adopted to implement the plan, to the joint standing committee of the Legislature having jurisdiction over marine resources matters no later than January 5, 2009. The joint standing committee may submit legislation to the First Regular Session of the 124th Legislature relating to the report and strategic plan.

## PART B

**Sec. B-1. 12 MRSA §6701, sub-§6,** as enacted by PL 2001, c. 421, Pt. B, §40 and affected by Pt. C, §1, is amended to read:

**6. Violation.** A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged. the following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-2. 12 MRSA §6702, sub-§6,** as enacted by PL 2001, c. 421, Pt. B, §41 and affected by Pt. C, §1, is amended to read:

**6. Violation.** A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged. the following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-3. 12 MRSA §6703, sub-§5,** as enacted by PL 1999, c. 771, Pt. B, §9 and affected by Pt. D, §§1 and 2, is amended to read:

**5. Penalty.** A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. the following penalties apply:

- A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;
- B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and
- C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-4. 12 MRSA §6721-A, sub-§5,** as reallocated by PL 2003, c. 520, §8, is amended to read:

**5. Violation.** A person who violates this section commits a civil violation. Thefor which the following penalties apply:

A. For the first offense, a mandatory fine of ~~\$250~~\$500 is imposed and all scallops on board may be seized.;

B. For the 2nd and ~~each subsequent~~ offense, a mandatory fine of ~~\$250~~\$750 is imposed;and all scallops on board may be seized and the scallop boat license may be suspended for one year.; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-5. 12 MRSA §6722,** as amended by PL 2001, c. 272, §14, is repealed and the following enacted in its place:

**§ 6722. Scallop season**

**1. Scallop fishing season.** Unless modified by regulation adopted under section 6171-A, a person may not fish for or take scallops in the territorial waters from April 16th to November 30th.

**2. Violations.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-6. 12 MRSA §6724,** as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

**§ 6724. Otter trawl in Penobscot River**

**1. Prohibition.** A person may not fish for or take scallops by use of an otter trawl inside and upriver of a line drawn from the lighthouse on Dice Head, Castine to Turtle Head on Islesboro and thence to the town wharf at Bayside, Northport.

**2. Violations.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-7. 12 MRSA §6725**, as enacted by PL 1977, c. 661, §5, is repealed and the following enacted in its place:

**§ 6725. Possession of illegal scallops**

**1. Prohibition.** A person may not possess, ship, transport, buy or sell scallops taken in violation of this subchapter.

**2. Violations.** A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

**Sec. B-8. 12 MRSA §6728-B** is enacted to read:

**§ 6728-B. Habitual violations**

The commissioner shall suspend the hand fishing scallop license or other license issued under this Part authorizing the taking of scallops of any license holder adjudicated or convicted in court of a 3rd or subsequent violation of this subchapter. The suspension must be for at least one year from the date of conviction and may be for up to 3 years.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment:

1. Reduces by 1/2 the daily quantity of scallops a person with a noncommercial scallop license can harvest or possess to 1 bushel of shell scallops or 2 quarts of shucked scallops;

2. Provides that the holder of an aquaculture lease is not required to hold a separate license for the removal, possession, transport or sale of scallops from the leased area or the licensed gear when the final product form is the adductor muscle only;

3. Provides for a \$40 surcharge for noncommercial scallop licenses;

4. Increases the number of people eligible to obtain a scallop fishing license in 2009 by increasing the eligibility period from those who held a scallop license between 2006 and April 15, 2007 to those who held a scallop license between 2005 and March 3, 2008;

5. Directs the Commissioner of Marine Resources to adopt rules to establish a minimum ring size of no less than 4 inches;

6. Directs the Commissioner of Marine Resources to adopt by rule the maximum size for the mouth of a drag or combination of drags used together that is no more than 5 feet, 6 inches across;

7. It directs the Scallop Advisory Council and the Department of Marine Resources to develop a comprehensive strategic plan that will rebuild Maine's scallop resource and create a sustainable scallop fishery. The council and department shall report the plan, including findings, recommendations and necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over marine resources matters no later than January 5, 2009. The joint standing committee may submit legislation to the First Regular Session of the 124th Legislature relating to the report and strategic plan; and

8. Provides that for any violation of a scallop law or rule all scallops on board may be seized and for the first offense a mandatory fine of \$500 is imposed, for the 2nd offense a mandatory fine of \$750 is imposed and for the 3rd and subsequent offenses a mandatory fine of \$750 is imposed.

**FISCAL NOTE REQUIRED**

**(See attached)**