

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

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

LD 1438, An Act To Improve the Aquaculture Leasing and Licensing Laws

**Before the Committee on Marine Resources
Sponsored by Representative Devin
Date of Hearing: May 1, 2017**

Senator Maker, 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 1687. This is a Department bill, and we thank Representative Devin for bringing it forward on our behalf.

This bill proposes a number of changes to the aquaculture leasing and licensing statutes, many of which are a result of two meetings the Commissioner held with members of the aquaculture industry last winter. These meetings were intended to solicit suggestions on how the Department could best support this growing industry by improving our leasing and licensing processes, while also balancing the public's interest in shared coastal waters. I will walk through the proposed changes section by section.

Section 1 proposes to amend the language that currently prohibits the Department from providing promotional or marketing assistance to the aquaculture sector. An example of how this has limited the Department's activities is a recent change in the status of Maine farmed salmon under the Monterey Bay Aquarium's Seafood Watch sustainability rating program. Maine farmed salmon was upgraded to a "good alternative" from the "avoid" rating. This change opened up significant market opportunities, and may benefit the state's salmon aquaculture industry significantly, but the State was unable to help support the opportunity through media channels due to this provision in law. While critics have suggested that promotion is a conflict of interest since we adjudicate lease decisions, DMR is authorized to promote wild caught fisheries and related products and we obviously regulate those fisheries as well. We do not see why these industries should be treated differently.

Section 2 would expand the approvable length of a standard aquaculture lease from ten years to twenty years. A lease is not always approved for the maximum amount of time, but this change was strongly supported by aquaculture businesses that identified this as needed for the stability and financing of their businesses. We are hopeful that representatives from the industry can share the challenges that they have encountered that caused them to request this extension in the allowable lease term.

Section 3 amends the order of preference given to lease applicants to give second priority to an individual who currently holds a limited-purpose aquaculture license in the area. This change will help to ensure that someone who has been testing a site for viability using the LPA license has increased standing to obtain a lease on that site. Previously these license holders were not given any priority in a situation where two applicants are seeking a lease in the same area. The current language only proposes this for standard leases, but similar language would be appropriate for experimental leases. There is also complementary language in Section 6 that amends the Limited Purpose Aquaculture license statute that may need further clarification. The Department would be happy to provide that language for the work session.

Sections 4 and 5 create a process to enable an existing lease holder to expand the contiguous area of the lease by up to ten percent during the duration of the existing lease without having to apply for a new lease altogether. This change was also requested by industry as a mechanism to grow their business at a reasonable scale without the delay that may come with application for another lease. The expansion application would put the burden on the applicant to provide an assessment of impacts on existing uses of the area, as well as physical and ecological impacts, and an environmental evaluation of the site. The Commissioner may conduct a site review as well. Additionally, the Department proposes that this expansion would only be allowable if all riparian owners are noticed and respond in writing that they do not object to the proposed lease expansion. As this is currently drafted, any riparian objections would lead to denial of the expansion application. Since this bill was printed, the Department has identified some additional improvements to this application process to ensure adequate notice is provided to the municipal officials and riparian owners, as well as to be more consistent with other sections of law. We would be glad to bring amended language for the work session.

Section 6 proposes a number of changes to the limited-purpose aquaculture license. First, it separates the licensed activities from the criteria for issuance of limited-purpose aquaculture licenses, a structural clarification. Second, it requires the applicant to specify whether the license is for commercial or personal use, and identify the growing area and classification proposed. These are already requested on the application but not enumerated in existing statute. Perhaps most importantly, this section provides for the consideration of public health risks in the criteria for approval of an LPA. Currently, there is no basis to deny an LPA application in an area where a species may pose an unreasonable risk to public health. This presents a risk to the industry broadly, and mitigating it has put a substantial burden on Department staff to work directly with an applicant to ensure they understand the potential risks, but also leaves us without any mechanism to prevent harm should the applicant ignore those risks. Finally, this section gives the Commissioner authority to require LPA applicants to complete an educational course prior to obtaining the license. The intent of this section, which was also proposed and supported by industry, is to ensure there is baseline knowledge for new entrants of both animal health and public health risks associated with aquaculture activities.

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