

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
S.P. 80 - L.D. 144

An Act to Create a Limited Retail Seafood Harvester Certificate

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the limited retail seafood harvester certificate, established in this legislation and attached to an already existing retail seafood license, would make it easier for shellfish harvesters, especially oyster growers, to sell their harvest directly to consumers without having the additional expense related to the operation of a fixed facility or selling their product through registered dealers; and

Whereas, it is important that this certificate be made available to seafood harvesters as soon as possible, so they may sell their harvest from a vehicle during the upcoming spring and summer seasons, including at farmers' markets; and

Whereas, the Department of Marine Resources has indicated that the department has the resources necessary to implement this certificate immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6852, as amended by PL 2023, c. 207, §§17 to 19, is further amended to read:

§6852. Retail seafood license

1. License required. A person may not engage in the activities authorized under subsection 2 without a retail seafood license or other license issued under this Part authorizing the activities.

2. License activity. Except as provided in ~~subsection~~ subsections 2-A, 2-B and 2-C, the holder of a retail seafood license may, in the retail trade, buy, sell, transport, ship or serve:

- A. Shellstock, which must be purchased from a wholesale seafood license holder certified under section 6856;
- D. Crayfish;
- F. Lobsters; and
- G. Any marine organism that is purchased directly from a harvester licensed under this Part.

A holder of a retail seafood license when buying directly from a harvester may buy only from a harvester who possesses the license or permit for that species as required under this Part. The harvester shall make the applicable marine resources license or permit available for inspection upon the retail seafood license holder's request.

2-A. Enhanced retail certificate authorized. The holder of a retail seafood license may obtain an enhanced retail certificate from the department. The holder of an enhanced retail certificate may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

- A. Shellstock bought from a commercial shellfish license holder licensed under section 6601;
- B. Shellstock bought from a surf clam boat license holder licensed under section 6602;
- C. Shellstock bought from a mahogany quahog license holder licensed under section 6731;
- D. Shellstock bought from a hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746; and
- E. Shellstock bought from an aquaculture license holder licensed under section 6810-B.

For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access an establishment or part thereof in which activities authorized under this certificate are conducted by a person holding a retail seafood license. Denial of access is grounds for suspension or revocation of a retail seafood license under the provisions of section 6372. The holder of an enhanced retail certificate may not designate a vehicle as that person's establishment.

2-B. Endorsements. The holder of a retail seafood license buying directly from a harvester must obtain an endorsement from the department for the species being bought if the license to harvest that species requires the harvester to comply with an electronic reporting requirement. The department shall provide endorsements to license holders at no cost in accordance with rules adopted under subsection 6.

2-C. Limited retail seafood harvester certificate authorized. The holder of a retail seafood license may obtain a limited retail seafood harvester certificate from the department. The holder of a limited retail seafood harvester certificate may, in the retail trade within state limits, sell, transport and serve shellstock taken by the primary owner listed on the retail seafood license as long as the primary owner is also a:

- A. Commercial shellfish license holder licensed under section 6601;
- B. Surf clam boat license holder licensed under section 6602;

C. Mahogany quahog license holder licensed under section 6731;

D. Hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746; or

E. Aquaculture license holder under section 6810-B.

For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access the vehicle in which activities authorized under this certificate are conducted by a person holding a retail seafood license. Denial of access is grounds for suspension or revocation of a retail seafood license under the provisions of section 6372.

3. License limited. A license authorizes activities pursuant to subsection 2 at only one establishment or with only one vehicle.

3-B. Certificate limited. An enhanced retail certificate authorizes activities pursuant to subsection 2-A at only one establishment. A limited retail seafood harvester certificate authorizes activities pursuant to subsection 2-C with only one vehicle.

4. Fee. The fee for a retail seafood license under subsection 1 is \$100. The fee for an enhanced retail certificate under subsection 2-A is \$100 and must be deposited in the Shellfish Fund under section 6651. The fee for a limited retail seafood harvester certificate under subsection 2-C is \$50 and must be deposited in the Shellfish Fund under section 6651.

5. 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.

6. Rules. The commissioner may adopt or amend rules that establish requirements for retail seafood license holders ~~and~~ enhanced retail certificate holders and limited retail seafood harvester certificate holders concerning:

A. The minimum sanitation standards for establishments and vehicles;

B. The sanitation and quality control standards for shellfish and whole scallops and their products;

C. The methods for handling, shipping and transporting of shellfish and whole scallops;

D. The records and reports of purchases, shipping and transporting of shellfish and whole scallops;

E. The labeling or marking of shipments of shellfish and wholesale scallops;

F. The protection of public health; and

G. Endorsements under subsection 2-B.

Rules adopted pursuant to this subsection must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data and must be designed to protect the public health and safety while allowing reasonable use of shellfish and whole scallops. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.