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An Act To Transfer Responsibility for Licensing of Land-based Aquaculture from the Department of Agriculture, Conservation and Forestry to the Department of Marine Resources

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to provide for review of anticipated land-based aquaculture projects by the Department of Marine Resources as soon as possible; 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. 7 MRSA §2, 4th ¶, as amended by PL 2017, c. 94, §1, is further amended to read:

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: farm financing and rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; in conjunction with the university, crop development and integrated pest management; ~~development of land-based aquaculture facilities;~~ and conservation of nonrenewable energy resources and utilization of renewable energy resources in conjunction with the Governor's Energy Office. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to engage in research and educational programs; to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation where the commissioner determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the State's farmers or rural residents, or jointly with such other persons, agencies or organizations as the commissioner determines may benefit the State's farmers and rural communities. To further accomplish these objectives, the commissioner is authorized beginning July 1, 1991, on behalf of the State's rural community, to administer food assistance programs including the receipt, distribution and administration of federal and state funds, including block grants, for food assistance.

Sec. 2. 7 MRSA §52, sub-§3-A, as amended by PL 2017, c. 94, §2, is further amended to read:

3-A. Farm product. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products, ~~fish and fish products~~ and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

Sec. 3. 7 MRSA c. 209, as amended, is repealed.

Sec. 4. 12 MRSA §6073-D, last ¶, as amended by PL 2017, c. 94, §4, is further amended to read:

This section does not exempt the possessor of the marine organism from any requirement to hold a lease or license pursuant to section 6072, 6072-A, 6072-B or, 6072-C or ~~Title 7, section 1501~~6085 to engage in the culture of marine organisms.

Sec. 5. 12 MRSA §6085, as repealed by PL 2017, c. 94, §5, is reenacted to read:

§ 6085. Marine organism aquaculture license

1. License required. The commissioner may require a license for aquaculture of marine organisms in facilities that are not located in the coastal waters of the State but are located in the State.

2. Licensed activities. The holder of a license under this section may possess marine organisms the holder has raised by means of aquaculture. The holder of such a license is exempt from any requirement regarding the time of taking or possessing, minimum or maximum length or other minimum or maximum size requirement for any marine organism the holder has raised by means of aquaculture.

3. Permit denial. The commissioner may refuse to issue a license under this section if the commissioner finds that the aquaculture activity presents an unreasonable risk to indigenous marine life or its environment. In determining whether or not to refuse to issue a license, the commissioner shall consider factors, including, but not limited to:

A. Risk of accidental or intentional introduction of marine organisms or marine organism products into the coastal waters of the State;

B. Risk of the introduction or spread of disease within the State; and

C. Interference with the enforcement of possession, size or season limits for wild marine organisms.

4. Monitoring and revocation. The commissioner shall monitor licensed facilities under this section on an annual basis. If the commissioner determines following an annual review or at any other time that the licensed aquaculture activity presents an unreasonable risk to indigenous marine life or its environment, the commissioner may revoke the license after the licensee has been given an opportunity for a hearing before the department.

5. Reporting. The commissioner may require the holder of a license under this section to file periodic reports regarding the aquaculture practices and production of the facility. Information obtained pursuant to this provision is considered fisheries statistics for the purposes of section 6173, except that information about marine organism health reported pursuant to section 6071 may not be considered fisheries statistics.

6. Fee. The commissioner may charge a fee for a license under this section not to exceed \$1,000, the amount to be established in rules adopted by the commissioner depending on the type and amount of aquaculture. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 12 MRSA §6085-A, as enacted by PL 2017, c. 94, §6, is repealed.

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

SUMMARY

This bill transfers authority for the licensing of land-based aquaculture from the Department of Agriculture, Conservation and Forestry to the Department of Marine Resources.