



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 364

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H.P. 262

House of Representatives, February 8, 2021

### An Act To Ensure the Safety of Maine's Scallop Fleet

(EMERGENCY)

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Received by the Clerk of the House on February 4, 2021. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative TUELL of East Machias.  
Cosponsored by Senator MOORE of Washington and  
Representatives: ALLEY of Beals, CARMICHAEL of Greenbush, JAVNER of Chester,  
KINNEY of Knox, McCREIGHT of Harpswell, PERRY of Calais.

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

3           **Whereas,** in order to ensure the safety of the scallop fleet, this legislation needs to  
4 take effect immediately; and

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

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

10           **Sec. 1. 12 MRSA §6171-A, sub-§6** is enacted to read:

11           **6. Scallop fishing; weather closures.** In accordance with this subsection, the  
12 commissioner may adopt rules providing for hazardous weather closures of the scallop  
13 season established under section 6722. For purposes of this subsection, "hazardous  
14 weather" includes weather for which the National Weather Service has issued a warning of  
15 a gale, storm or hurricane.

16           A. To the extent practicable, the commissioner may provide in any rules adopted under  
17 this subsection that a hazardous weather closure may be specific to fishery zones and  
18 shall provide for appropriate extensions of the scallop season to compensate for any  
19 hazardous weather closures during that season.

20           B. The commissioner shall ensure that any rules adopted under this subsection include  
21 a system to provide notice of a hazardous weather closure by appropriate direct means,  
22 including by telephone or other direct electronic communication, to persons holding  
23 scallop licenses.

24           C. The commissioner may, pursuant to section 6371, suspend for the remainder of a  
25 scallop season the scallop license of any person found by the commissioner to have  
26 fished for scallops during a hazardous weather closure in violation of any rules adopted  
27 under this subsection. In addition, the commissioner shall require any such person who  
28 causes any search and rescue activities by the State on the person's behalf to pay all  
29 costs directly related to the State's search and rescue activities.

30           Rules adopted under this subsection prior to January 1, 2022 are routine technical rules as  
31 defined in Title 5, chapter 375, subchapter 2-A. Rules adopted under this subsection on or  
32 after January 1, 2022 are major substantive rules as defined in Title 5, chapter 375,  
33 subchapter 2-A.

34           **Sec. 2. Review of rules.** The Commissioner of Marine Resources shall develop  
35 proposed rules providing for hazardous weather closures under the Maine Revised Statutes,  
36 Title 12, section 6171-A, subsection 6 before September 1, 2021. By September 1, 2021,  
37 the commissioner shall present to all scallop license holders the proposed rules and  
38 determine whether a majority of those scallop license holders support adoption of those  
39 rules. The commissioner shall proceed to adopt the proposed rules if the commissioner  
40 finds that a majority of the scallop license holders support adoption of the rules. If the  
41 commissioner finds that a majority of the scallop license holders do not support adoption  
42 of the proposed rules, the commissioner may not adopt the rules and shall instead direct the  
43 Scallop Advisory Council established under Title 12, section 6729-B to develop by January

1, 2022 a recommendation for an alternative method of protecting the safety of scallop license holders during hazardous weather. The commissioner shall present the alternative method recommended by the council to the Joint Standing Committee on Marine Resources no later than January 15, 2022. The committee may report out a bill relating to the recommendations of the council to the Second Regular Session of the 130th Legislature.

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

### SUMMARY

This bill directs the Commissioner of Marine Resources to develop by September 1, 2021 certain rules governing hazardous weather closures of the scallop season. By September 1, 2021, the commissioner shall present to all scallop license holders the proposed rules and determine whether a majority of those scallop license holders support adoption of the rules. The commissioner shall adopt the proposed rules if the commissioner finds that a majority of the scallop license holders support adoption of the rules. If the commissioner finds that a majority of the scallop license holders do not support adoption of the proposed rules, the commissioner is required to direct the Scallop Advisory Council to review the rules and develop by January 1, 2022 a recommendation for an alternative method of protecting the safety of scallop license holders during hazardous weather. The commissioner is required to present that alternative method recommended by the council to the Joint Standing Committee on Marine Resources no later than January 15, 2022, and the committee may report out a bill relating to the recommendations of the council to the Second Regular Session of the 130th Legislature.