



# 128th MAINE LEGISLATURE

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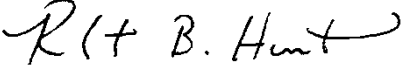
House of Representatives, April 11, 2017

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**An Act To Implement an Owner-Operator Requirement in the  
Scallop and Sea Urchin Fisheries**

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Submitted by the Department of Marine Resources pursuant to Joint Rule 204.  
Reference to the Committee on Marine Resources suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative KUMIEGA of Deer Isle.

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

2 **Sec. 1. 12 MRSA §6702, sub-§2**, as amended by PL 2011, c. 598, §31, is further  
3 amended to read:

4 **2. Licensed activity.** A person licensed under this section may use the boat  
5 identified on the license to drag for scallops in the State's territorial waters and possess,  
6 ship, sell or transport shucked scallops taken under the license. The license also  
7 authorizes the captain and crew members aboard the boat identified on the license when  
8 engaged in dragging for scallops to undertake these activities, except that the captain and  
9 crew members may not fish for or take scallops if the license holder is not aboard that  
10 boat ~~except as provided in subsection 2-A.~~

11 **Sec. 2. 12 MRSA §6702, sub-§2-A**, as enacted by PL 2007, c. 607, Pt. A, §2, is  
12 repealed.

13 **Sec. 3. 12 MRSA §6706, sub-§3**, as amended by PL 2011, c. 237, §2, is further  
14 amended to read:

15 **3. Scallop license limited entry system.** Notwithstanding subsection 2, the  
16 commissioner shall establish by rule a limited entry system under which a person who did  
17 not hold a hand fishing scallop license or a scallop dragging license in the previous  
18 calendar year may become eligible to obtain that license. The rules for a limited entry  
19 system must include provisions for the method and administration of the program. Rules  
20 adopted pursuant to this subsection are ~~major-substantive~~ routine technical rules as  
21 defined in Title 5, chapter 375, subchapter 2-A.

22 **Sec. 4. 12 MRSA §6720** is enacted to read:

23 **§6720. Vessel limitation**

24 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
25 following terms have the following meanings.

26 A. "Family member" means a spouse, brother, sister, son-in-law, daughter-in-law,  
27 parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood,  
28 child by adoption, stepchild, stepparent, grandchild or grandparent.

29 B. "Owner" means:

30 (1) An individual who is the owner of a vessel registered under chapter 935 or  
31 the owner of a vessel documented under 46 Code of Federal Regulations, Part 67;

32 (2) The person who owns the highest percentage of a partnership, corporation or  
33 other entity that is the owner of a vessel registered under chapter 935 or a vessel  
34 documented under 46 Code of Federal Regulations, Part 67; or

35 (3) When 2 or more people own in equal proportion the highest percentages of a  
36 partnership, corporation or other entity that owns a vessel registered under  
37 chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part

1                   67, one of the highest percentage owners as designated by the owners of that  
2                   partnership, corporation or other entity.

3                   **2. Owner or family member on board.** Except as provided in subsection 3, a  
4                   vessel may not be used for dragging for scallops in the State's territorial waters unless that  
5                   vessel is owned by a person holding a scallop dragging license issued under section 6702  
6                   and:

7                   A. The owner of that vessel is present on that vessel and has that vessel named on the  
8                   owner's scallop dragging license; or

9                   B. A family member of the vessel owner holds a scallop dragging license issued  
10                   under section 6702 and is present on that vessel.

11                   **3. Exemptions; individuals.** The commissioner may authorize a person to drag for  
12                   scallops from a vessel when an owner or family member is not on board pursuant to  
13                   subsection 2 if that person holds a scallop dragging license issued under section 6702  
14                   and:

15                   A. The owner of that vessel holds a scallop dragging license issued under section  
16                   6702, documents to the commissioner that an illness or disability temporarily  
17                   prevents that owner from fishing for or taking scallops from that vessel and requests  
18                   in writing to the commissioner that the commissioner authorize that person to use  
19                   another owner's vessel to fish for or take scallops;

20                   B. Is the owner of a vessel that has become temporarily inoperable because of an  
21                   accident or a mechanical failure and requests in writing permission from the  
22                   commissioner to use another owner's vessel to fish for or take scallops; or

23                   C. Was the owner of a vessel that was named on that person's scallop dragging  
24                   license but is no longer the owner of that vessel due to sale or foreclosure. The person  
25                   must demonstrate immediate intent to become the owner of another vessel to be used  
26                   to fish for or take scallops and request in writing permission from the commissioner  
27                   to use another owner's vessel to fish for or take scallops for a limited period of time.

28                   **4. Rules.** The commissioner may adopt rules to implement and administer this  
29                   section. Rules adopted pursuant to this subsection are routine technical rules pursuant to  
30                   Title 5, chapter 375, subchapter 2-A.

31                   **Sec. 5. 12 MRSA §6722, sub-§1,** as repealed and replaced by PL 2007, c. 695,  
32                   Pt. I, §6, is amended to read:

33                   **1. Scallop dragging season.** Unless modified by rules adopted under section  
34                   6171-A, a person may not fish for or take scallops by dragging in the territorial waters  
35                   from April 16th to November 30th, both days inclusive.

36                   **Sec. 6. 12 MRSA §6748-A, sub-§2-B, ¶¶A and B,** as enacted by PL 2001, c.  
37                   327, §7 and affected by §21, are repealed.

38                   **Sec. 7. 12 MRSA §6749-D** is enacted to read:

1           **§6749-D. Vessel limitation**

2           **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
3 following terms have the following meanings.

4           A. "Family member" means a spouse, brother, sister, son-in-law, daughter-in-law,  
5 parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood,  
6 child by adoption, stepchild, stepparent, grandchild or grandparent.

7           B. "Owner" means:

8           (1) An individual who is the owner of a vessel registered under chapter 935 or  
9 the owner of a vessel documented under 46 Code of Federal Regulations, Part 67;

10           (2) The person who owns the highest percentage of a partnership, corporation or  
11 other entity that is the owner of a vessel registered under chapter 935 or a vessel  
12 documented under 46 Code of Federal Regulations, Part 67; or

13           (3) When 2 or more people own in equal proportion the highest percentages of a  
14 partnership, corporation or other entity that owns a vessel registered under  
15 chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part  
16 67, one of the highest percentage owners as designated by the owners of that  
17 partnership, corporation or other entity.

18           **2. Owner or family member on board.** Except as provided in subsection 3, a  
19 vessel may not be used for dragging for sea urchins in the State's territorial waters unless  
20 that vessel is owned by a person holding a sea urchin dragging license issued under  
21 section 6748-A and:

22           A. The owner of that vessel is present on that vessel and has that vessel named on the  
23 owner's sea urchin dragging license; or

24           B. A family member of the vessel owner holds a sea urchin dragging license issued  
25 under section 6748-A and is present on that vessel.

26           **3. Exemptions; individuals.** The commissioner may authorize a person to drag for  
27 sea urchins from a vessel when an owner or family member is not on board pursuant to  
28 subsection 2 if that person holds a sea urchin dragging license issued under section  
29 6748-A and:

30           A. The owner of that vessel holds a sea urchin dragging license issued under section  
31 6748-A, documents to the commissioner that an illness or disability temporarily  
32 prevents that owner from fishing for or taking sea urchins from that vessel and  
33 requests in writing to the commissioner that the commissioner authorize that person  
34 to use that vessel to fish for or take sea urchins;

35           B. Is the owner of a vessel that has become temporarily inoperable because of an  
36 accident or a mechanical failure and requests in writing permission from the  
37 commissioner to use another owner's vessel to fish for or take sea urchins; or

38           C. Was the owner of a vessel that was named on that person's sea urchin dragging  
39 license but is no longer the owner of that vessel due to sale or foreclosure. The person  
40 must demonstrate immediate intent to become the owner of another vessel to be used

1           to fish for or take sea urchins and request in writing permission from the  
2           commissioner to use another owner's vessel to fish for or take sea urchins for a  
3           limited period of time.

4           **4. Rules.** The commissioner may adopt rules to implement and administer this  
5           section. Rules adopted pursuant to this subsection are routine technical rules pursuant to  
6           Title 5, chapter 375, subchapter 2-A.

7           **Sec. 8. 12 MRSA §6749-N**, as amended by PL 2013, c. 301, §17, is further  
8           amended to read:

9           **§6749-N. Closed areas; zone identification**

10           ~~Notwithstanding section 6749, it is unlawful for a person to fish for or take sea~~  
11           ~~urchins from:~~

12           **1. Zone 1.** Notwithstanding section 6749, it is unlawful for a person to fish for or  
13           take sea urchins from Zone 1; from May 1st to July 31st. For the purposes of this article,  
14           unless modified by rules adopted pursuant to this section, "Zone 1" means all coastal  
15           waters west of a line beginning at the easternmost point of Fort Point State Park on Cape  
16           Jellison then running southwesterly to channel marker #1 south of Sears Island, then  
17           running southwesterly to channel marker RW "11" located between Marshall's Point and  
18           Bayside in the Town of Northport, then running southwesterly to Graves channel marker  
19           southeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy  
20           "PB" east of Rockland harbor, then running southerly to the TBI whistle southwest of  
21           Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then  
22           running due south magnetic to the boundary of the State's coastal waters;~~and.~~

23           **2. Zone 2.** Notwithstanding section 6749, it is unlawful for a person to fish for or  
24           take sea urchins from Zone 2; from May 1st to July 31st. For the purpose of this article,  
25           unless modified by rules adopted pursuant to this section, "Zone 2" means all coastal  
26           waters east of that line established in subsection 1, including all coastal waters of the  
27           Penobscot River north of Fort Point State Park.

28           **3. Conservation areas.** The commissioner may adopt rules to establish  
29           conservation areas pursuant to section 6171 for the purposes of sea urchin research that  
30           are considered closed areas for the purpose of this section. Fishing for sea urchins in a  
31           conservation area adopted through the department for sea urchin research is considered a  
32           violation of this subchapter and subject to the penalties under section 6749-Y. Rules  
33           adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
34           chapter 375, subchapter ~~H-A~~ 2-A.

35           The commissioner may adopt rules to define boundaries for Zone 1 under subsection  
36           1 and Zone 2 under subsection 2. Rules adopted pursuant to this section are routine  
37           technical rules pursuant to Title 5, chapter 375, subchapter 2-A. If the commissioner  
38           adopts rules to define boundaries different from those under this section, the  
39           commissioner shall timely submit legislation to amend this section accordingly.

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## SUMMARY

This bill creates an owner-operator requirement for a scallop dragging license and sea urchin dragging license. It changes from major substantive rules to routine technical rules the rules to allow entry in the scallop fishery. It specifies that the prohibition against fishing for or taking scallops from April 16th to November 30th applies only to scallop dragging. It also allows the Commissioner of Marine Resources to amend by rule the boundaries of sea urchin Zone 1 and Zone 2.