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Date: (Filing No. H-)

MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 55, L.D. 68, Bill, “An Act To Implement an Owner-Operator Requirement in the Scallop and Sea Urchin Fisheries”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 12 MRSA §6702, sub-§2-A, as enacted by PL 2007, c. 607, Pt. A, §2, is amended to read:

2-A. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take scallops from a boat when the person holding a scallop dragging license that contains the name of that boat is not on board if:

A. The holder of the scallop dragging license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking scallops from that boat and requests in writing to the commissioner that the commissioner authorize another person to use that boat to fish for or take scallops; or

B. The boat named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another boat to fish for or take scallops.

This subsection is repealed January 1, 2018.

Sec. 2. 12 MRSA §6720 is enacted to read:

§6720. Vessel limitation

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

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

B. "Owner" means:

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

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

6 (3) When 2 or more people own in equal proportion the highest percentages of a
7 partnership, corporation or other entity that owns a vessel registered under
8 chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part
9 67, one of the highest percentage owners as designated by the owners of that
10 partnership, corporation or other entity.

11 **2. Owner or family member on board.** Beginning January 1, 2018, except as
12 provided in subsection 3, a vessel may not be used for dragging for scallops in the State's
13 territorial waters unless that vessel is owned by a person holding a scallop dragging
14 license issued under section 6702 and:

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

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

19 **3. Exemptions; individuals.** Beginning January 1, 2018, the commissioner may
20 authorize a person to drag for scallops from a vessel when an owner or family member is
21 not on board pursuant to subsection 2 if that person holds a scallop dragging license
22 issued under section 6702 and:

23 A. The owner of that vessel holds a scallop dragging license issued under section
24 6702, documents to the commissioner that an illness or disability temporarily
25 prevents that owner from fishing for or taking scallops from that vessel and requests
26 in writing to the commissioner that the commissioner authorize that person to use that
27 vessel to fish for or take scallops;

28 B. Is the owner of a vessel that has become temporarily inoperable because of an
29 accident or a mechanical failure and requests in writing permission from the
30 commissioner to use that vessel to fish for or take scallops;

31 C. Was the owner of a vessel that was named on that person's scallop dragging
32 license but is no longer the owner of that vessel due to sale or foreclosure. The
33 person must demonstrate immediate intent to become the owner of another vessel to
34 be used to fish for or take scallops and request in writing permission from the
35 commissioner to use the other vessel to fish for or take scallops for a limited period
36 of time; or

37 D. The person recorded landings of scallops taken by dragging during the scallop
38 dragging season that ended immediately prior to November 30, 2017, dragged for
39 those scallops from one boat and that boat did not have on board an individual who
40 meets the requirements of subsection 2, paragraph A or B and the owner of the boat
41 was a family member of the person applying for the exemption under this paragraph.

1 **4. Exemptions based upon 2017 fishing.** Beginning January 1, 2018, a person may
2 drag for scallops from a vessel when an owner or family member is not on board pursuant
3 to subsection 2 during the first scallop dragging season that begins after November 30,
4 2017 pursuant to section 6722 if that person holds a scallop dragging license issued under
5 section 6702 and:

6 A. The person recorded landings of scallops taken by dragging during the scallop
7 dragging season that ended immediately prior to November 30, 2017 pursuant to
8 section 6722, dragged for those scallops from one boat and that boat did not have on
9 board an individual who meets the requirements of subsection 2, paragraph A or B
10 and the owner of the boat was a family member of the person applying for the
11 exemption under this paragraph. A person qualifies for the exemption under this
12 paragraph only as long as the person drags for scallops and records landings of
13 scallops taken by dragging from the same boat used to originally qualify for this
14 exemption and that boat is owned by the same family member; or

15 B. The person recorded landings of scallops taken by dragging during the scallop
16 dragging season that ended immediately prior to November 30, 2017 pursuant to
17 section 6722, dragged for those scallops from one boat and that boat did not have on
18 board an individual who meets the requirements of subsection 2, paragraph A or B.
19 A person qualifies for the exemption under this paragraph only as long as the person
20 drags for scallops and records landings of scallops taken by dragging from the same
21 boat used to originally qualify for this exemption.

22 This paragraph is repealed January 1, 2020.

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

26 **Sec. 3. 12 MRSA §6722, sub-§1,** as repealed and replaced by PL 2007, c. 695,
27 Pt. I, §6, is amended to read:

28 **1. Scallop dragging season.** Unless modified by rules adopted under section
29 6171-A, a person may not fish for or take scallops by dragging in the territorial waters
30 from April 16th to November 30th, both days inclusive.

31 **Sec. 4. 12 MRSA §6748-A, sub-§2-B, ¶¶A and B,** as enacted by PL 2001, c.
32 327, §7 and affected by §21, are amended to read:

33 A. The holder of the sea urchin dragging license documents to the commissioner that
34 an illness or disability temporarily prevents the license holder from fishing for or
35 taking sea urchins from that vessel and requests in writing to the commissioner that
36 the commissioner authorize another person to use that vessel to fish for or take sea
37 urchins from the vessel;

38 This paragraph is repealed January 1, 2018;

39 B. The vessel named on the license of a license holder is temporarily inoperable
40 because of an accident or a mechanical failure and the license holder requests in
41 writing to the commissioner that the commissioner authorize the license holder to use
42 another vessel to fish for or take sea urchins; ~~or.~~

1 This paragraph is repealed January 1, 2018; or

2 **Sec. 5. 12 MRSA §6749-D** is enacted to read:

3 **§6749-D. Vessel limitation**

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

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

9 B. "Owner" means:

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

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

15 (3) When 2 or more people own in equal proportion the highest percentages of a
16 partnership, corporation or other entity that owns a vessel registered under
17 chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part
18 67, one of the highest percentage owners as designated by the owners of that
19 partnership, corporation or other entity.

20 **2. Owner or family member on board.** Beginning January 1, 2018, except as
21 provided in subsection 3, a vessel may not be used for dragging for sea urchins in the
22 State's territorial waters unless that vessel is owned by a person holding a sea urchin
23 dragging license issued under section 6748-A and:

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

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

28 **3. Exemptions; individuals.** Beginning January 1, 2018, the commissioner may
29 authorize a person to drag for sea urchins from a vessel when an owner or family member
30 is not on board pursuant to subsection 2 if that person holds a sea urchin dragging license
31 issued under section 6748-A and:

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

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

1 C. Was the owner of a vessel that was named on that person's sea urchin dragging
2 license but is no longer the owner of that vessel due to sale or foreclosure. The person
3 must demonstrate immediate intent to become the owner of another vessel to be used
4 to fish for or take sea urchins and request in writing permission from the
5 commissioner to use the other vessel to fish for or take sea urchins for a limited
6 period of time.

7 **4. Exemptions based upon 2017 fishing.** Beginning January 1, 2018, a person may
8 drag for sea urchins from a vessel when an owner or family member is not on board
9 pursuant to subsection 2 during the first sea urchin dragging season that begins after
10 August 31, 2017 if that person holds a sea urchin dragging license issued under section
11 6748-A and:

12 A. The person recorded landings of sea urchins taken by dragging during the sea
13 urchin dragging season that ended immediately prior to August 31, 2017, dragged for
14 those sea urchins from one boat and that boat did not have on board an individual
15 who meets the requirements of subsection 2, paragraph A or B and the owner of the
16 boat was a family member of the person applying for the exemption under this
17 paragraph. A person qualifies for the exemption under this paragraph only as long as
18 the person drags for sea urchins and records landings of sea urchins taken by
19 dragging from the same boat used to originally qualify for this exemption and that
20 boat is owned by the same family member; or

21 B. The person recorded landings of sea urchins taken by dragging during the sea
22 urchin dragging season that ended immediately prior to August 31, 2017, dragged for
23 those sea urchins from one boat and that boat did not have on board an individual
24 who meets the requirements of subsection 2, paragraph A or B. A person qualifies
25 for the exemption under this paragraph only as long as the person drags for sea
26 urchins and records landings of sea urchins taken by dragging from the same boat
27 used to originally qualify for this exemption.

28 This paragraph is repealed January 1, 2020.

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

32 **Sec. 6. 12 MRSA §6954-C, sub-§1,** as amended by PL 2001, c. 272, §17, is
33 further amended to read:

34 **1. Gear requirements.** ~~It is unlawful to~~ The holder of a scallop dragging license or
35 sea urchin dragging license may not possess on the boat identified on that person's license
36 or fish with, in the territorial waters northerly and inshore of the international bridge that
37 connects Lubec to Campobello Island, New Brunswick, Canada with, any drag or
38 combination of drags:

39 A. That measures in excess of 5 feet, 6 inches in width measuring from one extreme
40 outside edge of the mouth of the drag or combination of drags to the opposite extreme
41 outside edge; and

42 B. If used for the taking of scallops, that is greater than 8 rings deep.

43 **Sec. 7. 12 MRSA §6954-C, sub-§1-A** is enacted to read:

