

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

—
H.P. 55 - L.D. 68

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

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

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This subsection is repealed January 1, 2018.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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This paragraph is repealed January 1, 2020.

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

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

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

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

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

This paragraph is repealed January 1, 2018;

B. The vessel 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 vessel to fish for or take sea urchins; ~~or~~.

This paragraph is repealed January 1, 2018; or

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

§6749-D. 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

This paragraph is repealed January 1, 2020.

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

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

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

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

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

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

1-A. Exception. Notwithstanding subsection 1, the holder of a sea urchin dragging license may possess gear used for dragging scallops on the boat identified on that person's sea urchin dragging license if that boat is also identified on any scallop dragging license and there are no scallops on that boat.