

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 20 - L.D. 16

**An Act to Make Technical Changes to Maine's Marine Resources Laws**

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

**Sec. 1. 12 MRSA §6001, sub-§38**, as enacted by PL 1977, c. 661, §5, is amended to read:

**38. Scallop.** "Scallop" means sea scallop ~~scallops, placeopecten~~ Placopecten magellanicus, and bay scallops, Argopecten irradians.

**Sec. 2. 12 MRSA §6001, sub-§41**, as enacted by PL 1977, c. 661, §5, is amended to read:

**41. Shellfish.** "Shellfish" means clams, quahogs, oysters, whole scallops and mussels and includes shellstock and shucked shellfish.

**Sec. 3. 12 MRSA §6001, sub-§55**, as enacted by PL 2001, c. 112, §1, is amended to read:

**55. Whole scallop.** "Whole scallop" means a cultured scallop in any form, except when the final product form is only the adductor muscle of the scallop or only the adductor muscle on the shell of the scallop.

**Sec. 4. 12 MRSA §6024, sub-§1-A**, as amended by PL 2021, c. 676, Pt. D, §4, is further amended to read:

**1-A. Appointment; composition; term; compensation.** The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of ~~16~~ 17 members. The chair of the Lobster Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster

harvesters. The remaining 8 9 members must include one member who is listed on the saltwater recreational fishing registry established in section 6312 and does not hold a state marine harvesting license, one public member, one member who is a member of a federally recognized Indian nation, tribe or band in the State, 4 persons who hold a nonharvesting-related license under this Part, one person representing recreational saltwater anglers and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The Governor shall select the member who is a member of a federally recognized Indian nation, tribe or band in the State based on the joint recommendation of the tribal governments of the ~~Arrestook Band of Miamaes~~ Mi'kmaq Nation, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkomikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation. If the tribal governments do not make a unanimous joint recommendation, the Governor shall appoint a member of a federally recognized Indian nation, tribe or band in the State and rotate the appointment among members of each federally recognized Indian nation, tribe or band in the State. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster Advisory Council, a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

**Sec. 5. 12 MRSA §6038, sub-§4**, as enacted by PL 2007, c. 606, Pt. A, §2, is amended to read:

**4. Officers.** The officers of the council are the chair, and vice-chair ~~and secretary~~. The term of the officers is one year. The council shall elect a member of the council for each officer position at the first regular meeting of each year.

**Sec. 6. 12 MRSA §6072-A, sub-§17-A**, as amended by PL 2013, c. 512, §2, is further amended to read:

**17-A. Notification of granted leases.** After the granting of a limited-purpose lease:

A. The department shall notify all riparian owners, intervenors and the municipality in which the lease is located that a lease has been granted. The notice must include a description of the area and how a copy of the lease may be obtained;

B. The lessee shall mark the leased area in a manner prescribed by the commissioner;

C. ~~The~~ Until October 1, 2023, the lessee shall annually submit to the commissioner a report for the past year on results of the ~~scientific research or~~ commercial research and development undertaken at the lease site and a plan for the coming year. Results of commercial research and development submitted to the commissioner before October 1, 2023 are confidential records for the purposes of Title 1, section 402, subsection 3, paragraph A; ~~and~~

C-1. The holder of a limited-purpose lease for scientific research shall annually submit to the commissioner a report for the past year on results of the scientific research

undertaken at the lease site and a plan for the coming year. Upon written request, the commissioner shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located; and

D. ~~The~~ Until October 1, 2023, the lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the commissioner shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph before October 1, 2023 are considered confidential statistics for the purposes of section 6173.

**Sec. 7. 12 MRSA §6302-A, sub-§1, ¶B,** as amended by PL 2011, c. 598, §17, is further amended to read:

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe, nation or band or the agent of the band in a manner consistent with tags issued pursuant to section 6505-B. A member of the tribe, nation or band is not required to pay elver fishing gear fees under section 6505-B if the tribe, nation or band or the agent of the band issues that member elver fishing gear tags; ~~and~~

**Sec. 8. 12 MRSA §6302-A, sub-§1, ¶C,** as enacted by PL 1997, c. 708, §1 and affected by §3, is amended to read:

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671-; and

**Sec. 9. 12 MRSA §6302-A, sub-§1, ¶D** is enacted to read:

D. Is not required to complete an apprentice program established under section 6422 if the tribe, nation or band provides documentation to the commissioner to show that the license applicant has completed an apprentice program that is satisfactory to the tribe, nation or band.

**Sec. 10. 12 MRSA §6374, first ¶,** as amended by PL 2017, c. 197, §4, is further amended to read:

The procedure for suspending a license or certificate under section 6371, ~~subsections~~ subsection 3 and 4 is governed by this section.

**Sec. 11. 12 MRSA §6374, sub-§1,** as amended by PL 2017, c. 197, §4, is further amended to read:

**1. Initiation and notice.** If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of marine resources law or conduct described in section 6371, subsection 4 ~~3~~ has been committed, the commissioner shall immediately examine the affidavit and determine if a suspension is necessary. If the commissioner determines based on a preponderance of the evidence that a suspension is necessary, the commissioner shall immediately notify in writing the person who violated the law or engaged in the conduct. The notice must state that there is an opportunity for a hearing, if the person requests the hearing in writing within 10 days of the notice. The notice is deemed received 3 days after the mailing. The commissioner may suspend the license or certificate of a person who has

been notified pursuant to this subsection but who does not request a hearing within the allowed time.

**Sec. 12. 12 MRSA §6374, sub-§2**, as amended by PL 2017, c. 197, §4, is further amended to read:

**2. Hearing.** A hearing requested under subsection 1 must be held within 30 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than 30 business days after the request if the delay is requested by the person requesting the hearing. If the hearing is continued, it must be held no later than 60 days after the original notice, and any further continuance must be with the consent of both parties. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, the issues of the hearing are limited to whether the person requesting the hearing ~~had a license or certificate and whether that person~~ committed a violation of marine resources law or conduct described in section 6371, subsection 4 3; and

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.

If the presiding officer of the hearing finds that a violation of marine resources law or conduct described in section 6371, subsection 4 3 has been committed, the presiding officer shall immediately notify the commissioner of the finding.

**Sec. 13. 12 MRSA §6374, sub-§3**, as amended by PL 2017, c. 197, §4, is further amended to read:

**3. Finding of violation and suspension.** The commissioner may suspend the license or certificate of the person requesting the hearing under subsection 2 if the presiding officer of the hearing finds that a violation of marine resources law or conduct described in section 6371, subsection 4 3 has been committed. Except as provided in this subsection and subsection 3-A, the length of the suspension of the license or certificate may not exceed:

A. One year from the date of a first finding of a violation or finding that conduct described in section 6371, subsection 4 3 has been committed;

B. Two years from the date of a 2nd finding of a violation or finding that conduct described in section 6371, subsection 4 3 has been committed; or

C. Three years from the date of a 3rd or subsequent finding of a violation or finding that conduct described in section 6371, subsection 4 3 has been committed.

The commissioner may suspend any license or certificate for a period of time not to exceed the maximum amount of time allowable for a criminal conviction or civil adjudication of the same violation.

**Sec. 14. 12 MRSA §6506, sub-§6** is enacted to read:

**6. License exemption.** Notwithstanding subsection 1, a person may fish for, take, possess or transport a halibut without a license if the person has fished for or taken the halibut by tub trawl or by hook and line and if the halibut is only for personal use.

**Sec. 15. 12 MRSA §6506, sub-§7** is enacted to read:

**7. Violation.** A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

**Sec. 16. 12 MRSA §6506, sub-§8** is enacted to read:

**8. Rules.** The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 17. 12 MRSA §6852, sub-§2-A, ¶C,** as enacted by PL 2011, c. 598, §44, is amended to read:

C. Shellstock bought from a mahogany quahog license holder licensed under section 6731; ~~or~~

**Sec. 18. 12 MRSA §6852, sub-§2-A, ¶D,** as enacted by PL 2011, c. 598, §44, is amended to read:

D. Shellstock bought from a hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746; and

**Sec. 19. 12 MRSA §6852, sub-§2-A, ¶E** is enacted to read:

E. Shellstock bought from an aquaculture license holder licensed under section 6810-B.

**Sec. 20. PL 2021, c. 52, §21** is amended to read:

**Sec. 21. Effective dates.** That section of this Act that amends the Maine Revised Statutes, Title 12, section 6072-C, subsection 6 takes effect January 1, 2022. Those sections of this Act that amend Title 12, section 6072-C, subsection 2 and enact Title 12, section 6072-C, subsection 2-B take effect January 1, ~~2024~~ 2025.