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April 24, 2025

Testimony of Representative Morgan Rielly introducing

LD 1596, An Act to Support Maine's Sea Farmers & LD 1722, An Act to Simplify the Regulation of Aquaculture Leases

Before the Joint Standing Committee on Marine Resources

Good afternoon, Senator Tepler, Representative Hepler and distinguished members of the Joint Standing Committee on Marine Resources. I am Morgan Rielly, and I represent House District 127, which includes part of Westbrook. Thank you for the opportunity to introduce **LD 1596, An Act to Support Maine's Sea Farmers** and **LD 1722, An Act to Simplify the Regulation of Aquaculture Leases**.

Outside of serving in the Legislature, I've worked as a farmhand for oyster farms in Casco Bay. I come from a lobster fishing family on my mother's side and a farming family on my father's side – oyster farming and aquaculture complements both of my heritages.

Oyster farming has been an incredible opportunity to find meaningful work that has connected me with nature's bounty and beauty. There is no better feeling, and no better way to end a good day than breathing in the smell of ocean-salted air, a little mud on your sleeves, surrounded by people who you enjoy, and knowing the food you harvest will nourish your community. While I am not on the water now, I hope to be back in the future and start my own farm.

LD 1596 and **LD 1722** are rooted in my observations while working on oyster farms and my conversations with Maine's sea farmers over the past several years.

The most pressing issue facing Maine's sea farmers and the one out of six commercial fishermen who have aquaculture leases revolves around the leasing process. My bills, **LD 1596** and **LD 1722**, aim to address this issue.

Maine's current aquaculture leasing laws are the result of more than four decades of legislative discussion, public input, and regulatory refinement. They are among the most comprehensive and rigorous in the country. Applicants must prove their technical and financial capacity, and –

critically – must meet a stringent set of criteria designed to protect other marine users, the surrounding environment, and coastal communities. By law, aquaculture is the last in line behind all other marine uses. If even one other user is actively using the area, or if there is a risk of environmental harm or navigational conflict, a lease cannot be granted.

This high bar is one reason aquaculture in Maine has grown cautiously and carefully. But it also means that leaseholders operate in a system that is uniquely burdensome. While other marine sectors do not face similar regulatory thresholds, aquaculturists must frequently navigate a complex and time-consuming process just to make small, technical changes to their gear or operations – changes that, until recently, were considered a normal part of innovation in a young and evolving sector.

Over the last few years, the Department of Marine Resources (DMR) has changed its approach to leases without consulting the industry, requiring significantly more detail in applications and, in many cases, forcing leaseholders to reapply entirely – even for minor gear or operational adjustments. With the current process for a new lease or amendment often taking up to three years, and outcomes becoming increasingly unpredictable, this has had a chilling effect on innovation, efficiency, and growth.

LD 1596 addresses this problem directly. It establishes clear thresholds for when an amendment is required, creating predictability for leaseholders while preserving the Department's ability to protect the public trust and the marine environment. It is not a rollback of standards – it is a smart clarification that reduces administrative burden while encouraging responsible innovation.

After receiving feedback from sea farmers, I do want to amend Section 1 sub section 1-B in **LD 1596** to include an exception of operations that grow multiple species using different gear types at the same time. These multispecies operations must either have been declared as such in the initial lease application or apply to the department for multispecies status on a preexisting lease site. This is to ensure that the bill, as currently written, doesn't inadvertently lead to only allow for monoculture. I have attached the proposed amendment to my testimony.

The bill also allows for the use of contract divers for site assessments – tools that are routinely used by other agencies, like the Department of Environmental Protection. These tools have been proposed for nearly a decade and would help address the chronic delays in the lease review process. Currently, it often takes over a year between when a site visit occurs and when a site report is written – delays that result in lost growing seasons and significant financial uncertainty for farms.

Allowing trained, third-party contractors to collect environmental data, which is then reviewed and verified by DMR, is a common-sense solution. It would free up DMR staff to focus on writing reports and moving the process forward – something the Department has acknowledged as a key bottleneck. Importantly, **LD 1596** does not mandate the use of contractors. It simply

gives the Department the authority to accept their work, just as it has done for years with firms like MER.

The Maine Aquaculture Innovation Center recently offered DMR a new remotely operated vehicle (ROVs) free of charge to help with the site assessments. Initially, DMR declined, citing concerns over being asked to commit to a reporting timeline. Eventually, they accepted the equipment but without a timeline. Again, this only further highlights the need for a reporting timeline and for the allowal of third party dive assessments.

Currently, a lessee has at least 30 days prior to the lapse of their lease to file their application for a renewal. **LD 1722** asks for DMR to be held to the same standards as those applicants and make a decision within 30 days or it will automatically be renewed. The Commissioner can still deny a lease if it does not meet the requirements that are already laid out in statute.

We have increased staff at the request of the Department to address this issue, but it still persists. Some applicants have even waited three years for the Department to renew their lease. This has created serious burdens and instability within the aquaculture industry. **LD 1722** is a simple fix to ensure stability and accountability.

LD 1596 and **LD 1722** are thoughtful, targeted bills that support both innovation and regulation. These measures help ensure that our leasing process is responsive, efficient, and fair, while maintaining the high environmental and public trust standards Maine is known for.

I, along with many other members of the aquaculture industry, also have concerns about the potential for one company or for foreign countries to control the hatcheries here in the state. This could lead to a monopoly, which will only hurt sea farmers and fishermen looking at buying seed for their own farms. **LD 1596** directs DMR to establish guidelines for the operation and administration of shellfish hatcheries that receive state funding and that are operated by nonprofit organizations, tribal governments, and other nongovernmental entities. The Department must make those guidelines available to those entities and to the public and must take all reasonable actions to ensure compliance with the guidelines by those entities. This will establish a framework for a robust system of state-funded hatcheries along our coast which will help ensure that our shellfish hatcheries aren't dominated by out-of-state or foreign, large-scale companies that could hamper the growth of the industry by raising prices or work to shut the industry down so it isn't competitive.

LD 1596 also directs the Aquaculture Advisory Council to establish a subcommittee of the council to study and address equity issues for Mainers seeking to enter the aquaculture industry and seeking to access aquaculture grants; issues encountered by small aquaculture facilities; and methods of ensuring the aquaculture industry is inclusive and representative of Maine as a whole.

There is no better place to work than on Maine's waters. Anyone who wants to be a part of Maine's working waterfront should be able to do so. However, there are many barriers for those

seeking to enter the aquaculture industry. Currently, 99% of Maine's sea farms are family-owned. That's something we should all be proud about as a state, and we need to ensure that it stays that way as the industry grows. **LD 1596** and **LD 1722** will give our family-run sea farms a fighting chance.

Thank you very much for your time and consideration. I'm happy to answer any questions or provide any further information for the work session.

Proposed Amendment for LD 1596 An Act to Support Maine's Sea Farmers

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

Sec. 1. 12 MRSA §6072, sub-§1-B is enacted to read:

1-B. Definitions. As used in this section and section 6072-A, unless the context otherwise indicates, the following terms have the following meanings.

A. "Bottom operations" means an operational type that primarily involves:

(1) The deposit of the principal aquaculture gear on the ocean bottom. The principal aquaculture gear for bottom operations includes, but is not limited to, shellfish cages, bags or netting designed to contain or protect shellfish from predation; or

(2) The deposit of marine organisms to be cultured directly on the ocean bottom without the use of aquaculture gear, other than netting to protect the organisms from predation, including, but not limited to, direct deposit of shellfish seed on the ocean bottom.

B. "Operational type" means, with respect to an aquaculture operation conducted pursuant to a lease issued under this section or section 6072-A, the method by which the aquaculture operation engages in aquaculture. ~~An aquaculture operation may have only one operational type. "Operational type" includes bottom operations, submerged operations or surface operations.~~ An aquaculture operation may have only one operational type with the exception of operations that grow multiple species using different gear types at the same time. These multispecies operations must have either have been declared as such in the initial lease application or apply to the department for multispecies status on a pre-existing lease site.

C. "Principal aquaculture gear" means the gear or equipment primarily used to engage in aquaculture by an aquaculture operation conducted pursuant to a lease issued under this section or section 6072-A. "Principal aquaculture gear" does not include marker buoys or mobile vessels used for transit to and from the lease site.

D. "Submerged operations" means an operational type that primarily involves the suspension of the principal aquaculture gear below the ocean surface where that gear is not connected to a major floating structure on the ocean surface and does not come in contact with the ocean bottom. The principal aquaculture gear for submerged operations, which may be connected to surface buoys in a manner designed to maintain the position of the gear in the water column and above the ocean bottom, includes, but is not limited to, seaweed or shellfish longlines, shellfish cages, shellfish lantern nets or pearl nets, scallop gear, hanging lines or shellfish spat collectors.

E. "Surface operations" means an operational type that primarily involves the principal aquaculture gear floating on the ocean surface or suspended from the surface and connected to a major floating structure on the ocean surface, such as a raft or work float, in a manner that provides easy access to the marine organisms cultured, regardless of whether such aquaculture gear is seasonally deposited on the ocean bottom to avoid winter storms or icing. The principal aquaculture gear for surface operations includes, but is not limited to, shellfish, mussel rafts, shellfish bags or cages or floating upweller systems.

Sec. 2. 12 MRSA §6072, sub-§4, ¶H, as enacted by PL 1987, c. 453, §1, is amended to read:

H. Include an environmental evaluation of the site upon which the decision to seek a lease was made. The evaluation ~~shall~~ must include, but not be limited to, bottom characteristics, resident flora, fauna and hydrography of the site if appropriate for the proposed lease. If an applicant is required to include a video recording of the site or other information collected through a site dive as part of the environmental evaluation under this paragraph and the applicant is required to pay the cost associated with the site dive, the department shall allow the applicant to contract with any qualified 3rd-party entity to conduct the site dive and may not require the site dive to be conducted by a 3rd-party entity selected by the department;

Sec. 3. 12 MRSA §6072, sub-§5-A, as amended by PL 2003, c. 660, Pt. A, §5, is further amended to read:

5-A. Department site review. Prior to the lease hearing, the department shall conduct an assessment of the proposed site and surrounding area to determine the possible effects of the lease on commercially and ecologically significant flora and fauna and conflicts with traditional fisheries and all other uses. If the department requires a video recording of the site or other information collected through a site dive as part of the assessment under this subsection and the applicant is required to pay the cost associated with the site dive, the department shall allow the applicant to contract with any qualified 3rd-party entity to conduct the site dive and may not require the site dive to be conducted by a 3rd-party entity selected by the department. ~~This information~~ The information from the assessment must be provided to the intervenors and made available to the public 30 days before the hearing. As part of the site review, the department shall request information from the municipal harbor master about designated or traditional storm anchorages in proximity to the proposed lease. The commissioner may by rule establish levels of assessment appropriate to the scale or potential environmental risk posed by a proposed lease activity. The rules must provide a method of establishing a baseline to monitor the environmental effects of a lease activity. Rules adopted under this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA §6072, sub-§13-B is enacted to read:

13-B. Modification of operational type or principal aquaculture gear. Notwithstanding any provision of this chapter to the contrary and in accordance with rules adopted by the department pursuant to this subsection, a person holding an aquaculture lease issued pursuant to this section may modify the operational type of the person's aquaculture operation or the design of the principal aquaculture gear used by the person without the need for an amendment to the person's issued lease, as long as:

A. As determined by the commissioner, the modification will not significantly increase navigational hazards caused by the aquaculture operation or the environmental effects of the aquaculture operation;

B. The modification will not cause the operational type of the aquaculture operation to change from bottom operations or submerged operations to surface operations; and

C. The modification will not cause the operational type of the aquaculture operation to change from bottom operations to submerged operations.

The department shall adopt rules to implement this subsection. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

Sec. 5. 12 MRSA §6072-A, sub-§10-A is enacted to read:

10-A. Site dive requirement. If the department requires a video recording or other information to be collected through a site dive of a proposed lease site under this section and the applicant is required to pay the cost associated with the site dive, the department shall allow the applicant to contract with any qualified 3rd-party entity to conduct the site dive and may not require the site dive to be conducted by a 3rd-party entity selected by the department.

Sec. 6. 12 MRSA §6072-A, sub-§20-B is enacted to read:

20-B. Modification of operational type or principal aquaculture gear. Notwithstanding any provision of this chapter to the contrary and in accordance with rules adopted by the department pursuant to this subsection, a person holding an aquaculture lease issued pursuant to this section may modify the operational type of the person's aquaculture operation or the design of the principal aquaculture gear used by the person without the need for an amendment to the person's issued lease, as long as:

A. As determined by the commissioner, the modification will not significantly increase navigational hazards caused by the aquaculture operation or the environmental effects of the aquaculture operation;

B. The modification will not cause the operational type of the aquaculture operation to change from bottom operations or submerged operations to surface operations; and

C. The modification will not cause the operational type of the aquaculture operation to change from bottom operations to submerged operations.

The department shall adopt rules to implement this subsection. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 12 MRSA §6080, sub-§8 is enacted to read:

8. Subcommittee established. The chair and vice-chair of the council shall establish and appoint council members to a subcommittee of the council to study and address equity issues for persons seeking to enter the aquaculture industry and seeking to access aquaculture grants; issues encountered by small aquaculture facilities; and methods of ensuring the aquaculture industry is inclusive and representative of the State as a whole. The subcommittee shall report its findings and any recommendations to the council in a manner directed by the chair and vice-chair.

Sec. 8. Department of Marine Resources; shellfish hatchery guidelines. The Department of Marine Resources shall establish guidelines for the operation and administration of shellfish hatcheries that receive state funding and that are operated by tribal governments or by nonprofit organizations or other nongovernmental entities. The department shall make the guidelines established pursuant to this section available to those

entities and to the public and shall take all reasonable actions to ensure compliance with the guidelines by those entities.

Proposed Amendment for LD 1722 An Act to Simplify the Regulation of Aquaculture Leases

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

Sec. 1. 12 MRSA §6072, sub-§12, as amended by PL 2023, c. 564, §5, is repealed and the following enacted in its place:

12. Renewal. Upon the receipt of an application for renewal from a person who holds a lease under this section, the commissioner shall renew the lease within 30 days as soon as possible following receipt of the complete application.

Sec. 2. 12 MRSA §6072, sub-§12-D, as enacted by PL 2023, c. 564, §7, is repealed and the following enacted in its place:

12-D. Conversion of limited-purpose lease for commercial purposes. A person who holds a limited-purpose lease for commercial purposes pursuant to section 6072-A may apply to convert that lease to a lease under this section as long as the application is for the same lease area and same operations authorized by the limited-purpose lease. The commissioner shall convert the limited-purpose lease within 30 days as soon as possible following receipt of a complete application that meets the requirements of this subsection.

Sec. 3. 12 MRSA §6072-A, sub-§20-A, as enacted by PL 2023, c. 564, §12, is amended to read:

20-A. Extension for conversion of a commercial lease. ~~If a person who holds a limited-purpose lease for commercial aquaculture research and development submits an application under section 6072, subsection 12-D for that same lease area and the same operations before the expiration of that limited-purpose lease, and if the commissioner does not make a decision under section 6072, subsection 12-D before the expiration of that limited-purpose lease, the limited-purpose lease remains in effect until the commissioner makes a decision under section 6072, subsection 12-D. If the commissioner grants the person a lease under section 6072, subsection 12-D, that the person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072, subsection 12-D. If the commissioner denies that person a lease under section 6072, subsection 12-D, that person's limited-purpose lease remains in effect until 30 days after the commissioner's decision.~~

Sec. 4. Department of Marine Resources to amend rules and forms. The Department of Marine Resources shall amend its rules and modify forms as necessary to reflect the changes made by this Act related to the renewal of aquaculture leases under the Maine Revised Statutes, Title 12, section 6072 and the conversion of a limited-purpose lease for commercial aquaculture research and development under Title 12, section 6072, subsection 12-D.