

LD 263 **An Act To Make Technical Changes to Maine’s Marine Resources Laws**
To: Members, Joint Standing Committee on Marine Resources
From: Lynne Caswell, Esq., Legislative Analyst
Date: May 4, 2021

SUMMARY

This bill makes the following changes to Title 12:

1. It changes the expiration date of shellfish sanitation certificates from May 31st to March 31st;
2. It clarifies that a lobster trap tag issued by DMR must be securely attached to the frame of the trap;
3. It clarifies that an aquaculture license is not needed for holders of aquaculture leases or limited-purpose aquaculture licenses who are using the lease or license only for personal use or research purposes; and
4. It provides that the department may specify a penalty for violation of a rule through rulemaking

TESTIMONY*

Sponsor: Representative McCreight

- Department bill

Proponents: DMR by Dierdre Gilbert

- Part of DMR’s efforts to identify legislative changes necessary to clarify or correct existing laws
 - This is a disparate assortment of items with no common connection:
 - Penalty provision limitation to civil penalty of not less than \$100 contradicts other provisions in law and regulation
 - Shellfish sanitation certificate expiration date changed to bring it into alignment with the licensing year of wholesale seafood dealer licenses upon which the sanitation certificate depends
 - Provides Marine Patrol from writing a violation of statute as opposed to a violation of regulation
 - Clarifies that an aquaculture license is not required for person holding either a noncommercial LPA license or a experimental lease.
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Opponents: none

NFNA: none

MATTERS FOR CONSIDERATION

DMR’s proposed amendment follows on pages 2 – 3.

FISCAL IMPACT - Preliminary (OFPR)

None provided as of this date.

* The section is not intended to reflect all comments and may include unintentionally errors.

DMR's PROPOSED AMENDMENT

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

Sec. 1. 12 MRSA §6072-A, sub-§8 is amended to read:

8. Rules; general and lease application. The commissioner may adopt rules to implement the provisions of this section. Within 180 days of the effective date of this section, the commissioner shall adopt rules regarding a limited-purpose lease application. The rules must require an applicant to, at a minimum, meet the requirements of section 6072, subsection 2, paragraph E and section 6072, subsection 4, paragraphs A, B, C, E, F, G and J. The rules must also require an applicant to provide to the department proof of access to the lease area. If access will be across riparian land, the applicant shall provide to the department the written permission of every riparian owner whose land will be used to access the lease area. The commissioner may adopt rules to add or delete authorization for the holder of an aquaculture lease that is held only for scientific research purposes[†] to grow specific species and to use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The rules must provide for notice of proposed changes in gear authorization to the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add species or gear must be consistent with the findings made under subsection 13 when the lease was approved.

Sec. 2. 12 MRSA §6073-C is amended to read:

§6073-C. Harvester license exemption; scallop aquaculture. The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement under sections 6701, 6702 and 6703 to hold a separate license for the removal, possession or transport of scallops from the leased area or the licensed gear when the final product form is the adductor muscle only, except that, beginning May 1, 2018, a person may not sell organisms cultured on the lease site or under the limited-purpose aquaculture license without a license issued under section 6810-B. This exemption does not apply to scallops in any other form.

Sec. 3. 12 MRSA §6174, sub-§3, as amended by PL 2003, c. 248, §3, is further amended to read:

3. Penalty. Whoever violates a rule commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged, unless another penalty is provided.

Sec. 4. 12 MRSA §6301, sub-§2, ¶D, as amended by PL 2005, c. 434, §3, is further amended to read:

D. A shellfish sanitation certificate issued under section 6856 expires on May ~~March~~ 31st of each year;

Sec. 5. 12 MRSA §6431-B, sub-§2, as enacted by PL 2017, c. 197, §9, is amended to read:

2. Penalties. A person may not fish or have on board a vessel a lobster trap unless a valid lobster trap tag issued by the commissioner is securely attached to the frame of the trap the lobster trap is tagged in accordance with a rule adopted pursuant to subsection 1. A person who violates ~~a rule adopted pursuant to subsection 1~~ this subsection commits:

A. A civil violation for which a fine of \$250 must be adjudged if the person fishes 25 or fewer traps that are not tagged in accordance with rules adopted pursuant to subsection 1; and

B. A Class D crime if the person fishes more than 25 traps that are not tagged in accordance with rules adopted pursuant to subsection 1.

[†] LD 106, voted unanimously out of this committee OPA and enacted on April 28, 2021, removed this same provision from this same section of law, except the removed language did not contain the highlighted phrase

Sec. 6. 12 MRSA §6810-B, sub-§5, as enacted by PL 2017, c. 296, §9, is amended to read:

5. Exemption; ~~limited-purpose aquaculture license for personal use or research.~~ Notwithstanding subsections 2, 3 and 4, ~~the holder of a limited purpose aquaculture license issued under section 6072-C may remove, possess or transport within the state limits organisms cultured under that license, subject to all other applicable requirements of this Part~~ an aquaculture license is not required for an aquaculture lease holder or a holder of a limited-purpose aquaculture license issued under section 6072-C who is using that lease or license only for personal use or for research purposes.