

**TESTIMONY OF
Deirdre Gilbert
Department of Marine Resources**

**The Department of Marine Resources (DMR) is testifying
In Support of
LD 263 An Act To Make Technical Changes to Maine's Marine Resources Laws
Before the Committee on Marine Resources
Sponsored by Representative McCreight
Date of Hearing: February 23, 2021**

Senator Miramant, Representative McCreight, and members of the Joint Standing Committee on Marine Resources, my name is Deirdre Gilbert, Director of State Marine Policy at the Department of Marine Resources, and I am testifying on behalf of the Department in support of LD 263. This a Department bill, and the Department is grateful to Representative McCreight for sponsoring it on our behalf.

This bill represents the Department's efforts to identify legislative changes that are necessary to clarify or correct existing laws. As such, it is a disparate assortment of items, with no common connection other than being clean-up in their nature. For that reason, I will address each proposal section by section.

Under existing law, the general penalty provided for violating a regulation is a civil violation, for which a fine of not less than \$100 may be adjudged. However, elsewhere in statute, there are other sections of law which provide that a violation of a specific department regulation is actually a criminal violation. An example of this is 12 MRS 6431-B, pertaining to the lobster trap tag system, which provides that a violation of the regulation is a civil violation if there are 25 or fewer traps not tagged in accordance with regulation, but a criminal violation if there are more than 25 traps not tagged in accordance with the regulation. The change in section 1 would simply make clear that a violation of a regulation is civil, unless another penalty is provided.

Section 2 of the bill changes the expiration of shellfish sanitation certificates from May 31st to March 31st. Doing so will bring the shellfish sanitation certificate into alignment with the licensing year of the wholesale seafood dealer license, upon which the shellfish sanitation certificate depends (i.e. a license holder must have a current wholesale seafood dealer license in order to obtain a shellfish sanitation certificate). This will eliminate confusion and improve administrative efficiencies.

Section 3 creates a prohibition on fishing traps in a manner that violates a regulation, so that Marine Patrol may write the violation under the statute instead of having to write the violation under the regulation. Since drafting, we have received further input from Marine Patrol that the language should still reference the tagging requirements provided in regulation, as follows:

2. Penalties. A person may not fish with or have on board a vessel a lobster trap unless 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 prohibition commits:

This will ensure that regulations regarding requirements for double tagging, second zone tags, replacement tags, etc. are included.

Section 4 clarifies that an aquaculture license is not required for individuals holding either Limited Purpose Aquaculture licenses or experimental leases that are for noncommercial purposes only.

Finally, an additional item that was identified after drafting is a change to the law regarding licensing for scallop aquaculture. Under existing statute, aquaculturists are prohibited from possessing whole scallops. This is due to the risk of biotoxin in any portion of the scallop other than the adductor muscle. However, there are Maine growers who are exploring the market for whole or roe-on scallops by conducting the necessary testing to ensure the scallops are safe for human consumption. This is currently allowed by the Department through a Special License to exempt them from this prohibition in law, and then an MOU with the grower. The Department does not feel it is necessary to have both documents, so is proposing to eliminate the prohibition in law, so that all that would be required is the MOU. If the committee is amenable to this change, we would propose the following language.

§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.~~

Thank you for your consideration, and I would be happy to answer any questions you might have.