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Legislative Document

No. 482

H.P. 332

House of Representatives, February 14, 2013

**An Act To Improve the Quality of the Data Used in the Management
of Maine's Fisheries**

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Reference to the Committee on Marine Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MacDONALD of Boothbay.
Cosponsored by Senator: LANGLEY of Hancock.

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

2 **Sec. 1. 12 MRSA §6173, sub-§1**, as enacted by PL 2003, c. 170, §1, is amended
3 to read:

4 **1. Collection and reporting of statistics.** The commissioner may, with the advice
5 and consent of the advisory council, adopt rules to collect pertinent data with respect to
6 the fisheries, including, but not limited to, information regarding the type and quantity of
7 fishing gear used, catch by species in numbers of fish or weight, areas in which fishing
8 was conducted, time of fishing, number of hauls and the estimated processing capacity of;
9 and the actual processing capacity utilized by United States fish processors. The
10 commissioner may collect statistics from any source and may require reporting of these
11 statistics. The information collected by or reported to the commissioner is confidential
12 and may not be disclosed in a manner or form that permits identification of any person or
13 vessel, except when required by court order or when specifically permitted under this
14 section. The commissioner may share data collected under this section with the National
15 Marine Fisheries Service or successor organization for research or fisheries management
16 purposes, ~~provided that~~ as long as federal laws and regulations protect the confidentiality
17 of the shared data. The commissioner may share data collected under this section with
18 the Bureau of Marine Patrol when necessary for the enforcement of reporting
19 requirements under this section. The commissioner shall adopt rules to carry out the
20 purposes of this section. Rules adopted under this section are routine technical rules
21 pursuant to Title 5, chapter 375, subchapter 2-A.

22 **Sec. 2. 12 MRSA §6301, sub-§6** is enacted to read:

23 **6. Ownership identified.** If a license issued under chapter 625 is issued to a firm,
24 corporation or partnership, the individual who owns the highest percentage of that firm,
25 corporation or partnership must be identified on the license application. When 2 or more
26 individuals own in equal proportion the highest percentages of a firm, corporation or
27 partnership, each of those owners must be identified.

28 **Sec. 3. 12 MRSA §6412** is enacted to read:

29 **§6412. Suspension of license or certificate for failure to comply with reporting**
30 **requirements**

31 **1. Authority to suspend.** The commissioner may suspend a license or certificate
32 issued under this Part if the license holder fails to comply with reporting requirements
33 authorized pursuant to section 6173. If a license is suspended, the suspension remains in
34 effect until the person is in compliance with reporting requirements, receives notice from
35 the department stating that the person is in compliance with the reporting requirements
36 and pays a \$25 administrative fee to the department; the suspension is then rescinded, and
37 the person's eligibility to obtain or hold a license is reinstated.

38 **2. Process for suspension for failing to comply with weekly reporting.** If the
39 commissioner determines that a person who holds a license or certificate under this Part
40 has failed to submit reports in accordance with the time frame established in rules
41 adopted pursuant to section 6173, the commissioner shall notify the person at the phone

1 number provided in the license application and by e-mail if an address is provided. If the
2 license holder has not resolved all reporting deficiencies within the 2 days following the
3 reporting deadline established in rule, the commissioner shall notify the person at the
4 phone number provided in the license application, and by e-mail if an address is provided,
5 that if the person has not complied within an additional 2 days, that person's license is
6 suspended. If the person has not complied within the additional 2 days, the commissioner
7 shall mail notice of the suspension by first-class mail. The notice of the suspension is
8 deemed received and the suspension in effect 3 days after it has been sent.

9 **3. Process for suspension for failing to comply with monthly reporting.** If the
10 commissioner determines that a person who holds a license or certificate under this Part
11 has failed to submit reports in accordance with the time frame established in rules
12 adopted pursuant to section 6173, the commissioner shall notify the person at the phone
13 number provided in the license application, and by e-mail if an address is provided, and
14 by first-class mail. If the license holder has not resolved all reporting deficiencies within
15 the 30 days following the deadline established in rule, the commissioner shall notify the
16 person at the phone number provided in the license application, and by e-mail if an
17 address is provided, and by first-class mail that if the person has not complied within an
18 additional 15 days, that person's license is suspended. If the person has not complied
19 within the additional 15 days, the commissioner shall mail notice of the suspension by
20 first-class mail. The notice of the suspension is deemed received and the suspension in
21 effect 3 days after it has been sent.

22 **Sec. 4. 12 MRSA §6421, sub-§3-A, ¶¶B and C,** as amended by PL 1995, c.
23 568, §1, are further amended to read:

24 B. A Class II license authorizes the license holder to engage in the licensed
25 activities under subsection 2. A Class II license holder may engage one unlicensed
26 crew member to assist in the licensed activities under the direct supervision of the
27 Class II license holder, except that an unlicensed crew member may not sell lobsters
28 or crabs.

29 C. A Class III license authorizes the license holder to engage in the licensed
30 activities under subsection 2. A Class III license holder may engage 2 unlicensed
31 crew members to assist in the licensed activities under the direct supervision of the
32 Class III license holder, except that an unlicensed crew member may not sell lobsters
33 or crabs.

34 **Sec. 5. 12 MRSA §6535, sub-§2,** as repealed and replaced by PL 2009, c. 561,
35 §21, is amended to read:

36 **2. Licensed activity.** A person licensed under this section may tend divers who
37 harvest sea urchins and scallops by hand and operate a boat as a platform for the
38 harvesting of sea urchins and scallops by hand and may possess, ship, and transport ~~and~~
39 ~~sell~~ sea urchins and scallops harvested by licensed harvesters the tender has tended. A
40 sea urchin and scallop diving tender license does not authorize the holder to harvest sea
41 urchins and scallops or to sell the harvested product. As used in this subsection, "tend"
42 means to assist the diver in any way, to operate a boat as a platform for harvesting or to
43 cull or otherwise handle the harvested product.

1 As long as one person present on a boat engaged as a platform for the harvesting of sea
2 urchins and scallops by hand has met the tender safety requirements adopted by rule
3 pursuant to section 6533, all other persons present on the boat may operate the boat or
4 engage in culling activities or otherwise handle the harvested product. An individual who
5 engages in harvesting activities in accordance with a license issued under section 6701 or
6 6748 may not be considered as the person who has met the tender safety requirements
7 adopted by rule pursuant to section 6533.

8 **Sec. 6. 12 MRSA §6748, sub-§2**, as repealed and replaced by PL 2009, c. 561,
9 §28, is amended to read:

10 **2. Licensed activity.** The holder of a handfishing sea urchin license may take sea
11 urchins by hand or possess, ship, or transport ~~or sell~~ sea urchins taken by that licensee.
12 An unlicensed person acting as a tender for an individual licensed under subsection 4,
13 paragraph B, in accordance with subsection 1-A, may possess, ship, and transport ~~and sell~~
14 sea urchins the handfishing sea urchin license holder has taken. A person may not act as a
15 tender under subsection 4, paragraph B unless that person has met the tender safety
16 requirements adopted by rule pursuant to section 6533.

17 **Sec. 7. 12 MRSA §6803, sub-§1**, as amended by PL 2003, c. 452, Pt. F, §23 and
18 affected by Pt. X, §2, is further amended to read:

19 **1. Permit required.** Except as provided in subsections 1-A and 2, ~~a person~~ an
20 individual may not harvest, possess, ship, transport or sell seaweed without a current:

21 A. Resident seaweed permit; or

22 B. Nonresident seaweed permit.

23 **Sec. 8. 12 MRSA §6803, sub-§2, ¶¶A and B**, as enacted by PL 1989, c. 523,
24 §2, are repealed.

25 **Sec. 9. 12 MRSA §6803, sub-§2, ¶C**, as amended by PL 2001, c. 421, Pt. B, §50
26 and affected by Pt. C, §1, is further amended to read:

27 C. ~~A person~~ An individual who harvests, possesses, ships or transports no more than
28 50 pounds of seaweed a day for noncommercial purposes;

29 **Sec. 10. 12 MRSA §6803, sub-§5**, as enacted by PL 2001, c. 421, Pt. B, §50 and
30 affected by Pt. C, §1, is amended to read:

31 **5. Violation.** ~~A person~~ An individual who violates this section commits a civil
32 violation for which a ~~forfeiture~~ fine of not less than \$100 nor more than \$500 may be
33 adjudged.

34 **Sec. 11. 12 MRSA §6803-A, sub-§1**, as amended by PL 2009, c. 561, §30, is
35 further amended to read:

36 **1. License required.** A seaweed buyer's license is required for a person who
37 purchases ~~more than 10 wet tons or an equivalent number of dry tons annually~~ seaweed
38 for resale directly from seaweed harvesters holding a permit under section 6803. A

1 person may not engage in the activities authorized under this section without a current
2 seaweed buyer's license.

3 **Sec. 12. 12 MRSA §6852, sub-§§1, 2 and 4**, as amended by PL 2011, c. 598,
4 §44, are further amended to read:

5 **1. License required.** A person may not ~~engage in the activities authorized under~~
6 ~~this section~~ buy, sell, transport, ship or serve a marine organism in the retail trade without
7 a retail seafood license issued under this Part authorizing the activities.

8 **2. License activity.** The holder of a retail seafood license may, in the retail trade,
9 buy, sell, transport, ship or serve:

10 A. ~~Shellstock~~ if Any marine organism, except that any shellstock must be bought
11 from a wholesale seafood license holder certified under section 6856; and

12 D. Crayfish; ~~or,~~

13 ~~E. Lobsters.~~

14 A holder of a retail seafood license when buying directly from a harvester may buy only
15 from a harvester who possesses the license or permit for that species as required under
16 this Part. The harvester shall make the applicable marine resources license or permit
17 available for inspection upon the retail seafood license holder's request.

18 **4. Fee.** The fee for a retail seafood license under subsection 1 is ~~\$122~~ \$100. The fee
19 for an enhanced retail certificate under subsection 2-A is \$28 and must be deposited in
20 the Shellfish Fund under section 6651.

21 SUMMARY

22 This bill makes a number of changes to various aspects of the Department of Marine
23 Resources landings program with regard to reporting requirements. It allows the
24 Commissioner of Marine Resources to share confidential landings data with the
25 Department of Marine Resources, Bureau of Marine Patrol when necessary for reporting
26 enforcement purposes. It requires majority shareholders in corporate entities to identify
27 themselves so that noncompliant wholesale and retail license holders would not be able to
28 incorporate under a new business name and continue operating without remedying their
29 noncompliance. It authorizes the commissioner to suspend licenses for noncompliance
30 with reporting requirements in order to ensure effective catch monitoring and assess an
31 administrative fee if licenses are suspended. It prevents unlicensed crew members on
32 lobster or crab fishing boats and scallop and sea urchin diving tenders from selling any
33 catch and limits selling to certain licensed harvesters. It expands the seaweed buyer's
34 license to include anyone buying seaweed for resale and removes the ability of marine
35 worm and wholesale seafood dealers to harvest seaweed without a license. Finally, it
36 expands the requirement to hold a retail license for the sale of all marine organisms
37 instead of just lobster, crayfish and shellstock.