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MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 332, L.D. 482, Bill, “An Act To Improve the Quality of the Data Used in the Management of Maine's Fisheries”

Amend the bill by striking out all of section 1.

Amend the bill by striking out all of sections 3 to 6 and inserting the following:

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

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

1. Authority to suspend. The commissioner, in accordance with this section, may suspend a license or certificate issued under this Part if the holder of the license or certificate fails to comply with reporting requirements established by rule pursuant to section 6173. A license or certificate suspended under this section remains suspended until the suspension is rescinded by the commissioner. The commissioner shall rescind a suspension when:

A. The commissioner determines and provides notice to the holder of the suspended license or certificate that the holder has come into compliance with the reporting requirements established by rule pursuant to section 6173; and

B. The holder pays to the department a \$25 administrative fee.

When a suspension is rescinded, the license or certificate is reinstated. Until the suspension is rescinded, the holder of the suspended license or certificate is not eligible to hold, apply for or obtain that license or certificate.

2. Process for suspension for failing to comply with weekly reporting. If the commissioner determines that a person who holds a license or certificate under this Part has failed to comply with a weekly reporting requirement established by rule pursuant to section 6173, the commissioner shall notify the person at the telephone number provided on the application for the license or certificate and by e-mail if an e-mail address is provided on the application. If the license or certificate holder has not complied with the reporting requirements within 2 days after the commissioner has provided the notice, the

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1 commissioner shall mail a notice of suspension to the license or certificate holder by
2 certified mail or the notice must be served in hand. The notice must:

3 A. Describe the information that the license or certificate holder is required to
4 provide pursuant to this Part that the department has not received; and

5 B. State that, unless all the information described in paragraph A is provided to the
6 department or the license or certificate holder requests a hearing, the license or
7 certificate will be suspended in 3 business days after the license or certificate holder's
8 receipt of the notice.

9 If the license or certificate holder has not complied with the reporting requirements or
10 requested a hearing within 3 business days after receipt of the notice, the commissioner
11 shall suspend the license or certificate.

12 **3. Process for suspension for failing to comply with monthly reporting.** If the
13 commissioner determines that a person who holds a license or certificate under this Part
14 has failed to comply with a monthly reporting requirement established by rule pursuant to
15 section 6173, the commissioner shall notify the person at the telephone number provided
16 on the application for the license or certificate and by e-mail if an e-mail address is
17 provided on the application. If the license or certificate holder has not complied with the
18 reporting requirements within 45 days after the commissioner has provided the notice, the
19 commissioner shall mail a notice of suspension to the license or certificate holder by
20 certified mail or the notice must be served in hand. The notice must:

21 A. Describe the information that the license or certificate holder is required to
22 provide pursuant to this Part that the department has not received; and

23 B. State that, unless all the information described in paragraph A is provided to the
24 department or the license or certificate holder requests a hearing, the license or
25 certificate will be suspended in 3 business days after the license or certificate holder's
26 receipt of the notice.

27 If the license or certificate holder has not complied with the reporting requirements or
28 requested a hearing within 3 business days after receipt of the notice, the commissioner
29 shall suspend the license or certificate.

30 **4. Hearing.** A license or certificate holder receiving a written notice of suspension
31 pursuant to this section may request a hearing on the suspension by contacting the
32 department within 3 business days of receipt of the notice. If a hearing is requested, the
33 suspension is stayed until a decision is issued following the hearing. The hearing must be
34 held within 3 business days of the request, unless another time is agreed to by both the
35 department and the license or certificate holder. The hearing must be conducted in the
36 Augusta area. The hearing must be held in accordance with:

37 A. Title 5, section 9057, regarding evidence, except the issues are limited to whether
38 the license or certificate holder has complied with reporting requirements established
39 by rule pursuant to section 6173;

40 B. Title 5, section 9058, regarding notice;

41 C. Title 5, section 9059, regarding records;

1 D. Title 5, section 9061, regarding decisions, except the deadline for making a
2 decision is one business day after completion of the hearing; and

3 E. Title 5, section 9062, subsections 3 and 4, regarding a presiding officer's duties
4 and reporting requirements, except that notwithstanding Title 5, section 9062,
5 subsection 1, the presiding officer must be the commissioner or the commissioner's
6 designee.

7 **Sec. 4. 12 MRSA §6421, sub-§3-A, ¶¶B and C**, as amended by PL 1995, c.
8 568, §1, are further amended to read:

9 B. A Class II license authorizes the license holder to engage in the licensed
10 activities under subsection 2. A Class II license holder may engage one unlicensed
11 crew member to assist in the licensed activities under the direct supervision of the
12 Class II license holder, except as provided in section 6445-A.

13 C. A Class III license authorizes the license holder to engage in the licensed
14 activities under subsection 2. A Class III license holder may engage 2 unlicensed
15 crew members to assist in the licensed activities under the direct supervision of the
16 Class III license holder, except as provided in section 6445-A.

17 **Sec. 5. 12 MRSA §6445-A** is enacted to read:

18 **§6445-A. Selling of lobsters or crabs by unlicensed crew members**

19 **1. Sale prohibited; exception.** An unlicensed crew member engaged by a holder of
20 a Class II or Class III lobster and crab fishing license may not sell lobsters or crabs unless
21 the unlicensed crew member:

22 A. Sells lobsters or crabs to a purchaser who holds a valid wholesale seafood license
23 with a lobster permit or a valid retail seafood license; and

24 B. Provides to the purchaser the name and license number of the license holder with
25 whom the crew member was engaged when the lobsters or crabs were harvested.

26 **2. Requirements for purchaser.** A holder of a wholesale seafood license with a
27 lobster permit or a retail seafood license who purchases lobsters or crabs from an
28 unlicensed crew member may not purchase the lobsters or crabs except by check or
29 cashier's check unless there is a written receipt associated with the transaction, and the
30 holder of a wholesale seafood license with a lobster permit or a retail seafood license who
31 purchases lobsters or crabs from an unlicensed crew member shall report the information
32 provided by the unlicensed crew member under subsection 1, paragraph B in accordance
33 with section 6173.

34 **Sec. 6. 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, transport and sell
39 sea urchins and scallops harvested by licensed harvesters ~~the tender has tended~~ subject to
40 the requirements of paragraph A. A sea urchin and scallop diving tender license does not
41 authorize the holder to harvest sea urchins and scallops. As used in this subsection,

1 "tend" means to assist the diver in any way, to operate a boat as a platform for harvesting
2 or to cull or otherwise handle the harvested product.

3 A. A diving tender licensed under this section may not sell sea urchins or scallops
4 unless the person:

5 (1) Sells sea urchins or scallops to a purchaser who holds a valid wholesale
6 seafood license with a sea urchin buyer's permit or a valid wholesale seafood
7 license with a sea urchin processor's permit or a valid retail seafood license; and

8 (2) Provides to the purchaser the name and license number of the license holder
9 with whom the person was engaged when the sea urchins or scallops were
10 harvested.

11 B. A holder of a wholesale seafood license with a sea urchin buyer's permit or a
12 wholesale seafood license with a sea urchin processor's permit or a retail seafood
13 license who purchases scallops or sea urchins from a diving tender licensed under this
14 section may not purchase the sea urchins or scallops except by check or cashier's
15 check unless there is a written receipt associated with the transaction, and the holder
16 of a wholesale seafood license with a sea urchin buyer's permit or a wholesale
17 seafood license with a sea urchin processor's permit or a retail seafood license who
18 purchases scallops or sea urchins from a licensed diving tender shall report the
19 information provided by the person under paragraph A, subparagraph (2) in
20 accordance with section 6173.

21 As long as one person present on a boat engaged as a platform for the harvesting of sea
22 urchins and scallops by hand has met the tender safety requirements adopted by rule
23 pursuant to section 6533, all other persons present on the boat may operate the boat or
24 engage in culling activities or otherwise handle the harvested product. An individual who
25 engages in harvesting activities in accordance with a license issued under section 6701 or
26 6748 may not be considered as the person who has met the tender safety requirements
27 adopted by rule pursuant to section 6533.

28 **Sec. 7. 12 MRSA §6748, sub-§2**, as repealed and replaced by PL 2009, c. 561,
29 §28, is repealed and the following enacted in its place:

30 **2. Licensed activity.** The holder of a handfishing sea urchin license may take sea
31 urchins by hand or possess, ship, transport or sell sea urchins. An unlicensed person
32 acting as a tender for an individual licensed under subsection 4, paragraph B, in
33 accordance with subsection 1-A, may possess, ship, transport and sell sea urchins the
34 handfishing sea urchin license holder has taken subject to the requirements of paragraph
35 A.

36 A. An unlicensed person acting as a tender may not sell sea urchins unless the
37 person:

38 (1) Sells sea urchins to a purchaser who holds a valid wholesale seafood license
39 with a sea urchin buyer's permit or a valid wholesale seafood license with a sea
40 urchin processor's permit or a valid retail seafood license; and

41 (2) Provides to the purchaser the name and license number of the license holder
42 with whom the person was engaged when the sea urchins were harvested.

