

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND THIRTEEN

—  
H.P. 332 - L.D. 482

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

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

**Sec. 1. 12 MRSA §6301, sub-§6** is enacted to read:

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

**Sec. 2. 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 A license or certificate suspended under this section remains suspended until the suspension is rescinded by the commissioner.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When a suspension is rescinded, the license or certificate is reinstated. Until the suspension is rescinded, the holder of the suspended license or certificate is not eligible to hold, apply for or obtain that license or certificate.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 commissioner shall mail a notice of suspension to the license or certificate holder by certified mail or the notice must be served in hand. The notice must:

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

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

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

**3. Process for suspension for failing to comply with monthly reporting.** If the commissioner determines that a person who holds a license or certificate under this Part has failed to comply with a monthly 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 45 days after the commissioner has provided the notice, the commissioner shall mail a notice of suspension to the license or certificate holder by certified mail or the notice must be served in hand. The notice must:

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

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

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

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

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

B. Title 5, section 9058, regarding notice;

C. Title 5, section 9059, regarding records;

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

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

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

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

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

**Sec. 4. 12 MRSA §6445-A** is enacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 6. 12 MRSA §6748, sub-§2**, as repealed and replaced by PL 2009, c. 561, §28, is repealed and the following enacted in its place:

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

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

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

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

B. A holder of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases sea urchins from an unlicensed person acting as a tender must purchase the sea urchins by check or cashier's check unless there is a written receipt associated with the transaction, and the holder of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases sea urchins from an unlicensed person acting as a tender shall report the information provided by the person under paragraph A, subparagraph (2) in accordance with section 6173.

A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

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

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

A. Resident seaweed permit; or

B. Nonresident seaweed permit.

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

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

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

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

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

**Sec. 11. 12 MRSA §6852, sub-§§1, 2 and 4**, as amended by PL 2011, c. 598, §44, are further amended to read:

**1. License required.** A person may not ~~engage in the activities authorized under this section~~ buy, sell, transport, ship or serve a marine organism in the retail trade other than an ornamental marine organism used for exhibition in a marine aquarium without a retail seafood license issued under this Part authorizing the activities. For purposes of this section, "marine organism" means an organism that may not be harvested in this State without a commercial harvesting license issued under this Part.

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

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

D. Crayfish; ~~or~~

E. ~~Lobsters.~~

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

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

**Sec. 12. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 12, section 6852, subsections 1, 2 and 4 takes effect April 1, 2014.