

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R. of S.

L.D. 1304

DATE: 3/14/94

(Filing No. H- 835)

MARINE RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 973, L.D. 1304, Bill, "An Act Concerning Commercial Divers"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, commercial diving is an inherently dangerous activity; and

Whereas, 4 fatalities occurred in the State in 1993 directly related to the commercial harvesting of marine organisms; and

Whereas, existing marine resource laws do not require that divers engaged in the commercial harvesting of marine organisms obtain any underwater safety training prior to obtaining a license for commercial handharvesting of marine organisms; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA c. 621, sub-c. II, art. 1-A is enacted to read:

COMMITTEE AMENDMENT

R & S

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Article 1-A

Commercial Underwater Handharvesting Safety

§6531. Licenses

The commissioner may not issue a handfishing scallop license under section 6701 or a handfishing sea urchin license under section 6748 to any person for calendar year 1995 or later unless:

1. Completion of competency course. That person successfully completes a commercial underwater handharvesting competency course offered under section 6532; or

2. Grandfathered. The commissioner determines that that person meets the grandfather provisions of section 6534.

§6532. Commercial underwater handharvesting competency

By August 15, 1994, the commissioner shall establish a competency training course for individuals engaged in commercial underwater handharvesting activities. The course may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the course.

1. Enrollment prerequisite. A person is not eligible for enrollment in a course offered under this section unless that person possesses a valid open water diving certification. For the purposes of this article, the term "open water diving certification" means a diving certificate issued by a SCUBA training course meeting or exceeding the basic SCUBA training standards established by the American National Standards Institute.

2. Equipment requirements. Each person in the course must have a mask, a snorkel, fins, a buoyancy compensator jacket with low pressure inflator, an air tank and regulator, a pressure gauge, a weight belt and sufficient weights and a properly fitting wet or dry suit. The student provides that equipment if the equipment is not provided by the instructor.

3. Recovery of costs; department. For any course taught by the department, the commissioner shall set an enrollment fee sufficient to recover all costs incurred by the department in teaching the course.

4. Prescribing the course. In establishing the course, the commissioner may:

RWS

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

A. Prescribe the qualifications of instructors and impose on instructors any minimum insurance liability requirements considered necessary by the commissioner;

B. Prescribe the course content and the method of instruction, including the time and place of examinations; and

C. Establish standards for certifying the commercial underwater handharvesting competency of individuals who successfully complete the course.

5. Allowance for waivers. The commissioner may waive any component of a course offered under this section for a person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of competency for that component that is at least equal to the level of competency necessary to successfully complete the course. It is the responsibility of the person seeking a waiver under this subsection to make that request in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.

§6533. Training required for tender's license

The commissioner may not issue a sea urchin boat tender license under section 6748-B to any person for calendar year 1995 or later unless that person has attended a safety training session offered under this section.

1. Tender safety training session. By August 15, 1994, the commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin boat tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins. For any training session taught by the department, the commissioner shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.

2. Allowance for waivers. The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that

R & S

2 expected from a person who completed the session. It is the
3 responsibility of the person seeking such a waiver to request
4 that waiver in writing to the commissioner and to provide the
5 commissioner with any documentation the commissioner determines
6 necessary to make a decision.

7 **§6534. Grandfathered harvesters**

8
9 A person is grandfathered for the purposes of section 6531,
10 subsection 2 if the commissioner determines that that person:

11 1. Prior license holder. Possessed a scallop or urchin
12 handharvesting license in 1992, 1993 and 1994; and

13 2. Seminar. Attends a classroom seminar on safe sea urchin
14 handharvesting practices conducted or approved by the department.

15
16
17 **Sec. 2. Task force; public meeting.** The Commissioner of Marine
18 Resources shall hold at least one public meeting for the purpose
19 of receiving comments from the public on the content of a
20 commercial underwater handharvesting competency course required
21 under the Maine Revised Statutes, Title 12, section 6532. To
22 assist and advise the commissioner in the development of that
23 course, the commissioner may select and convene a panel of
24 experts, who shall advise the commissioner on the content of the
25 curriculum.
26

27 **Sec. 3. Allocation.** The following funds are allocated from
28 Other Special Revenue to carry out the purposes of this Act.

29
30 **1994-95**

31 **MARINE RESOURCES, DEPARTMENT OF**

32 **Bureau of Marine Patrol**

33
34
35 All Other **\$5,000**

36
37 Provides for the allocation of funds to
38 cover the costs of offering certain
39 educational programs pertaining to
40 commercial divers.
41

42
43 **Emergency clause.** In view of the emergency cited in the
44 preamble, this Act takes effect when approved.
45
46
47
48

R. & S.

FISCAL NOTE

2

1994-95

4

APPROPRIATIONS/ALLOCATIONS

6

Other Funds \$5,000

8

10

REVENUES

12

Other Funds \$5,000

14

16

The Department of Marine Resources will require an Other Special Revenue fund allocation of \$5,000 in fiscal year 1994-95 for the costs of offering certain educational programs pertaining to commercial divers. In addition, revenues received by the department will increase by an amount equal to the allocation. Actual expenditures and revenues may vary from these amounts.

18

20

22

The establishment of certain educational requirements before certain licenses can be issued may reduce license fees collected by the Department of Marine Resources as undedicated revenues to the General Fund and dedicated revenues for certain programs within the department. Any resulting reduction of revenues is likely to be relatively minor.

24

26

28

30

The Department of Marine Resources may incur some minor additional costs to convene the required task force and hold the required public meetings. These costs can be absorbed within the department's existing budgeted resources.'

32

34

36

STATEMENT OF FACT

38

This amendment replaces the bill.

40

42

44

46

48

50

This amendment prohibits the Commissioner of Marine Resources from issuing scallop or sea urchin handharvesting licenses for 1995 or later unless the applicant possesses open water diver certification and a certificate of competency in commercial underwater handharvesting activities. The open water diver certification requirement and the competency course are waived for any person who possessed a scallop or sea urchin handharvesting license in 1992, 1993 and 1994 and who completes a classroom seminar on safe sea urchin harvesting practices. The commissioner has until August 15, 1994 to establish a curriculum for certifying the competency of commercial handharvesters. The

R. 618

COMMITTEE AMENDMENT "A" to H.P. 973, L.D. 1304

2 amendment allows the commissioner to waive components of the
competency course based on demonstrated expertise or experience.

4 The amendment also requires persons seeking to obtain a sea
urchin boat tender license to attend a boat tender training
6 session. The boat tender training session will focus on risk
factors associated with diving and will include basic CPR
8 training.

10 The amendment also adds an emergency preamble, an emergency
clause, an allocation section and a fiscal note to the bill.