

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 836

H.P. 595

House of Representatives, February 16, 2005

An Act To Amend the Laws Governing Aquaculture

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 KAELIN of Winterport.
Cosponsored by Representatives: MERRILL of Appleton, TRAHAN of Waldoboro.

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

4 **Sec. 1. 12 MRSA §6053** is enacted to read:

6 **§6053. General penalty**

8 A violation of any provision of this chapter is a civil violation, unless another penalty has been expressly provided.

10 **Sec. 2. 12 MRSA §6072, sub-§12-B** is enacted to read:

12 **12-B. Extension of lease.** If a person who holds a lease pursuant to this section submits a completed renewal application pursuant to subsection 12 for that lease area before the expiration of that lease, the lease remains in effect until the commissioner makes a decision pursuant to subsection 12.

18 **Sec. 3. 12 MRSA §6072, sub-§17** is enacted to read:

20 **17. Restitution.** A person who cuts any lines or marker buoys or intentionally damages approved aquaculture gear commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. In addition, the court shall:

24 A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and

30 B. Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment.

34 **Sec. 4. 12 MRSA §6072-A, sub-§23** is enacted to read:

36 **23. Restitution.** A person who cuts any lines or marker buoys or intentionally damages approved aquaculture gear commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. In addition, the court shall:

40 A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and

46 B. Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment.

2 **Sec. 5. 12 MRSA §6072-C, sub-§9**, as enacted by PL 2001, c.
421, Pt. B, §12 and affected by Pt. C, §1, is amended to read:

4 **9. Violation; restitution.** A person who violates this
6 section commits a civil violation for which a ~~forfeiture~~ fine of
not less than \$100 ~~not more than \$500~~ may be adjudged. If a
8 person violates subsection 7 by cutting any lines or marker buoys
or intentionally damaging approved aquaculture gear, the court
shall also:

10 A. Order that person to pay to the owner of the approved
12 aquaculture gear that was cut or damaged an amount equal to
twice the replacement value of the gear that was damaged or
14 lost as a result of the cutting or damaging action; and

16 B. Direct that person to provide the commissioner, upon
18 making full payment as ordered by the court, proof of that
payment.

20 **Sec. 6. 12 MRSA §6073-A**, as amended by PL 1999, c. 575, §1,
is further amended to read:

22 **§6073-A. Season and minimum size exemption; aquaculture**

24 The holder of a lease issued under section 6072, 6072-A or
26 6072-B or 6072-C is exempt from any requirement regarding the
time of taking or possessing, minimum or maximum length or other
28 minimum or maximum size requirement for any marine organism
cultivated on the leased area. The exemption applies only to
30 those organisms actually cultivated on the leased area. The
commissioner shall require a system of identification of
32 organisms exempted under this section.

34 **Sec. 7. 12 MRSA §6078-A, sub-§2**, as amended by PL 2003, c.
660, Pt. A, §§19 and 20, is repealed.

36 **Sec. 8. 12 MRSA §6078-A, sub-§4**, as enacted by PL 2003, c.
38 247, §19, is repealed.

40 **Sec. 9. 12 MRSA §6080, sub-§3**, as amended by PL 2003, c. 247,
§20, is further amended to read:

42 **3. Purpose.** The council shall make recommendations to the
44 commissioner concerning expenditures from the Aquaculture
~~Monitoring,--Research--and--Development~~ Management Fund for the
46 purposes described under section 6078-A, ~~subsections 3 and 4~~
6072-D and for other matters of interest to the aquaculture
48 industry.

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SUMMARY

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This bill amends the aquaculture leasing statutes by:

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1. Eliminating the authority of the Commissioner of Marine Resources to establish by rule a fee schedule for the production of shellfish on a lease site;

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2. Allowing a lease to continue beyond its expiration date until the commissioner makes a decision if a renewal application has been submitted;

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3. Adding an individual who holds a limited-purpose aquaculture license to the list of individuals who are exempt from time of taking or possessing and minimum or maximum size requirements for organisms cultivated on the individuals' lease areas;

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4. Amending the purpose of the Aquaculture Advisory Council to make recommendations on expenditures from the Aquaculture Management Fund, as well as other matters of interest to the aquaculture industry;

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5. Making violation of the Maine Revised Statutes, Title 12, chapter 605, which includes laws governing general activities, leases and special licenses, inspection and quality control, surimi or surimi products, fishways and miscellaneous activities, a civil violation, unless another penalty is provided;

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6. Eliminating the upper limit of a \$500 fine on the civil violation for intentionally damaging approved aquaculture gear on a limited-purpose license; and

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7. Adding the same restitution provisions for intentionally damaging approved aquaculture gear on standard leases and limited-purpose leases as currently exist for limited-purpose aquaculture licenses.

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