

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1763

S.P. 595

In Senate, May 21, 2019

**An Act To Transfer Responsibility for Licensing of Land-based
Aquaculture from the Department of Agriculture, Conservation and
Forestry to the Department of Marine Resources**

(EMERGENCY)

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator VITELLI of Sagadahoc. (GOVERNOR'S BILL)

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation needs to take effect before the expiration of the 90-day
4 period in order to provide for review of anticipated land-based aquaculture projects by the
5 Department of Marine Resources as soon as possible; and

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

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

11 **Sec. 1. 7 MRSA §2, 4th ¶,** as amended by PL 2017, c. 94, §1, is further amended
12 to read:

13 In addition, the commissioner shall be concerned with the quality of life of Maine
14 farmers and rural communities. The commissioner shall promote: farm financing and
15 rural development proposals; conservation and preservation of agricultural lands;
16 increased and improved production of beef, poultry, sheep, dairy beef and other livestock;
17 expanded and improved production of potatoes, fruits and other vegetables and
18 horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural
19 products; in conjunction with the university, crop development and integrated pest
20 management; ~~development of land-based aquaculture facilities;~~ and conservation of
21 nonrenewable energy resources and utilization of renewable energy resources in
22 conjunction with the Governor's Energy Office. To accomplish these objectives, the
23 commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to
24 engage in research and educational programs; to participate directly or indirectly in
25 programs to encourage and enable individuals to enter agricultural or other rural
26 enterprises; to institute litigation or upon request to represent farmers or other members
27 of the rural community in litigation where the commissioner determines that such
28 litigation may be beneficial to agricultural industry as a whole; and to exercise all other
29 powers of an agency of State Government. The commissioner may study such issues and,
30 consistent with statute, take such actions either individually, for, or on behalf of, the
31 State's farmers or rural residents, or jointly with such other persons, agencies or
32 organizations as the commissioner determines may benefit the State's farmers and rural
33 communities. To further accomplish these objectives, the commissioner is authorized
34 beginning July 1, 1991, on behalf of the State's rural community, to administer food
35 assistance programs including the receipt, distribution and administration of federal and
36 state funds, including block grants, for food assistance.

37 **Sec. 2. 7 MRSA §52, sub-§3-A,** as amended by PL 2017, c. 94, §2, is further
38 amended to read:

39 **3-A. Farm product.** "Farm product" means those plants and animals useful to
40 humans and includes, but is not limited to, forages and sod crops, grains and food crops,
41 dairy products, poultry and poultry products, bees, livestock and livestock products, ~~fish~~

1 and fish products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees
2 and other similar products.

3 **Sec. 3. 7 MRSA c. 209**, as amended, is repealed.

4 **Sec. 4. 12 MRSA §6073-D, last ¶**, as amended by PL 2017, c. 94, §4, is further
5 amended to read:

6 This section does not exempt the possessor of the marine organism from any
7 requirement to hold a lease or license pursuant to section 6072, 6072-A, 6072-B or
8 6072-C or ~~Title 7, section 1504~~ 6085 to engage in the culture of marine organisms.

9 **Sec. 5. 12 MRSA §6085**, as repealed by PL 2017, c. 94, §5, is reenacted to read:

10 **§6085. Marine organism aquaculture license**

11 **1. License required.** The commissioner may require a license for aquaculture of
12 marine organisms in facilities that are not located in the coastal waters of the State but are
13 located in the State.

14 **2. Licensed activities.** The holder of a license under this section may possess
15 marine organisms the holder has raised by means of aquaculture. The holder of such a
16 license is exempt from any requirement regarding the time of taking or possessing,
17 minimum or maximum length or other minimum or maximum size requirement for any
18 marine organism the holder has raised by means of aquaculture.

19 **3. Permit denial.** The commissioner may refuse to issue a license under this section
20 if the commissioner finds that the aquaculture activity presents an unreasonable risk to
21 indigenous marine life or its environment. In determining whether or not to refuse to
22 issue a license, the commissioner shall consider factors, including, but not limited to:

23 A. Risk of accidental or intentional introduction of marine organisms or marine
24 organism products into the coastal waters of the State;

25 B. Risk of the introduction or spread of disease within the State; and

26 C. Interference with the enforcement of possession, size or season limits for wild
27 marine organisms.

28 **4. Monitoring and revocation.** The commissioner shall monitor licensed facilities
29 under this section on an annual basis. If the commissioner determines following an
30 annual review or at any other time that the licensed aquaculture activity presents an
31 unreasonable risk to indigenous marine life or its environment, the commissioner may
32 revoke the license after the licensee has been given an opportunity for a hearing before
33 the department.

34 **5. Reporting.** The commissioner may require the holder of a license under this
35 section to file periodic reports regarding the aquaculture practices and production of the
36 facility. Information obtained pursuant to this provision is considered fisheries statistics
37 for the purposes of section 6173, except that information about marine organism health
38 reported pursuant to section 6071 may not be considered fisheries statistics.

