

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

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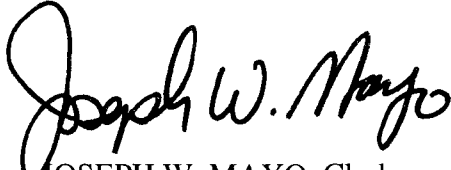
H.P. 1758

House of Representatives, January 10, 2000

An Act to Change the Aquaculture Lease Process.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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


JOSEPH W. MAYO, Clerk

Presented by Representative VOLENIK of Brooklin.

Cosponsored by Representatives: GOODWIN of Pembroke, PIEH of Bremen, PINKHAM of Lamoine, SKOGLUND of St. George, STANWOOD of Southwest Harbor.

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

2 **Sec. 1. 12 MRSA §1862, sub-§10**, as enacted by PL 1997, c. 678,
4 §13, is amended to read:

6 **10. Aquaculture exemption.** A lease for the use of lands
8 under this section is not required for the development and
10 operation of any aquaculture facility if the owner or operator of
12 the facility has obtained a lease from the Commissioner of Marine
14 Resources under section 6072 6072-C. Ancillary equipment and
 facilities permanently occupying submerged lands on the lease
 site and not explicitly included in the lease granted by the
 Commissioner of Marine Resources are not exempt from the
 requirements of this section.

16 **Sec. 2. 12 MRSA §6072**, as amended by PL 1999, c. 267, §§1 and
18 2, is repealed.

20 **Sec. 3. 12 MRSA §§6072-A and 6072-B**, as enacted by PL 1997,
 c. 231, §6, are repealed.

22 **Sec. 4. 12 MRSA §6072-C** is enacted to read:

24 **§6072-C. Aquaculture leases**

26 **1. Aquaculture leases.** The commissioner shall determine
28 the number of aquaculture leases that may be issued based on the
 volume of aquaculture activity scientifically acceptable for the
 coast through the year 2010.

30 **2. Authority.** The commissioner may lease areas in, on and
32 under the coastal waters including the public lands beneath those
34 waters and portions of the intertidal zone for scientific
 research or for aquaculture of marine organisms.

36 **3. Aquaculture sites.** The commissioner shall research
38 areas of the coast and determine which sites are scientifically
 suitable for aquaculture.

40 **4. Site categories; acreage.** Aquaculture sites must be
42 listed in categories for which they are suitable, such as
 finfish, shellfish or seaweed. Sites may be divided into parcels
 of at least one acre but not more than 5 acres.

44 **5. Public hearings.** Final approval of a site must be
46 determined at a hearing held in the municipality of the proposed
48 aquaculture site. When a site is located in the jurisdiction of
50 the Maine Land Use Regulatory Commission, the hearing must be
 held in the nearest municipality.

52 A hearing must be held jointly with the department and the
 governing body of the municipality in which the site is located

2 or with the Maine Land Use Regulatory Commission when a site is
3 located in its jurisdiction.

4 6. Maps. The commissioner shall provide a map of the
5 suitable site to a municipality in which that site is located or
6 to the Maine Land Use Regulatory Commission when a site is
7 located in its jurisdiction.

8
9 7. Rules. The commissioner shall adopt rules to establish a
10 public hearing process that will expedite the granting of an
11 aquaculture lease for the approved site. Rules adopted pursuant
12 to this subsection are routine technical rules as defined in
13 Title 5, chapter 375, subchapter II-A.

14
15 **Sec. 5. 12 MRSA §6073-A**, as amended by PL 1999, c. 156, §1,
16 is further amended to read:

17 **§6073-A. Minimum size exemption; aquaculture**

18
19 The holder of a lease issued under section ~~6072,--6072-A-or~~
20 ~~6072-B~~ 6072-C is exempt from any requirement regarding the
21 minimum or maximum length or other minimum or maximum size
22 requirement for any marine organism cultivated on the leased
23 area. The exemption applies only to those organisms actually
24 cultivated on the leased area. The commissioner shall require a
25 system of identification of organisms exempted under this section.

26
27 **Sec. 6. 12 MRSA §6078, sub-§3**, as repealed and replaced by PL
28 1995, c. 609, §2, is amended to read:

29
30 **3. Production fee assessed.** A person producing salmon in
31 aquacultural facilities subject to section ~~6072~~ 6072-C shall pay
32 to the commissioner a fee of 1¢ per pound of whole fish
33 harvested. The person shall pay the fee within 30 days of
34 harvest. Timely payment of the fee is a condition of any lease
35 granted under section ~~6072~~ 6072-C for the production of salmon in
36 net-pen aquacultural facilities. The commissioner may assess a
37 late payment charge on any overdue payments computed at the
38 annual interest rate established by the State Tax Assessor under
39 Title 36, section 186. The commissioner may establish by rule
40 any procedural requirements for collection of the fee including
41 without limitation monthly reporting of harvest amounts and
42 reporting forms. Failure to pay the fee is a civil violation
43 punishable by a civil penalty not to exceed \$1,000.

44
45 **Sec. 7. 12 MRSA §6079, sub-§1**, as amended by PL 1997, c. 231,
46 §7, is further amended to read:

47
48 **1. Notice required.** When introducing an antibiotic into the
49 waters of the State at a ~~research site under section 6072-A-or~~ an
50 aquaculture leasehold site, a person shall post written public
51 notice in the municipality nearest the leasehold site in the same
52

2 location as that generally used to post notice of town meetings
or city elections. The notice must include the following
information:

4
6 A. The name and address of the aquaculture leaseholder and
an in-state telephone number for the leaseholder that can be
called to get further information on the antibiotic
8 application;

10 B. The name of the person or persons responsible for
applying the antibiotic;

12 C. The name of the antibiotic to be applied;

14 D. The dosage to be applied;

16 E. The time and duration of treatment; and

18 F. The date of posting.

20 **Sec. 8. 12 MRSA §6623, sub-§1-A**, as enacted by PL 1999, c.
22 112, §1, is amended to read:

24 **1-A. Artificial breathing device prohibited.** A person may
not fish for or take soft shell clams while using an artificial
26 breathing device that allows that person to breathe underwater.
This subsection does not apply to the holder of a lease issued
28 under section ~~6072, -6072-A or -6072-B~~ 6072-C when fishing for or
taking soft shell clams cultivated on the leased area.

30 **Sec. 9. 12 MRSA §6673, sub-§2**, as enacted by PL 1977, c. 661,
32 §5, is amended to read:

34 **2. Department procedure for review and approval.** The
commissioner shall use the same procedure and the same grounds
36 for approval as required for aquaculture leases under rules
adopted pursuant to section 6072 6072-C, except:

38 A. Preference ~~shall~~ will be given to municipal leases;

40 B. No rent ~~shall-be~~ is set, but there ~~shall-be~~ is an annual
42 municipal lease fee of not less than \$1 per acre;

44 C. The municipality may establish the conditions and limits
on the lease; and

46 D. The advice and consent of the advisory council ~~shall~~ is
48 not be required.

50 **Sec. 10. 12 MRSA §6957, sub-§1**, as amended by PL 1995, c. 169,
52 §2, is further amended to read:

1 **1. Prohibition.** A person may not operate a vessel using
2 drags, otter trawls, pair trawls, beam trawls, scottish seines or
4 midwater trawls to fish for or take finfish, shellfish, sea
6 urchins or any other marine organisms within 300 feet of any
8 suspended culture floating cages, tray racks or other floating
equipment authorized in a lease issued by the commissioner under
section 6072 6072-C, if the equipment is marked in accordance
with subsection 1-A.

10 **Sec. 11. 38 MRSA §480-Q, sub-§10,** as amended by PL 1991, c.
12 240, §1, is further amended to read:

14 **10. Aquaculture.** Aquaculture activities regulated by the
16 Department of Marine Resources under rules established pursuant
18 to Title 12, section 6072 6072-C. Ancillary activities,
including, but not limited to, building or altering docks or
filling of wetlands, are not exempt from the provisions of this
article;

20 **Sec. 12. 38 MRSA §488, sub-§13,** as enacted by PL 1993, c. 383,
22 §26 and affected by §42, is amended to read:

24 **13. Research and aquaculture leases.** Activities regulated
26 by the Department of Marine Resources under rules established
pursuant to Title 12, section 6072 6072-C are exempt from the
requirements of this article.

28 **Sec. 13. 38 MRSA §1022, third ¶,** as affected by PL 1989, c.
30 890, Pt. A, §40 and amended by Pt. B, §207, is further amended to
read:

32 In the case of waters adjacent to unorganized or deorganized
34 territory that is not an island, the Commissioner of Marine
Resources shall have the powers of municipal officers to issue
36 licenses under this section. Notwithstanding the provisions of
this section governing procedures, the Commissioner of Marine
38 Resources shall review the application and hold a hearing as if
this were a lease application under Title 12, section 6072,
40 ~~subsections-5-and-6~~ 6072-C, subsection 4.

42 **SUMMARY**

44 This bill changes the process for establishing aquaculture
46 sites through public hearings held jointly by the Department of
Marine Resources and the municipality in which the site would be
established.