

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1416

H.P. 1039

House of Representatives, March 20, 2003

An Act To Create an Owner-operator Requirement in the Scallop Fishery

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 BULL of Freeport.

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

4 **Sec. 1. 5 MRSA §12004-I, sub-§57-E** is enacted to read:

6 57-E. Scallop Expenses 12 MRSA
7 Marine Advisory Only §6729-B
8 Resources Council

10 **Sec. 2. 12 MRSA §6702**, as amended by PL 2001, c. 421, Pt. B, §41 and affected by Pt. C, §1, is repealed and the following enacted in its place:

12 **§6702. Scallop dragners license**

14 **1. License required.** A person may not engage in the activities authorized under this section without a current scallop dragners license.

18 **2. Licensed activity.** The holder of a scallop dragners license may use the vessel named on the holder's license to drag for scallops. The scallop dragners license authorizes the captain and crew members aboard the vessel named on the license to drag for and possess, ship, transport and sell scallops, except that the captain and crew members may not drag for scallops if the vessel owner or a family member of the vessel owner is not aboard the vessel pursuant to section 6721-A, subsection 1.

28 **3. Eligibility.** A scallop dragners license is a resident license and may be issued only to an individual.

32 **4. Exception.** In any one day, a person licensed pursuant to section 6703 may take or possess not more than 2 bushels of shell scallops or 4 quarts of shucked scallops for personal use without a scallop license under this section.

36 **5. Fee.** The fee for a scallop dragners license is \$89.

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

42 **Sec. 3. 12 MRSA §6721-A** is enacted to read:

44 **§6721-A. Vessel limitation**

46 **1. Owner on board.** Except as provided by subsection 2, paragraph B, beginning January 1, 2004, a person who holds a scallop dragners license may not fish for or take scallops from a vessel named on a scallop dragners license unless:

2 A. The owner of that vessel is present on that vessel and
3 holds a scallop dragger's license; or

4
5 B. A family member of the vessel owner under paragraph A is
6 present on that vessel and holds a scallop dragger's license.

7 For the purposes of this subsection, the term "family member" is
8 defined under section 6431-E, subsection 1, paragraph A, and the
9 term "owner" is defined under section 6431-E, subsection 1,
10 paragraph B.

11
12 2. Exemptions. Notwithstanding subsection 1, the
13 commissioner may authorize an individual to fish for or take
14 scallops from a vessel when the owner of that vessel is not on
15 board if:

16
17 A. The owner of that vessel holds a scallop dragger's
18 license, documents to the commissioner that an illness or
19 disability temporarily prevents that owner from fishing for
20 or taking scallops from that vessel and requests in writing
21 to the commissioner that the commissioner authorize that
22 person to use that vessel to fish for or take scallops;

23
24 B. The vessel named on the license of a license holder is
25 temporarily inoperable because of an accident or a
26 mechanical failure and the license holder requests in
27 writing to the commissioner that the commissioner authorize
28 the license holder to use another vessel to fish for or take
29 scallops for a set period of time until the original vessel
30 named on the license of the license holder is again
31 operable; or

32
33 C. The individual documents to the commissioner the
34 individual has held more than one scallop dragger's license
35 for 3 consecutive years, was the owner of the vessels named
36 on those licenses during those same years and is currently
37 the owner of the vessels named on those licenses. Under
38 this paragraph, the commissioner may renew each license held
39 by the individual if the vessel named on that license is
40 unchanged from the vessel named on the owner's scallop boat
41 license in 2003.

42
43 3. Liability. In the case of an exemption allowed under
44 subsection 2, the vessel owner is liable for the licensed
45 activities under this section of a person using that vessel to
46 fish for or take scallops.

47
48 Sec. 4. 12 MRSA §6728, sub-§2, as enacted by PL 2001, c. 192,
49 §1, is amended to read:

2 address the restoration, development or conservation of scallop
3 resources. The commissioner shall consult with the Scallop
4 Advisory Council under section 6729-B before deciding upon
5 research projects and awarding grants from the fund. The fund
6 may also be used for law enforcement and support for the Scallop
7 Advisory Council, including reimbursement for travel expenses.

8 2. Sources of revenue. The fund is capitalized by
9 surcharges assessed under section 6729. In addition to those
10 revenues, the commissioner may accept and deposit in the fund
11 money from any other source, public or private.

12 3. Scallop Advisory Council. The commissioner shall
13 consult with the Scallop Advisory Council under section 6729-B on
14 the expenditure of funds under this section.

15 **§6729-B. Scallop Advisory Council**

16 1. Appointment; composition. The Scallop Advisory Council,
17 referred to in this section as "the council," established by
18 Title 5, section 12004-I, subsection 57-E, consists of 13
19 members. The commissioner shall appoint the members as follows:

20 A. Four scallop harvesters who hold current hand fishing
21 scallop licenses;

22 B. Four scallop harvesters who hold current scallop
23 dragners licenses;

24 C. Two wholesale seafood license holders who deal in
25 scallops;

26 D. Two scientists who have expertise in marine resources
27 management; and

28 E. One person who is a public member.

29 The commissioner shall ensure geographic representation in making
30 appointments under paragraphs A and B.

31 2. Term. A member serves for a 2-year term, except that a
32 vacancy must be filled by the commissioner for the unexpired
33 portion of a term. When a vacancy occurs, the commissioner shall
34 fill the vacancy by appointing a member from the same category of
35 members listed in subsection 1 as the member who vacated the
36 council. A member continues to serve until the member's
37 successor is appointed.

38 3. Purpose. The council shall make recommendations to the
39 commissioner concerning:

