## 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)



## 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.

Sec. 1. 5	MRSA §12004-	I, sub-§57-E is	enacted to read:
<u>57-E.</u>	Scallop	Expenses	_
<u>Marine</u>	Advisory	<u>Only</u>	<u>§6729-B</u>
<u>Resources</u>	<u>Council</u>		
Sec. 2. 1	2 MRSA 86702	ac amended b	y PL 2001, c. 421, Pt. B
			epealed and the following
enacted in it		c, 31, 15 1.	specific and the rollowin
	r F		
§6702. Scal	lop draggers l	<u>icense</u>	
_	_		
	_	<del></del>	may not engage in the
		ider this se	ction without a curren
scallop drage	ers license.		
2. Lic	ensed activit	w. The hold	er of a scallop dragger
		_	e holder's license to dra
			license authorizes th
			ssel named on the licens
			sport and sell scallops
except that	the captain	and crew me	embers may not drag fo
scallops if	the vessel o	<u>wner or a fam</u>	nily member of the vesse
		e vessel <u>pur</u> s	suant to section 6721-A
subsection 1.	<u>.</u>		
יום כ	aihilita λ	caallen drage	ers license is a residen
		only to an ind	
11CCIISC QUQ I	acy DC 1554C4	Only co on and	
4. Exc	eption. In a	ny one day, a	person licensed pursuan
			ot more than 2 bushels o
			scallops for personal us
without a sca	ellop license	under this sec	tion.
5 B	Mha faa faa	11	1: :- #80
5. Fee	. The ree for	a scallop drag	gers license is \$89.
6. Vio	lation. A per	rson who viola	tes this section commits
	<del>-</del>		of not less than \$100 no
civil violat			
	00 may be adju	idged.	
more than \$50		_	
more than \$50		·A is enacted	to read:
Sec. 3. 1	2 MRSA §6721-	·A is enacted	to read:
Sec. 3. 1		·A is enacted	to read:
Sec. 3. 1	2 MRSA §6721-	-A is enacted	
Sec. 3. 1 §6721-A. Ve	2 MRSA §6721- ssel limitation	·A is enacted  •n  Except as 1	provided by subsection 2
Sec. 3. 1  \$6721-A. Very paragraph B.	2 MRSA §6721- ssel limitation on board. beginning J	•A is enacted •n  Except as 1 anuary 1, 200	provided by subsection 2 04, a person who holds
Sec. 3. 1  \$6721-A. Ver  1. Owner  paragraph B. scallop drag.	2 MRSA §6721- ssel limitation or on board. beginning J gers license r	•A is enacted •n  Except as 1 anuary 1, 200	provided by subsection 2 04, a person who holds or or take scallops from

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

2	A. The owner of that vessel is present on that vessel and holds a scallop draggers license; or
4	
6	B. A family member of the vessel owner under paragraph A is present on that vessel and holds a scallop draggers license.
8	For the purposes of this subsection, the term "family member" is defined under section 6431-E, subsection 1, paragraph A, and the
10	term "owner" is defined under section 6431-E, subsection 1, paragraph B.
12	
14	2. Exemptions. Notwithstanding subsection 1, the commissioner may authorize an individual to fish for or take
16	scallops from a vessel when the owner of that vessel is not on board if:
18	A. The owner of that vessel holds a scallop draggers license, documents to the commissioner that an illness or
20	disability temporarily prevents that owner from fishing for or taking scallops from that vessel and requests in writing
22	to the commissioner that the commissioner authorize that person to use that vessel to fish for or take scallops;
24	
26	B. The vessel named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in
28	writing to the commissioner that the commissioner authorize the license holder to use another vessel to fish for or take
30	scallops for a set period of time until the original vessel named on the license of the license holder is again
32	operable; or
34	C. The individual documents to the commissioner the individual has held more than one scallop draggers license
36	for 3 consecutive years, was the owner of the vessels named on those licenses during those same years and is currently
38	the owner of the vessels named on those licenses. Under this paragraph, the commissioner may renew each license held
40	by the individual if the vessel named on that license is unchanged from the vessel named on the owner's scallop boat
42	license in 2003.
44	3. Liability. In the case of an exemption allowed under subsection 2, the vessel owner is liable for the licensed
46	activities under this section of a person using that vessel to
	fish for or take scallops.
48	Sec. 4. 12 MRSA §6728, sub-§2, as enacted by PL 2001, c. 192,

§1, is amended to read:

50

2. Culling required. In the coastal waters northerly and			
inshore of the international bridge that connects Lubec to Campobello Island, New Brunswick, Canada, it is unlawful to			
possess, ship, transport, buy or sell scallops that are less than			
3 1/2 inches in the longest diameter. Those scallops that are			
less than 3 1/2 inches must be immediately liberated. It is			
prima facie evidence of possession of illegal scallops if a			
vessel contains scallops less than 3 1/2 inches while a scallop			
beat <u>draggers</u> license holder or crew member is shucking scallops.			
Sec. 5. 12 MRSA §6728, sub-§3, ¶B, as enacted by PL 2001, c.			
192, §1, is amended to read:			
D. For and substitute of the state of the st			
B. For each subsequent offense, a forfeiture of \$250 is imposed, all scallops on board may be seized and the scallop			
beat <u>draggers</u> license may be suspended for one year.			
page dradders liceuse may be sushended for one leat.			
Sec. 6. 12 MRSA c. 623, sub-c. 2, art. 3 is enacted to read:			
Article 3			
Scallop Research			
§6729. License surcharges			
1. License surcharges. The following surcharges are			
assessed on licenses issued by the department:			
abbabba on 1100mgo 100ma by the aspai minutes			
A. For a hand fishing scallop license, \$100;			
B. For a scallop draggers license, \$100; and			
C. For a scallop diving tender license, \$50.			
2 Dennik Mb. samiakana akali danak anak			
2. Deposit. The commissioner shall deposit surcharges			
assessed in this section in the Scallop Research Fund under section 6729-A.			
DCCCTAN AIRS -U.			
§6729-A. Scallop Research Fund			
The Scallop Research Fund, referred to in this section as			
"the fund," is established in the department. Balances in the			
fund may not lapse and must be carried forward to the next fiscal			
<u>year.</u>			
1. Uses of fund. The commissioner shall use the fund for			
research directly related to scallop fishery management			
information needs and for reporting to licensed scallop			
harvesters on the results of research and the use of fund			
revenues. The commissioner may authorize the expenditure of			
money in the fund for research and development programs that			

2	address the restoration, development or conservation of scallop
2	resources. The commissioner shall consult with the Scallop Advisory Council under section 6729-B before deciding upon
4	research projects and awarding grants from the fund. The fund
6	may also be used for law enforcement and support for the Scallop Advisory Council, including reimbursement for travel expenses.
_	
8	2. Sources of revenue. The fund is capitalized by surcharges assessed under section 6729. In addition to those
10	revenues, the commissioner may accept and deposit in the fund
10	money from any other source, public or private.
12	
	3. Scallop Advisory Council. The commissioner shall
14	consult with the Scallop Advisory Council under section 6729-B on
	the expenditure of funds under this section.
16	
7.0	§6729-B. Scallop Advisory Council
18	1 Appointments composition The Capillon Advisory Council
20	1. Appointment: composition. The Scallop Advisory Council, referred to in this section as "the council," established by
20	Title 5, section 12004-I, subsection 57-E, consists of 13
22	members. The commissioner shall appoint the members as follows:
24	A. Four scallop harvesters who hold current hand fishing
	<pre>scallop licenses;</pre>
26	
	B. Four scallop harvesters who hold current scallop
28	draggers licenses;
30	C. Two wholesale seafood license holders who deal in
30	scallops;
32	
	D. Two scientists who have expertise in marine resources
34	management; and
36	E. One person who is a public member.
2.0	
38	The commissioner shall ensure geographic representation in making appointments under paragraphs A and B.
40	appointments under paragraphs A and b.
10	2. Term. A member serves for a 2-year term, except that a
42	vacancy must be filled by the commissioner for the unexpired
	portion of a term. When a vacancy occurs, the commissioner shall
44	fill the vacancy by appointing a member from the same category of
	members listed in subsection 1 as the member who vacated the
46	council. A member continues to serve until the member's
4.0	successor is appointed.
48	

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

50

- A. Research projects and grants made by the Scallop Research Fund. The council may seek advice from scientists who have expertise in marine resources management in determining the research needs for the scallop fishery; and
  - B. Other matters of interest to the scallop fishery.
- 4. Compensation. Members are entitled to expenses
  according to Title 5, chapter 379.
  - 5. Chair and officers. The council shall choose annually one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.
- 16

  6. Meetings. The council shall meet at least once a year.

  It may also meet at other times at the call of the chair or the chair's designee or at the call of the commissioner or the commissioner's designee.

## **SUMMARY**

This bill changes the licensing for scallop dragging by licensing individuals rather than licensing the activities of a boat. The bill also adds an owner-operator provision to the scallop license, requiring that the owner of the vessel or a family member of the owner must be on board when that vessel is being used to harvest scallops. The bill makes exemptions for temporary illness or disability on the part of the owner or temporary changes due to a boat accident or mechanical failure. A grandfathering exemption is added to allow for a person who currently holds more than one scallop dragging license to continue to do so, and allow other individuals to use the vessel for scallop harvesting without the owner on board.

The bill creates the Scallop Research Fund, which may be used for research and development of the scallop resource and is funded by a surcharge to the scallop draggers license, the hand fishing scallop license and the scallop diving tender license. The bill creates the Scallop Advisory Council to make recommendations to the Commissioner of Marine Resources on expenditures from the fund and other matters of interest to the scallop fishery.