

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 602

H.P. 435

House of Representatives, February 3, 2005

An Act To Provide for a Limited Sea Cucumber 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 EDER of Portland.
Cosponsored by Representatives: KAELIN of Winterport, PERCY of Phippsburg.

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

4 **Sec. 1. 12 MRSA §6801-A** is enacted to read:

5 **§6801-A. Sea cucumber drag license**

6
7 **1. License required.** A person may not engage in the
8 activities authorized under this section without a current sea
9 cucumber drag license. A sea cucumber drag license must list the
10 documentation or registration number of the vessel to be used by
11 the licensee when dragging.

12
13 **2. Licensed activities.** The holder of a sea cucumber drag
14 license may use the vessel named on the holder's license to drag
15 for sea cucumbers. The license also authorizes the captain and
16 crew members aboard the vessel named on the license to drag for
17 and possess, ship, transport and sell sea cucumbers, except that
18 the captain and crew members may not drag for sea cucumbers if
19 the license holder is not aboard the vessel.

20
21 **3. Exemptions.** Notwithstanding subsection 2, the
22 commissioner may authorize a person to fish for or take sea
23 cucumbers from a vessel when the person holding a sea cucumber
24 drag license that contains the name of that vessel is not on
25 board if:

26
27 **A.** The holder of the sea cucumber drag license documents to
28 the commissioner that an illness or disability temporarily
29 prevents the license holder from fishing for or taking sea
30 cucumbers from that vessel and requests in writing to the
31 commissioner that the commissioner authorize another person
32 to use that vessel to fish for or take sea cucumbers from
33 the vessel; or

34
35 **B.** The vessel named on the license of a license holder is
36 temporarily inoperable because of an accident or a
37 mechanical failure and the license holder requests in
38 writing to the commissioner that the commissioner authorize
39 the license holder to use another vessel to fish for or take
40 sea cucumbers.

41
42 **4. Eligibility.** A sea cucumber drag license may be issued
43 only to an individual.

44
45 **5. Fee.** The fee for a sea cucumber drag license is \$111.

46
47 **6. Violation.** A person who commits a violation under this
48 section commits a civil violation for which a forfeiture of not
49 less than \$100 may be adjudged.

2 **Sec. 2. 12 MRSA §6813, sub-§3** is enacted to read:

4 3. Fees. The following fees must be assessed and credited
6 to the fund. Every wholesale seafood license holder that
8 purchases sea cucumbers shall keep, as a part of permanent
10 records, a record of all sea cucumbers purchased at point of
12 first sale. Every wholesale seafood license holder that
14 purchases sea cucumbers shall, on or before the last day of each
16 month, pay to the commissioner a fee of up to 20¢ for every 100
18 pounds reported as purchased. The commissioner shall establish
20 by rule the amount of the fee and any procedural requirements for
22 collection of the fee, including, but not limited to, reporting
24 forms and monthly reporting of purchase amounts. Timely payment
26 of the fee is a condition of renewal of the wholesale seafood
28 license issued under section 6851. If it appears to the
30 commissioner from an inspection of records or otherwise that an
32 additional fee is due or overpayment has been made, additional
34 assessments or refunds must be made by the commissioner to the
36 wholesale seafood license holder.

38 **Sec. 3. 12 MRSA §6814** is enacted to read:

40 §6814. Sea cucumber rules

42 The commissioner may adopt rules under chapter 607,
44 subchapter 1 to promote the conservation and propagation of sea
46 cucumbers. Those rules may include, but are not limited to, the
48 establishment of management areas in which the harvest of sea
50 cucumbers will be permitted, limits on the number of licenses
associated with those management areas and annual limits on total
harvest from each of those management areas. Rules adopted
pursuant to this section are routine technical rules as defined
in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA c. 623, sub-c. 4, art. 3 is enacted to read:

Article 3

LIMITATIONS ON SEA CUCUMBER DRAG LICENSES

§6821. Limited entry

1. License eligibility. The commissioner may not issue a
sea cucumber drag license under section 6801-A to any person
unless that person possessed that license in the previous
calendar year or becomes eligible to obtain that license pursuant
to a limited entry system under subsection 2.

2. Sea cucumber drag license limited entry system. The
commissioner may establish by rule a limited entry system under

2 which a person who did not hold a sea cucumber drag license under
4 section 6801-A in the previous calendar year may become eligible
6 to obtain that license. The rules for a limited entry system
8 must include provisions for the method and administration of the
10 system. Rules adopted pursuant to this subsection are routine
12 technical rules as defined in Title 5, chapter 375, subchapter
14 2-A.

16 **3. Exceptions.** Notwithstanding subsection 1, the following
18 persons may be issued a sea cucumber drag license for license
20 year 2006:

22 A. A person who was certified as eligible for and obtained
24 a sea cucumber endorsement in 2000; and

26 B. A person who reported landings of at least 100,000
28 pounds of sea cucumbers during license year 2002, 2003 or
30 2004.

32 **4. Protection from depletion.** The commissioner may adopt
34 rules for the sea cucumber drag license limited entry system to
36 prohibit new entry in a year when it is necessary to protect or
38 conserve the sea cucumber resource from imminent depletion.

40 **§6822. Licenses by area**

42 If management areas are established pursuant to section
44 6814, then a person eligible to purchase a license under section
46 6821 may purchase that license for only one of the management
48 areas. A person may not change from the management area in which
50 the person harvested sea cucumbers in the previous calendar year
unless the change is authorized in accordance with section 6823.
A sea cucumber drag license authorizes the licensed activity only
in the management area for which it is issued.

52 **§6823. Changing sea cucumber management areas**

54 This section applies if management areas are established
56 pursuant to section 6814.

58 **1. Authorization of changes.** Beginning in calendar year
60 2007, a person eligible to purchase a sea cucumber drag license
62 under section 6821 who wishes to change the management area in
64 which the person harvests sea cucumbers may not change management
66 areas unless the change is authorized by the commissioner in
68 accordance with this section.

70 **2. Management area change request on application.** A person
72 eligible to purchase a sea cucumber drag license under section
74 6821 who wishes to change the management area in which that

2 person was licensed to harvest sea cucumbers in the previous
3 calendar year must indicate on a sea cucumber drag license
4 application form a preference to change the management area in
5 which the person harvests sea cucumbers. The commissioner shall
6 stamp each sea cucumber drag license application form with the
7 time and date of submission.

8 **3. Conditions for authorization.** A request to change
9 management areas is authorized based on the commissioner's
10 assessment of the ability of the management area to sustain
11 additional fishing effort. The commissioner shall authorize
12 management area change requests in chronological order of
13 requests received under this section.

14 **4. Limitation on approving management area change.** The
15 commissioner may not authorize a management area change during
16 the period from October 1st to June 30th.

17 **5. Effective date of management area change.** The effective
18 date of a management area change authorized by the commissioner
19 is October 1st.

22

SUMMARY

24

25 This bill creates a sea cucumber drag license. It requires
26 the Commissioner of Marine Resources to establish by rule a fee
27 of no more than 20¢ for every 100 pounds to be paid monthly by
28 wholesale seafood license holders who purchase sea cucumbers.
29 The fees will be deposited in the Sea Cucumber Management Fund
30 and will be used to research and manage the sea cucumber
31 fishery. The bill also gives the commissioner authority to adopt
32 rules to promote the conservation and propagation of sea
33 cucumbers, including, but not limited to, the establishment of
34 management areas. A protocol for license holders to change
35 management areas is established. This bill sets up a limited
36 entry system for sea cucumbers, under which the commissioner may
37 issue a sea cucumber drag license to a person only if that person
38 possessed a license in the previous calendar year or becomes
39 eligible to obtain a sea cucumber drag license through a limited
40 entry system developed by rule.