

MAINE STATE LEGISLATURE

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Date: 3/24/04
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L.D. 2049
(Filing No. H-880)

3 **Marine Resources**

4 Reproduced and distributed under the direction of the Clerk of the House.

5 **STATE OF MAINE**
6 **HOUSE OF REPRESENTATIVES**
7 **122ND LEGISLATURE**
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to H.P. 1443, L.D. 2049, Bill, "An Act To
10 Amend the Laws Regarding Aquaculture Leases"

11 Amend the bill by striking out everything after the title and before the summary and
12 inserting in its place the following:

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

15 **Whereas,** the aquaculture industry in Maine has been going through a period of
16 consolidation and contraction; and

17 **Whereas,** the current fallowing requirements for aquaculture facilities are causing
18 unnecessary financial hardship for the aquaculture industry; and

19 **Whereas,** this Act must take effect immediately to provide aquaculture facilities
20 with enough time to respond to the changes in the fallowing laws this year; and

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

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

26 **Sec. 1. 12 MRSA §6072, sub-§2, ¶E,** as amended by PL 2003, c. 660, Pt. A, §3,
27 is further amended to read:

28 E. Except as provided in subsection 13-A, the lease does not result in a person
29 being a tenant of any kind in leases covering an aggregate of more than ~~300~~ 500
30 acres; and

31 **Sec. 2. 12 MRSA §6072, sub-§12, ¶D,** as amended by PL 2003, c. 660, Pt. A,
32 §8, is further amended to read:

COMMITTEE AMENDMENT

Ads

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1 D. Except as provided in subsection 13-A, the renewal will not cause the lessee to
2 become a tenant of any kind in leases covering an aggregate of more than ~~300~~ 500
3 acres; and

4 **Sec. 3. 12 MRSA §6072, sub-§12-A, ¶B**, as amended by PL 2003, c. 660, Pt. A,
5 §9, is further amended to read:

6 B. The commissioner may grant lease transfers if the commissioner determines that:

- 7 (1) The change in lessee does not violate any of the standards in subsection 7;
- 8 (2) The transfer is not intended to circumvent the intent of subsection 8;
- 9 (3) The transfer is not for speculative purposes; and
- 10 (4) Except as provided in subsection 13-A, the transfer will not cause the
- 11 transferee to be a tenant of any kind in leases covering an aggregate of more than
- 12 ~~300~~ 500 acres.

13 **Sec. 4. 12 MRSA §6072, sub-§13-A**, as enacted by PL 2003, c. 660, Pt. A, §14,
14 is repealed and the following enacted in its place:

15 **13-A. Lease acreage increase; fallowing.** The commissioner may require a person
16 to submit an annual fallowing plan and a reassessment schedule for that plan to the
17 commissioner that identifies lease sites that have been actively operated during the lease
18 period and that will be fallowed. The commissioner shall review the plan and
19 reassessment schedule and may approve them, reject them or request changes. Revisions
20 to the plan must be submitted in accordance with the reassessment schedule unless the
21 commissioner authorizes an exception due to extraordinary circumstances.

22 A. Except as provided in paragraph B, a person may not be a tenant of any kind in
23 leases covering an aggregate of more than 500 acres including fallowed leases at any
24 time.

25 B. The commissioner may by rule authorize leases in excess of the 500-acre limit if
26 the commissioner determines that the increase is beneficial for the management of
27 aquaculture and is environmentally and economically appropriate. The commissioner
28 may not authorize a person to be a tenant of any kind in leases covering an aggregate
29 of more than 1,500 acres. Rules adopted pursuant to this paragraph are routine
30 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

31 For purposes of this subsection, "fallow" means a lease site without cultured organisms.
32 A lease site fallowed pursuant to an enforcement action may not be considered fallowed
33 for the purpose of this subsection.

34 **Emergency clause.** In view of the emergency cited in the preamble, this Act takes
35 effect when approved.'

36 **SUMMARY**

37 This amendment replaces the bill and does the following.

- 38 1. It increases the number of acres that can be actively used for aquaculture from an
- 39 aggregate of 300 acres to an aggregate of 500 acres.

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1443, L.D. 2049

- 1 2. It authorizes the Commissioner of Marine Resources to extend the 500-acre limit
- 2 by rule but limits the total acreage to 1,500 acres per person.
- 3 3. It deletes the 12-month minimum fallowing time so that fallows may be of any
- 4 duration.
- 5 4. It gives the Commissioner of Marine Resources the discretion to require a person
- 6 in aquaculture to submit a fallowing plan and reassessment schedule. Under current law a
- 7 person may be authorized to have up to 500 acres in aquaculture as long as at least 200
- 8 acres are fallowed and that person submits a fallowing plan to the Commissioner of
- 9 Marine Resources.
- 10 5. It amends the definition of "fallow" to allow gear at the lease site.
- 11 6. It adds an emergency preamble and emergency clause to the bill, making it
- 12 effective upon approval.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 2049

LR 3189(02)

An Act to Amend the Laws Regarding Aquaculture Leases

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

Future biennium revenue increase - General Fund

Future biennium revenue increase - Other Special Revenue Funds

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	(\$2,000)	\$0	
Revenue				
General Fund	\$0	\$2,000	\$0	\$0
Other Special Revenue Funds	\$0	\$3,000	\$0	\$0

Fiscal Detail and Notes

Certain changes in the laws governing aquaculture leases will result in a one-time increase in application fee revenue collected by the Department of Marine Resources. The department estimates that \$2,000 in additional General Fund revenue and \$3,000 in Other Special Revenue Funds revenue will be collected in fiscal year 2006-07. In addition, it is likely that the department will collect additional revenue for both fund sources in the 2008-2009 biennium from lease fees emanating from any of the applications that may be approved. The amounts will depend on the number of approved leases and the amount of leased acreage and can not be determined at this time.