

# MAINE STATE LEGISLATURE

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Date: 3/28/08

L.D. 2071  
(Filing No. H-863)

**MARINE RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1455, L.D. 2071, Bill, "An Act To Amend Maine's Scallop Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

**PART A**

**Sec. A-1. 12 MRSA §6073-B** is enacted to read:

**§6073-B. Harvester license exemption; scallop aquaculture**

The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement under sections 6701, 6702 and 6703 to hold a separate license for the removal, possession, transport or sale of scallops from the leased area or the licensed gear when the final product form is the adductor muscle only. This exemption does not apply to scallops in any other form.

Amend the bill in section 1 in §6702 in subsection 4 in the 2nd line (page 1, line 29 in L.D.) by striking out the following: "2 bushels of shell scallops or 4 quarts" and inserting the following: '~~2 bushels~~ 1 bushel of shell scallops or ~~4 quarts~~ 2 quarts'

Amend the bill by inserting after section 1 the following:

**Sec. 2. 12 MRSA §6703, sub-§3**, as amended by PL 2003, c. 452, Pt. F, §19 and affected by Pt. X, §2, is further amended to read:

**3. License limitation; quantity.** In any one day, the holder of a noncommercial scallop license may not take or possess more than ~~2 bushels~~ 1 bushel of shell scallops or ~~4 quarts~~ 2 quarts of shucked scallops.'

Amend the bill in section 2 in §6706 in subsection 1 by striking out all of paragraph A and inserting the following:

**COMMITTEE AMENDMENT**

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1 'A. The 2005, 2006 or 2007 license year; or'  
2 Amend the bill in section 2 in §6706 in subsection 1 by striking out all of paragraph  
3 B and inserting the following:

4 'B. The 2008 license year prior to March 3, 2008.'  
5 Amend the bill by striking out all of sections 5 and 6 and inserting the following:

6 'Sec. 5. 12 MRSA §6723, as amended by PL 1981, c. 91, is repealed and the  
7 following enacted in its place:

8 **§6723. Drag limits in Blue Hill Bay**

9 **1. Drag limit.** Except as provided by rule pursuant to section 6727-A, subsection 2, a  
10 person may not fish for or take scallops with any one combination of scallop drags in  
11 excess of 8 feet, 6 inches in width, measured from the extreme outside edge of the mouth  
12 of the drag or drags, in Blue Hill Bay above or north of a line drawn from Bass Harbor  
13 Head in the Town of Tremont westerly to Pond Island and thence to Naskeag Point in the  
14 Town of Brooklin.

15 **2. Violation.** A person who violates this section commits a civil violation for which  
16 the following penalties apply:

17 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
18 board may be seized;

19 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
20 board may be seized; and

21 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
22 scallops on board may be seized. This penalty is imposed in addition to the penalty  
23 imposed under section 6728-B.

24 **Sec. 6. 12 MRSA §6726, sub-§1,** as amended by PL 2001, c. 272, §15, is further  
25 amended to read:

26 **1. Minimum size.** ~~It is unlawful to utilize~~ The minimum ring size is 3 1/2 inches  
27 except as provided by rule. The commissioner shall establish by rule a minimum ring  
28 size that may not be smaller than 4 inches in diameter. A person may not use a drag to  
29 fish for or take scallops in the territorial waters with rings that measure less than: ~~the ring~~  
30 size provided pursuant to this subsection. Rules adopted pursuant to this subsection are  
31 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

32 ~~B. From December 1, 1999 to April 15, 2000, 3 1/4 inches in diameter; and~~

33 ~~C. On December 1, 2000 and thereafter, 3 1/2 inches in diameter.~~

34 **Sec. 7. 12 MRSA §6727,** as amended by PL 2001, c. 272, §16, is repealed.

35 **Sec. 8. 12 MRSA §6727-A** is enacted to read:

1 **§6727-A. Drag width**

2 **1. Width limit.** Except as provided in subsection 2, a person may not possess on  
3 any vessel fishing for scallops in the territorial waters, or use when fishing for or taking  
4 scallops in the territorial waters, a drag or any combination of drags that measures in  
5 excess of 10 feet, 6 inches across from one extreme outside edge of the mouth of the drag  
6 or combination of drags to the opposite extreme outside edge.

7 **2. Rules to reduce size limits.** The commissioner shall adopt by rule the maximum  
8 width of a drag or combination of drags used to fish for scallops that is no more than 5  
9 feet, 6 inches across from one extreme outside edge of the mouth of the drag or  
10 combination of drags to the opposite extreme outside edge. Rules adopted pursuant to this  
11 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

12 **3. Possession of oversized drag.** A person may not possess on any vessel fishing  
13 for scallops in the territorial waters, or use when fishing for or taking scallops in the  
14 territorial waters, a drag or any combination of drags that measures in excess of the limit  
15 set pursuant to this section.

16 **4. Violation.** A person who violates this section commits a civil violation for which  
17 the following penalties apply:

18 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
19 board may be seized;

20 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
21 board may be seized; and

22 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
23 scallops on board may be seized. This penalty is imposed in addition to the penalty  
24 imposed under section 6728-B.

25 **Sec. 9. 12 MRSA §6728, sub-§3,** as enacted by PL 2001, c. 192, §1, is repealed.

26 **Sec. 10. 12 MRSA §6728, sub-§3-A** is enacted to read:

27 **3-A. Violation.** A person who violates this section commits a civil violation. The  
28 following penalties apply:

29 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
30 board may be seized; and

31 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
32 board may be seized; and

33 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
34 scallops on board may be seized and the scallop dragging license may be suspended  
35 for one year. This penalty is imposed in addition to the penalty imposed under section  
36 6728-B.

37 **Sec. 11. 12 MRSA §6729, sub-§1,** as enacted by PL 2003, c. 319, §2, is amended  
38 to read:

39 **1. License surcharges.** The following surcharges are assessed on licenses issued by  
40 the department:

COMMITTEE AMENDMENT "A" to H.P. 1455, L.D. 2071

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- 1 A. For a hand fishing scallop license, \$100;
- 2 B. For a scallop draggers license, \$100; and
- 3 C. For a scallop diving tender license, \$50; and
- 4 D. For a noncommercial scallop license, \$40.'
- 5 Amend the bill by inserting after section 7 the following:

6 **'Sec. 8. Development of a strategic plan to rebuild and manage Maine's**  
7 **scallop resource.** The Scallop Advisory Council, referred to in this section as "the  
8 council," and the Department of Marine Resources, referred to in this section as "the  
9 department," shall develop a comprehensive strategic plan that will rebuild Maine's  
10 scallop resource and create a sustainable scallop fishery. Maine's scallop stocks are in  
11 sharp decline, and the plan must propose steps that are commensurate with the dire status  
12 of the fishery. The plan must provide short-term and long-term bench marks for  
13 measuring progress in rebuilding the scallop stock over the entire coastline of the state.  
14 The council and the department shall use the following as a guide for discussion in the  
15 development of the strategic plan:

- 16 1. Entry restrictions to reduce fishing efforts, including, but not limited to, limited  
17 entry or a moratorium on the issuance of scallop licenses;
- 18 2. Management options for consideration, including, but not limited to:
  - 19 A. The complete closure of the scallop fishery to allow the resource to recover;
  - 20 B. Closure of the scallop fishery except for Cobscook Bay to allow for resource  
21 recovery outside of Cobscook Bay with measures to protect scallops in Cobscook  
22 Bay from overfishing; and
  - 23 C. Rotational management in which a significant portion of the coast is closed on a 3-  
24 year or 4-year rotation until a biological target is achieved;
  - 25 D. Management of the scallop and urchin fishery, together with potential for using  
26 the current sea urchin assessment zones;
  - 27 E. Creation of scallop seed conservation areas to allow scallops to mature and spawn  
28 for the benefit of the entire coast, taking into consideration all cable areas and the size  
29 of the areas needed to be effective and enforceable;
  - 30 F. Size restrictions, including a maximum and minimum shell size that will enhance  
31 fecundity rates; and
  - 32 G. Gear restrictions that include but are not limited to changes in drag configuration  
33 to minimize impacts on habitat and damage to undersized and oversized scallops,  
34 reduction in drag cable size and ring size and larger minimum mesh size for the upper  
35 bag; and
- 36 3. Other options for consideration, including, but not limited to, adjustments to the  
37 scallop fishing season, a ban on Sunday fishing or weekend fishing and daily catch and  
38 possession limits for commercial and noncommercial fisheries.

COMMITTEE AMENDMENT "A" to H.P. 1455, L.D. 2071

1 The council and department shall jointly report the strategic plan, including findings,  
2 recommendations and necessary implementing legislation and rules to be adopted to  
3 implement the plan, to the joint standing committee of the Legislature having jurisdiction  
4 over marine resources matters no later than January 5, 2009. The joint standing  
5 committee may submit legislation to the First Regular Session of the 124th Legislature  
6 relating to the report and strategic plan.

7 **PART B**

8 **Sec. B-1. 12 MRSA §6701, sub-§6**, as enacted by PL 2001, c. 421, Pt. B, §40  
9 and affected by Pt. C, §1, is amended to read:

10 **6. Violation.** A person who violates this section commits a civil violation for which  
11 ~~a forfeiture of not less than \$100 nor more than \$500 may be adjudged.~~ the following  
12 penalties apply:

13 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
14 board may be seized;

15 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
16 board may be seized; and

17 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
18 scallops on board may be seized. This penalty is imposed in addition to the penalty  
19 imposed under section 6728-B.

20 **Sec. B-2. 12 MRSA §6702, sub-§6**, as enacted by PL 2001, c. 421, Pt. B, §41  
21 and affected by Pt. C, §1, is amended to read:

22 **6. Violation.** A person who violates this section commits a civil violation for which  
23 ~~a forfeiture of not less than \$100 nor more than \$500 may be adjudged.~~ the following  
24 penalties apply:

25 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
26 board may be seized;

27 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
28 board may be seized; and

29 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
30 scallops on board may be seized. This penalty is imposed in addition to the penalty  
31 imposed under section 6728-B.

32 **Sec. B-3. 12 MRSA §6703, sub-§5**, as enacted by PL 1999, c. 771, Pt. B, §9 and  
33 affected by Pt. D, §§1 and 2, is amended to read:

34 **5. Penalty.** A person who violates this section commits a civil violation for which a  
35 ~~forfeiture of not less than \$100 and not more than \$500 may be adjudged.~~ the following  
36 penalties apply:

37 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
38 board may be seized;

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1 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
2 board may be seized; and

3 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
4 scallops on board may be seized. This penalty is imposed in addition to the penalty  
5 imposed under section 6728-B.

6 **Sec. B-4. 12 MRSA §6721-A, sub-§5**, as reallocated by PL 2003, c. 520, §8, is  
7 amended to read:

8 **5. Violation.** A person who violates this section commits a civil violation. ~~The for~~  
9 which the following penalties apply:

10 A. For the first offense, a mandatory fine of \$250 \$500 is imposed and all scallops  
11 on board may be seized;

12 B. For the 2nd ~~and each subsequent~~ offense, a mandatory fine of \$250 \$750 is  
13 imposed; and all scallops on board may be seized and the scallop boat license may be  
14 suspended for one year; and

15 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
16 scallops on board may be seized. This penalty is imposed in addition to the penalty  
17 imposed under section 6728-B.

18 **Sec. B-5. 12 MRSA §6722**, as amended by PL 2001, c. 272, §14, is repealed and  
19 the following enacted in its place:

20 **§6722. Scallop season**

21 **1. Scallop fishing season.** Unless modified by regulation adopted under section  
22 6171-A, a person may not fish for or take scallops in the territorial waters from April 16th  
23 to November 30th.

24 **2. Violations.** A person who violates this section commits a civil violation for which  
25 the following penalties apply:

26 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
27 board may be seized;

28 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
29 board may be seized; and

30 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
31 scallops on board may be seized. This penalty is imposed in addition to the penalty  
32 imposed under section 6728-B.

33 **Sec. B-6. 12 MRSA §6724**, as enacted by PL 1977, c. 661, §5, is repealed and the  
34 following enacted in its place:

35 **§6724. Otter trawl in Penobscot River**

36 **1. Prohibition.** A person may not fish for or take scallops by use of an otter trawl  
37 inside and upriver of a line drawn from the lighthouse on Dice Head, Castine to Turtle  
38 Head on Islesboro and thence to the town wharf at Bayside, Northport.

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1 2. Violations. A person who violates this section commits a civil violation for which  
2 the following penalties apply:

3 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
4 board may be seized;

5 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
6 board may be seized; and

7 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
8 scallops on board may be seized. This penalty is imposed in addition to the penalty  
9 imposed under section 6728-B.

10 **Sec. B-7. 12 MRSA §6725**, as enacted by PL 1977, c. 661, §5, is repealed and the  
11 following enacted in its place:

12 **§6725. Possession of illegal scallops**

13 **1. Prohibition.** A person may not possess, ship, transport, buy or sell scallops taken  
14 in violation of this subchapter.

15 **2. Violations.** A person who violates this section commits a civil violation for which  
16 the following penalties apply:

17 A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on  
18 board may be seized;

19 B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on  
20 board may be seized; and

21 C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all  
22 scallops on board may be seized. This penalty is imposed in addition to the penalty  
23 imposed under section 6728-B.

24 **Sec. B-8. 12 MRSA §6728-B** is enacted to read:

25 **§6728-B. Habitual violations**

26 The commissioner shall suspend the hand fishing scallop license or other license  
27 issued under this Part authorizing the taking of scallops of any license holder adjudicated  
28 or convicted in court of a 3rd or subsequent violation of this subchapter. The suspension  
29 must be for at least one year from the date of conviction and may be for up to 3 years.'

30 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
31 section number to read consecutively.

32 **SUMMARY**

33 This amendment:

34 1. Reduces by 1/2 the daily quantity of scallops a person with a noncommercial  
35 scallop license can harvest or possess to 1 bushel of shell scallops or 2 quarts of shucked  
36 scallops;





- 1           2. Provides that the holder of an aquaculture lease is not required to hold a separate  
2 license for the removal, possession, transport or sale of scallops from the leased area or  
3 the licensed gear when the final product form is the adductor muscle only;
- 4           3. Provides for a \$40 surcharge for noncommercial scallop licenses;
- 5           4. Increases the number of people eligible to obtain a scallop fishing license in 2009  
6 by increasing the eligibility period from those who held a scallop license between 2006  
7 and April 15, 2007 to those who held a scallop license between 2005 and March 3, 2008;
- 8           5. Directs the Commissioner of Marine Resources to adopt rules to establish a  
9 minimum ring size of no less than 4 inches;
- 10          6. Directs the Commissioner of Marine Resources to adopt by rule the maximum size  
11 for the mouth of a drag or combination of drags used together that is no more than 5 feet,  
12 6 inches across;
- 13          7. It directs the Scallop Advisory Council and the Department of Marine Resources to  
14 develop a comprehensive strategic plan that will rebuild Maine's scallop resource and  
15 create a sustainable scallop fishery. The council and department shall report the plan,  
16 including findings, recommendations and necessary implementing legislation, to the joint  
17 standing committee of the Legislature having jurisdiction over marine resources matters  
18 no later than January 5, 2009. The joint standing committee may submit legislation to the  
19 First Regular Session of the 124th Legislature relating to the report and strategic plan;  
20 and
- 21          8. Provides that for any violation of a scallop law or rule all scallops on board may be  
22 seized and for the first offense a mandatory fine of \$500 is imposed, for the 2nd offense a  
23 mandatory fine of \$750 is imposed and for the 3rd and subsequent offenses a mandatory  
24 fine of \$750 is imposed.

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**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 2071

LR 3069(02)

## An Act To Amend Maine's Scallop Laws

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

Committee: Marine Resources

Fiscal Note Required: Yes

### Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund

|                             | 2007-08 | 2008-09  | Projections<br>2009-10 | Projections<br>2010-11 |
|-----------------------------|---------|----------|------------------------|------------------------|
| <b>Revenue</b>              |         |          |                        |                        |
| Other Special Revenue Funds | \$0     | \$18,250 | \$18,250               | \$18,250               |

#### Correctional and Judicial Impact Statements

Establishes new civil violations. The collection of additional fines may also increase General Fund revenue by minor amounts.

#### Fiscal Detail and Notes

The \$40 surcharge for noncommercial scallop licenses will increase Other Special Revenue Funds within the Department of Marine Resources by \$18,250 beginning in fiscal year 2008-09.