

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 2071

H.P. 1455

House of Representatives, December 21, 2007

An Act To Amend Maine's Scallop Laws

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2007. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERCY of Phippsburg.

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

2 **Sec. 1. 12 MRSA §6702**, as amended by PL 2003, c. 20, Pt. WW, §14 and c. 248,
3 §8, is further amended to read:

4 **§6702. Scallop dragging license**

5 **1. License required.** A person may not use a boat for dragging for scallops unless
6 that ~~boat carries~~ person holds a scallop ~~boat~~ dragging license issued by the commissioner
7 and that boat is identified on the license.

8 **2. Licensed activity.** A ~~boat~~ person licensed under this section may ~~be used for~~
9 dragging use the boat identified on the license to drag for scallops and ~~to~~ possess, ship,
10 sell or transport shucked scallops taken under the license. The license also authorizes the
11 captain and crew members aboard the ~~licensed~~ boat identified on the license when
12 engaged in dragging for scallops to undertake these activities, except that the captain and
13 crew members may not fish for or take scallops if the license holder is not aboard that
14 boat except as provided in subsection 2-A.

15 **2-A. Exemptions.** Notwithstanding subsection 2, the commissioner may authorize a
16 person to fish for or take scallops from a boat when the person holding a scallop dragging
17 license that contains the name of that boat is not on board if:

18 A. The holder of the scallop dragging license documents to the commissioner that an
19 illness or disability temporarily prevents the license holder from fishing for or taking
20 scallops from that boat and requests in writing to the commissioner that the
21 commissioner authorize another person to use that boat to fish for or take scallops; or

22 B. The boat named on the license of a license holder is temporarily inoperable
23 because of an accident or a mechanical failure and the license holder requests in
24 writing to the commissioner that the commissioner authorize the license holder to use
25 another boat to fish for or take scallops.

26 **3. Eligibility.** A scallop ~~boat~~ dragging license may be issued only to an individual
27 who is a resident.

28 **4. Personal use exception.** In any one day, a person licensed pursuant to section
29 6703 may take or possess not more than 2 bushels of shell scallops or 4 quarts of shucked
30 scallops for personal use without a scallop dragging license under this section.

31 **5. Fee.** The fee for a scallop ~~boat~~ dragging license is \$111.

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

34 **Sec. 2. 12 MRSA §6706** is enacted to read:

1 **§6706. Limited entry**

2 **1. License eligibility in 2009.** The commissioner may not issue a 2009 hand fishing
3 scallop license or a 2009 scallop dragging license to a person unless that person possessed
4 a scallop license issued pursuant to section 6701 or a scallop boat license issued pursuant
5 to section 6702 in either:

6 A. The 2006 license year; or

7 B. The 2007 license year prior to April 15, 2007.

8 **2. License eligibility in subsequent years.** Except as provided in subsection 3, the
9 commissioner may not issue a hand fishing scallop license or a scallop dragging license
10 to any person in any year subsequent to 2009 unless that person possessed that license in
11 the previous calendar year.

12 **3. Scallop license limited entry system.** Notwithstanding subsection 2, the
13 commissioner shall establish by rule a limited entry system under which a person who did
14 not hold a hand fishing scallop license or a scallop dragging license in the previous
15 calendar year may become eligible to obtain that license. The rules for a limited entry
16 system must include provisions for the method and administration of the program. Rules
17 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
18 chapter 375, subchapter 2-A.

19 **Sec. 3. 12 MRSA §6721-A, sub-§2,** as reallocated by PL 2003, c. 520, §8. is
20 amended to read:

21 **2. Prima facie evidence.** It is prima facie evidence of possession of illegal scallops
22 if a vessel contains scallops less than the minimum shell size set by this section or the
23 minimum shell size set by rules adopted pursuant to this section while a scallop boat
24 dragging license holder or crew member is shucking scallops.

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

27 B. For the 2nd and each subsequent offense, a fine of \$250 is imposed, all scallops
28 on board may be seized and the scallop boat dragging license may be suspended for
29 one year.

30 **Sec. 5. 12 MRSA §6726, sub-§1,** as amended by PL 2001, c. 272, §15, is further
31 amended to read:

32 **1. Minimum size.** It is unlawful to utilize a drag to fish for or take scallops in the
33 territorial waters with rings that measure less than:

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

35 ~~C. On From December 1, 2000 and thereafter to April 15, 2008, 3 1/2 inches in~~
36 ~~diameter ; and~~

37 D. From December 1, 2008 and thereafter, 4 inches in diameter.

