

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1605

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H.P. 1177

House of Representatives, December 30, 2013

### An Act To Amend Maine's Aquaculture Laws

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

Received by the Clerk of the House on December 23, 2013. 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 DEVIN of Newcastle.

Cosponsored by Representative: EVANGELOS of Friendship.

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

2               **Sec. 1. 12 MRSA §6072, sub-§18** is enacted to read:

3               **18. Violation.** A person who violates a condition of a lease under this section  
4               commits a civil violation for which a fine of not less than \$100 for each violation may be  
5               adjudged.

6               **Sec. 2. 12 MRSA §6072-A, sub-§24** is enacted to read:

7               **24. Violation.** A person who violates a condition of a lease under this section  
8               commits a civil violation for which a fine of not less than \$100 for each violation may be  
9               adjudged.

10              **Sec. 3. 12 MRSA §6072-C, sub-§2,** as amended by PL 2009, c. 229, §5, is  
11              further amended to read:

12              **2. Licensed activities; criteria.** The holder of a limited-purpose aquaculture license  
13              may place marine organisms on the ocean bottom without gear or utilize approved  
14              aquaculture gear in a site in the coastal waters of the State to engage in certain  
15              aquaculture activities that meet the criteria established in this subsection and in rules  
16              adopted by the commissioner. The license also authorizes unlicensed individuals to assist  
17              the license holder in the licensed activities with the written permission of the license  
18              holder. The commissioner, or qualified professional department staff designated in  
19              writing by the commissioner, may issue a limited-purpose aquaculture license for certain  
20              aquaculture activities if:

21              A. The proposed activity generates no discharge into coastal waters;

22              B. The applicant proposes to utilize aquaculture gear and markings approved by the  
23              commissioner in rules adopted pursuant to subsection 8;

24              C. The gear, excluding mooring equipment, does not cover more than 400 square  
25              feet of area and the gear does not present an unreasonable impediment to safe  
26              navigation;

27              D. The proposed activity does not unreasonably interfere with the ingress and egress  
28              of riparian owners;

29              E. The proposed activity does not unreasonably interfere with fishing or other uses of  
30              the area, taking into consideration the number and density of aquaculture leases and  
31              licensed aquaculture activities in that area;

32              F. The applicant holds no more than 3 other limited-purpose aquaculture licenses  
33              issued under this section; and

34              G. The consent of the riparian ~~landowner~~ owner is obtained if the proposed activity  
35              is located above the mean low-water mark.

36              **Sec. 4. 12 MRSA §6072-C, sub-§7-A** is enacted to read:

**7-A. Prohibition, taking product.** A person other than a marine patrol officer or the license holder, or the license holder's assistant with written permission from the license holder, may not take any marine organism product from the area designated on the license and marked in accordance with applicable rules.

**Sec. 5. 12 MRSA §6072-C, sub-§10** is enacted to read:

**10. Reporting requirement; confidentiality.** A holder of a limited-purpose aquaculture license shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. The seeding and harvesting reports submitted by a license holder under this subsection are considered proprietary information for the purposes of section 6173-A.

**Sec. 6. 12 MRSA §6601, sub-§2-A**, as enacted by PL 2007, c. 522, §3, is amended to read:

**2-A. Licensed activities; aquaculture.** The holder of a commercial shellfish license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a commercial shellfish license may remove, possess, transport within the state limits or sell cultured shellfish the holder has removed from the leased area or the licensed gear to a wholesale seafood license holder certified under section 6856. Such a holder of a commercial shellfish license may also sell such shellstock from that license holder's home in the retail trade. A holder of a commercial shellfish license who is also the holder of a lease issued under section 6072 or 6072-A or that holder's authorized representative may sell such shellstock from the holder's lease site in the retail trade. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 12 MRSA §6863, first ¶**, as enacted by PL 1991, c. 876, §2, is amended to read:

A person may not grow cultchless American oysters in the State unless licensed under this section, except that a person who is the holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is not required to obtain a cultchless American oyster growers license.

## SUMMARY

This bill makes a number of changes to Maine's aquaculture laws, including creating a violation provision for aquaculture leases and limited-purpose leases and clarifying that holders of limited-purpose aquaculture licenses may place marine organisms on the ocean bottom without gear and that the product associated with the license is protected. It creates a reporting requirement for limited-purpose aquaculture license holders. It provides that lease holders may sell their product from their lease sites in the retail trade. It creates an exemption from the requirement to have a cultchless American oyster

1 growers license for those individuals who hold an aquaculture lease or limited-purpose  
2 aquaculture license.