

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1502

S.P. 527

In Senate, April 20, 2017

**An Act To Transfer Responsibility for Licensing of Land-based
Aquaculture from the Department of Marine Resources to the
Department of Agriculture, Conservation and Forestry**

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator LANGLEY of Hancock. (GOVERNOR'S BILL)
Cosponsored by Senator: VITELLI of Sagadahoc.

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

2 **Sec. 1. 7 MRSA §2, 4th ¶**, as amended by PL 2011, c. 655, Pt. MM, §5 and
3 affected by §26, is further amended to read:

4 In addition, the commissioner shall be concerned with the quality of life of Maine
5 farmers and rural communities. The commissioner shall promote: farm financing and
6 rural development proposals; conservation and preservation of agricultural lands;
7 increased and improved production of beef, poultry, sheep, dairy beef and other livestock;
8 expanded and improved production of potatoes, fruits and other vegetables and
9 horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural
10 products; in conjunction with the university, crop development and integrated pest
11 management; development of land-based aquaculture facilities; and conservation of
12 nonrenewable energy resources and utilization of renewable energy resources in
13 conjunction with the Governor's Energy Office. To accomplish these objectives, the
14 commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to
15 engage in research and educational programs; to participate directly or indirectly in
16 programs to encourage and enable individuals to enter agricultural or other rural
17 enterprises; to institute litigation or upon request to represent farmers or other members
18 of the rural community in litigation where the commissioner determines that such
19 litigation may be beneficial to agricultural industry as a whole; and to exercise all other
20 powers of an agency of State Government. The commissioner may study such issues and,
21 consistent with statute, take such actions either individually, for, or on behalf of, the
22 State's farmers or rural residents, or jointly with such other persons, agencies or
23 organizations as the commissioner determines may benefit the State's farmers and rural
24 communities. To further accomplish these objectives, the commissioner is authorized
25 beginning July 1, 1991, on behalf of the State's rural community, to administer food
26 assistance programs including the receipt, distribution and administration of federal and
27 state funds, including block grants, for food assistance.

28 **Sec. 2. 7 MRSA §52, sub-§3-A**, as amended by PL 2011, c. 608, §2, is further
29 amended to read:

30 **3-A. Farm product.** "Farm product" means those plants and animals useful to
31 humans and includes, but is not limited to, forages and sod crops, grains and food crops,
32 dairy products, poultry and poultry products, bees, livestock and livestock products, fish
33 and fish products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees
34 and other similar products.

35 **Sec. 3. 7 MRSA c. 209** is enacted to read:

36 **CHAPTER 209**
37 **LAND-BASED AQUACULTURE**

1 **§1501. Land-based aquaculture license**

2 **1. License required.** The commissioner may require a license for aquaculture of
3 marine or freshwater organisms in facilities that are not located in the coastal waters of
4 the State but are located in the State.

5 **2. Licensed activities.** The holder of a license under this section may possess
6 marine or freshwater organisms that the holder has raised by means of aquaculture. The
7 holder of such a license is exempt from any requirement regarding the time of taking or
8 possessing, minimum or maximum length or other minimum or maximum size
9 requirement for any marine or freshwater organism the holder has raised by means of
10 aquaculture.

11 **3. License denial.** The commissioner shall refuse to issue a license under this
12 section if the commissioner receives information from the Commissioner of Marine
13 Resources or the Commissioner of Inland Fisheries and Wildlife that the aquaculture
14 activity presents an unreasonable risk to indigenous marine or freshwater life or its
15 environment. The Commissioner of Marine Resources and the Commissioner of Inland
16 Fisheries and Wildlife shall consider factors, including, but not limited to:

17 A. Risk of accidental or intentional introduction of marine or freshwater organisms
18 or organism products into the waters of the State;

19 B. Risk of the introduction or spread of disease within the State; and

20 C. Interference with the enforcement of possession, size or season limits for wild
21 marine or freshwater organisms.

22 **4. Monitoring and revocation.** The commissioner shall monitor licensed facilities
23 under this section on an annual basis. The commissioner shall provide the findings to the
24 Commissioner of Marine Resources and the Commissioner of Inland Fisheries and
25 Wildlife. If the commissioner determines following an annual review or at any other time
26 that the licensed aquaculture activity presents an unreasonable risk to indigenous marine
27 or freshwater life or its environment, the commissioner may revoke the license after the
28 licensee has been given an opportunity for a hearing before the department.

29 **5. Fee.** The commissioner may charge a fee for a license under this section not to
30 exceed \$1,000, the amount to be established in rules adopted by the commissioner
31 depending on the type and amount of aquaculture. Rules adopted pursuant to this
32 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

33 **Sec. 4. 12 MRSA §6073-D, last ¶**, as enacted by PL 2009, c. 229, §8, is amended
34 to read:

35 This section does not exempt the possessor of the marine organism from any
36 requirement to hold a lease or license pursuant to section 6072, 6072-A, 6072-B, or
37 6072-C or ~~6085~~ Title 7, section 1501 to engage in the culture of marine organisms.

38 **Sec. 5. 12 MRSA §6085**, as enacted by PL 2009, c. 229, §12, is repealed.

39 **Sec. 6. 12 MRSA §6085-A** is enacted to read:

1 **§6085-A. Land-based aquaculture; reporting**

2 The commissioner may require the holder of a license under Title 7, chapter 209 for
3 the land-based aquaculture of marine organisms to file periodic reports regarding the
4 aquaculture practices and production of the facility. Information obtained pursuant to this
5 section is considered fisheries statistics for the purposes of section 6173, except that
6 information about marine organism health reported pursuant to section 6071 may not be
7 considered fisheries statistics.

8 **SUMMARY**

9 This bill transfers authority for the licensing of land-based aquaculture from the
10 Department of Marine Resources to the Department of Agriculture, Conservation and
11 Forestry.