

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2022

Legislative Document

No. 16

H.P. 20

House of Representatives, December 30, 2022

**An Act to Make Technical Changes to Maine's Marine Resources
Laws**

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Reference to the Committee on Marine Resources suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative HEPLER of Woolwich.

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

2 **Sec. 1. 12 MRSA §6001, sub-§38**, as enacted by PL 1977, c. 661, §5, is amended
3 to read:

4 **38. Scallop.** "Scallop" means sea scallop scallops, ~~placopecten~~ Placopecten
5 magellanicus, and bay scallops, Argopecten irradians.

6 **Sec. 2. 12 MRSA §6001, sub-§41**, as enacted by PL 1977, c. 661, §5, is amended
7 to read:

8 **41. Shellfish.** "Shellfish" means clams, quahogs, oysters, scallops and mussels and
9 includes shellstock and shucked shellfish.

10 **Sec. 3. 12 MRSA §6001, sub-§55**, as enacted by PL 2001, c. 112, §1, is amended
11 to read:

12 **55. Whole scallop.** "Whole scallop" means a cultured scallop in any form, except
13 when the final product form is only the adductor muscle of the scallop or only the adductor
14 muscle on the shell of the scallop.

15 **Sec. 4. 12 MRSA §6302-A, sub-§1, ¶B**, as amended by PL 2011, c. 598, §17, is
16 further amended to read:

17 B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe, nation
18 or band or the agent of the band in a manner consistent with tags issued pursuant to
19 section 6505-B. A member of the tribe, nation or band is not required to pay elver
20 fishing gear fees under section 6505-B if the tribe, nation or band or the agent of the
21 band issues that member elver fishing gear tags; ~~and~~

22 **Sec. 5. 12 MRSA §6302-A, sub-§1, ¶C**, as enacted by PL 1997, c. 708, §1 and
23 affected by §3, is amended to read:

24 C. Is not required to hold a state shellfish license issued under section 6601 to obtain
25 a municipal shellfish license pursuant to section 6671-; ~~and~~

26 **Sec. 6. 12 MRSA §6302-A, sub-§1, ¶D** is enacted to read:

27 D. Is not required to complete an apprentice program established under section 6422
28 if the tribe, nation or band provides documentation to the commissioner to show that
29 the license applicant has completed an apprentice program that is satisfactory to the
30 tribe, nation or band.

31 **Sec. 7. 12 MRSA §6374, first ¶**, as amended by PL 2017, c. 197, §4, is further
32 amended to read:

33 The procedure for suspending a license or certificate under section 6371, ~~subsections~~
34 subsection 3 and 4 is governed by this section.

35 **Sec. 8. 12 MRSA §6374, sub-§1**, as amended by PL 2017, c. 197, §4, is further
36 amended to read:

37 **1. Initiation and notice.** If the Chief of the Bureau of Marine Patrol delivers to the
38 commissioner a written statement under oath that the chief has probable cause to suspect
39 that a violation of marine resources law or conduct described in section 6371, subsection 4
40 3 has been committed, the commissioner shall immediately examine the affidavit and

1 determine if a suspension is necessary. If the commissioner determines based on a
2 preponderance of the evidence that a suspension is necessary, the commissioner shall
3 immediately notify in writing the person who violated the law or engaged in the conduct.
4 The notice must state that there is an opportunity for a hearing, if the person requests the
5 hearing in writing within 10 days of the notice. The notice is deemed received 3 days after
6 the mailing. The commissioner may suspend the license or certificate of a person who has
7 been notified pursuant to this subsection but who does not request a hearing within the
8 allowed time.

9 **Sec. 9. 12 MRSA §6374, sub-§2, ¶A**, as amended by PL 2017, c. 197, §4, is further
10 amended to read:

11 A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether
12 the person requesting the hearing had a license or certificate and whether that person
13 committed a violation of marine resources law or conduct described in section 6371,
14 subsection 4 3; and

15 **Sec. 10. 12 MRSA §6374, sub-§2**, as amended by PL 2017, c. 197, §4, is further
16 amended by amending the first blocked paragraph to read:

17 If the presiding officer of the hearing finds that a violation of marine resources law or
18 conduct described in section 6371, subsection 4 3 has been committed, the presiding officer
19 shall immediately notify the commissioner of the finding.

20 **Sec. 11. 12 MRSA §6374, sub-§3**, as amended by PL 2017, c. 197, §4, is further
21 amended to read:

22 **3. Finding of violation and suspension.** The commissioner may suspend the license
23 or certificate of the person requesting the hearing under subsection 2 if the presiding officer
24 of the hearing finds that a violation of marine resources law or conduct described in section
25 6371, subsection 4 3 has been committed. Except as provided in this subsection and
26 subsection 3-A, the length of the suspension of the license or certificate may not exceed:

27 A. One year from the date of a first finding of a violation or finding that conduct
28 described in section 6371, subsection 4 3 has been committed;

29 B. Two years from the date of a 2nd finding of a violation or finding that conduct
30 described in section 6371, subsection 4 3 has been committed; or

31 C. Three years from the date of a 3rd or subsequent finding of a violation or finding
32 that conduct described in section 6371, subsection 4 3 has been committed.

33 The commissioner may suspend any license or certificate for a period of time not to exceed
34 the maximum amount of time allowable for a criminal conviction or civil adjudication of
35 the same violation.

36 **Sec. 12. 12 MRSA §6506, sub-§6** is enacted to read:

37 **6. License exemption.** Notwithstanding subsection 1, a person may fish for, take,
38 possess or transport a halibut without a license if the person has fished for or taken the
39 halibut by tub trawl or by hook and line and if the halibut is only for personal use.

40 **Sec. 13. 12 MRSA §6506, sub-§7** is enacted to read:

41 **7. Violation.** A person who violates this section commits a civil violation for which
42 a fine of not less than \$100 nor more than \$500 may be adjudged.

