

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Marine Resources*

July 2003

Members:

Sen. Dennis Damon, Chair

Sen. Peggy A. Pendleton

Sen. Richard Bennett

Rep. Thomas D. Bull, Chair

Rep. Nancy B. Sullivan

Rep. Walter E. Ash, Jr.

Rep. Edward R. Dugay

Rep. Leila J. Percy

Rep. Kevin M. Muse

Rep. Deborah K. McNeil

Rep. Jeff Kaelin

Rep. Leonard Earl Bierman

Rep. Frederick J. Moore III

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Marine Resources

LD 1416

An Act To Create the Scallop Advisory Council and the Scallop Research Fund

PUBLIC 319

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-374
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LD 1416 proposed to change the licensing for scallop dragging by licensing individuals rather than licensing the activities of a boat. It proposed to add an owner-operator provision to the scallop license, requiring that the owner of the vessel or a family member of the owner must be on board when that vessel is being used to harvest scallops. It also proposed to make exemptions for temporary illness or disability on the part of the owner or temporary changes due to a boat accident or mechanical failure. Additionally, it proposed to allow for a person who currently holds more than one scallop dragging license to continue to do so, and to allow other individuals to use the vessel for scallop harvesting without the owner on board.

Finally, it proposed to create the Scallop Research Fund, which could be used for research and development of the scallop resource and would be funded by a surcharge to the scallop draggers license, the hand fishing scallop license and the scallop diving tender license. It proposed to create the Scallop Advisory Council that would make recommendations to the Commissioner of Marine Resources on expenditures from the fund and other matters of interest to the scallop fishery.

Committee Amendment "A" (H-374) proposed to strike provisions of the bill regarding the proposed owner-operator requirement for scallop draggers and to remove law enforcement as one of the activities supported by the Scallop Research Fund.

Enacted Law Summary

Public Law 2003, chapter 319 creates the Scallop Research Fund, which may be used for research and development of the scallop resource and is funded by a surcharge to the scallop draggers license, the hand fishing scallop license and the scallop diving tender license. The bill creates the Scallop Advisory Council to make recommendations to the Commissioner of Marine Resources on expenditures from the fund and other matters of interest to the scallop fishery.

LD 1417

An Act To Make Changes to the Laws Governing Aquaculture Leasing

PUBLIC 247

<u>Sponsor(s)</u> BULL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-282
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LD 1417 proposed to make changes to several sections of the marine resources laws that regulate the leasing and monitoring of public waters for aquaculture. The proposed changes would affect the issuance of standard and limited-purpose aquaculture leases. It proposed to:

1. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark includes all types of equipment to be located within a standard aquaculture lease. It also proposed to allow qualified staff to sign lease documents following the approval of a standard lease by the commissioner;

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2. Repeal a provision on municipal approval and would enact new language concerning municipal participation in the standard aquaculture lease process;
3. Create a new section that would outline the role of municipalities in the review and issuance of standard aquaculture leases, including preapplication meetings, submission of comments to the Department of Marine Resources on all decision criteria and establishing conditions on leases. It would also clarify that the issuance of a mooring permit by a municipality would not be preempted by the Commissioner of Marine Resources' exclusive authority to grant aquaculture leases;
4. Create a requirement for a preapplication meeting to be held with the Department of Marine Resources to guide an applicant in preparing an application for a standard lease;
5. Remove language that would require the Department of Marine Resources to determine financial and technical capacity prior to conducting a public hearing on a standard lease application so that public comment could be received on this approval criterion. It also proposes to delete language on municipal involvement that has been moved to the Maine Revised Statutes, Title 12, section 6072, subsection 3-A.
6. Change language to expand the factors considered by the Department of Marine Resources in the site review of proposed standard aquaculture leases to conform with current practice;
7. Repeal a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
8. Delete language regarding Department of Environmental Protection certification of water quality and proposed to list the current requirement for a discharge permit to be obtained for affected lease applications;
9. Change language on the notification of granted leases that would remove a requirement on public notice in a local paper and would add a requirement that the Department of Marine Resources notify riparian landowners, the municipality and interested parties that a lease has been granted;
10. Amend language on the revocation of standard aquaculture leases to allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings;
11. Repeal current language on the renewal of standard leases;
12. Enact new language on the renewal of standard leases that would require earlier notice of intent to renew and would add a requirement that leases not routinely used must be determined to still meet all of the approval criteria in the Maine Revised Statutes, Title 12, subsection 6072, subsection 7-A;
13. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark would include all types of equipment to be located within a limited-purpose aquaculture lease. Language is also proposed to allow qualified professional staff to sign decision documents and leases;
14. Change language to require the Department of Marine Resources to notify riparian landowners when the department is reviewing a complete limited-purpose aquaculture lease application. It also proposed to require applicants to submit the names and addresses of the riparian landowners;

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15. Require the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
16. Repeal a provision on municipal approval and would enact new language concerning municipal participation in the limited-purpose aquaculture lease process;
17. Create a new section that would outline the role of municipalities in the review and issuance of limited-purpose aquaculture leases, including preapplication meetings, submission of comments to the Department of Marine Resources on all decision criteria and establishing conditions on leases. It also proposed to clarify that the Commissioner of Marine Resources' exclusive authority to grant aquaculture leases would not preempt a municipality from issuing a mooring permit;
18. Remove the requirement to record the lease in the registry of deeds and publish notice in the paper and would add a requirement that the Department of Marine Resources notify riparian landowners, interested persons and the municipality;
19. Repeal existing language on monitoring limited-purpose aquaculture leases;
20. Allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings for limited-purpose aquaculture leases;
21. Add the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources;
22. Authorize a dedicated fund that would receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture. These fees would be determined by the Department of Marine Resources through rulemaking and would be derived from the weight of harvested fish, application fees and lease rents; and
23. Rename the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and would alter its membership to include members from both shellfish and finfish aquaculture.

Committee Amendment "A" (H-282) proposed to replace the bill. It proposed to make changes to several sections of the marine resources laws that regulate the leasing and monitoring of public waters for marine aquaculture. These changes would affect the issuance of standard and limited-purpose aquaculture leases. It proposed to:

1. Allow qualified professional staff to sign lease documents following the approval of a standard lease by the Commissioner of Marine Resources, and would allow the commissioner or deputy commissioner to delegate the approval of limited-purpose leases to qualified professional staff;
2. Repeal a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
3. Delete language regarding Department of Environmental Protection certification of water quality;
4. Remove a requirement of public notice in a local paper for the notification of granted leases and would add a requirement that the Department of Marine Resources notify riparian landowners, intervenors and the municipality that a lease has been granted;

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5. Amend language on the revocation of standard aquaculture leases that would allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings;
6. Enact new language on the renewal of standard leases that requires earlier notice of intent to renew and would add a requirement that leases not routinely used must be determined to still meet all of the approval criteria in the Maine Revised Statutes, Title 12, section 6072, subsection 7-A;
7. Clarify that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark would include all types of equipment to be located within a limited-purpose aquaculture lease. It also proposed to allow qualified professional staff to sign decision documents and leases;
8. Require the Department of Marine Resources to notify riparian landowners when the department reviews a complete limited-purpose aquaculture lease application. It also proposed to require the applicant to submit the names and addresses of the riparian landowners;
9. Require the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
10. Delete a provision on municipal approval and would add language concerning municipal participation in the limited-purpose aquaculture lease process.
11. Remove the requirement to record the lease in the registry of deeds and publish notice in the paper and would add a requirement that the Department of Marine Resources notify riparian landowners, interested persons and the municipality;
12. Allow the Commissioner of Marine Resources discretion in when to initiate revocation proceedings on limited-purpose aquaculture;
13. Add the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources.
14. Authorize a dedicated fund that would receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture. These fees would be determined by rulemaking by the Department of Marine Resources and are derived from the weight of harvested fish, application fees and lease rents;
15. Renames the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and would alter its membership to include members from both shellfish and finfish aquaculture; and
16. Add unreasonable noise and visual impacts to conditions the Commissioner of Marine Resources would have to consider when granting an aquaculture lease and would make any rules adopted to quantify these impacts major substantive rules.

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Enacted Law Summary

Public Law 2003, chapter 247 makes the following changes to marine resource laws that regulate the leasing and monitoring of public waters for marine aquaculture:

1. It allows qualified professional staff to sign lease documents following the approval of a standard lease by the Commissioner of Marine Resources, and allows the commissioner or deputy commissioner to delegate the approval of limited-purpose leases to qualified professional staff;
2. It repeals a requirement that the applicant for a standard aquaculture lease publish notice of public hearing for the lease in the newspaper;
3. It changes language on the notification of granted leases to remove a requirement of public notice in a local paper and adds a requirement that the Department of Marine Resources notify riparian landowners, intervenors and the municipality that a lease has been granted;
4. It grants the Commissioner of Marine Resources discretion in determining when to initiate revocation proceedings for standard and limited purpose aquaculture leases;
5. It requires applicants when renewing a standard lease to provide earlier notice of intent to renew and adds a requirement that leases not routinely used must be determined to still meet certain statutory criteria;
6. It clarifies that the existing exclusive jurisdiction of the Commissioner of Marine Resources to regulate aquaculture activities on state submerged lands below the mean low-water mark includes all types of equipment to be located within a limited-purpose aquaculture lease;
7. It requires the Department of Marine Resources to notify riparian landowners when a limited-purpose aquaculture lease application is being reviewed by the department;
8. It changes requires the Department of Marine Resources and not the applicant to publish notice of a public hearing for a limited-purpose aquaculture lease application;
9. It deletes a provision on municipal approval and adds new language concerning municipal participation in the limited-purpose aquaculture lease process;
10. It adds the United States Department of Agriculture to the list of federal agencies permitted to use confidential data submitted by lease holders at the direction of the Commissioner of Marine Resources;
11. It authorizes a dedicated fund to receive fees from both finfish and shellfish growers in order to fund monitoring, research and development of marine aquaculture;
12. It renames the Maine Salmon Aquaculture Advisory Council the Aquaculture Advisory Council and alters its membership to include members from both shellfish and finfish aquaculture; and
13. It adds unreasonable noise and visual impacts to conditions the Commissioner of Marine Resources must consider when granting an aquaculture lease and makes any rules adopted to quantify these impacts major substantive rules.