

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting before section 1 the following:

**Sec. 1. 3 MRSA §959, sub-§1, ¶G**, as amended by PL 2005, c. 477, §1, is further amended to read:

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

- (1) Department of Inland Fisheries and Wildlife in 2007; and
- (2) Advisory Board for the Licensing of Taxidermists in 2007; and,
- (3) ~~Atlantic Salmon Commission in 2011.~~

**Sec. 2. 5 MRSA §12004-G, sub-§20-A**, as amended by PL 2007, c. 240, Pt. QQ, §1, is repealed.

**Sec. 3. 12 MRSA §6022, sub-§16** is enacted to read:

**16. Atlantic salmon powers and responsibilities.** The commissioner has the sole authority to introduce Atlantic salmon into the inland waters, other than in commercial aquaculture facilities. The commissioner has the sole authority to limit or prohibit the taking of Atlantic salmon and may adopt rules establishing the time, place and manner of Atlantic salmon fishing in all waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

**Sec. 4. 12 MRSA §6071, sub-§1**, as amended by PL 2007, c. 695, Pt. C, §2, is further amended to read:

**1. Live importing for introduction into coastal waters.** Except for Atlantic salmon imported by the ~~Atlantic Salmon Commission~~ commissioner, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

**Sec. 5. 12 MRSA §6137**, as enacted by PL 2007, c. 240, Pt. QQ, §4, is repealed.

**Sec. 6. 12 MRSA §6138**, as enacted by PL 2007, c. 240, Pt. QQ, §5, is repealed.

Amend the bill by striking out all of section 8 (page 1, line 34 and page 2, lines 1 to 9 in L.D.) and inserting the following:

**Sec. 8. 12 MRSA §6409**, as reallocated by RR 1999, c. 2, §13, is amended to read:

**§ 6409. Suspension of license for failure to appear, answer or pay**

If a license is suspended pursuant to Title 14, section 3142, the suspension remains in effect and that person is ineligible to obtain or hold a license until the person pays the fine. On payment of the fine and on condition of payment of a \$25 reinstatement administrative fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record is rescinded and the eligibility to obtain or hold a license reinstated. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1.'

Amend the bill in section 9 in §6410 in the first paragraph in the first line (page 2, line 12 in L.D.) by striking out the following: "right to obtain" and inserting the following: 'eligibility to obtain or hold'

Amend the bill in section 9 in §6410 in the first paragraph in the 4th and 5th lines (page 2, lines 15 and 16 in L.D.) by striking out the following: "right to obtain" and inserting the following: 'eligibility to obtain or hold'

Amend the bill by striking out all of section 10 (page 2, lines 17 to 22 in L.D.) and inserting the following:

**'Sec. 10. 12 MRSA §6411** is enacted to read:

**§ 6411. Refusal to renew or reissue license for failure to file or failure to pay state tax obligations**

If a person's eligibility to obtain a license is suspended pursuant to Title 36, section 175, the suspension is in effect until the State Tax Assessor issues a certificate of good standing. On condition of payment of a \$25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain a license reinstated.'

Amend the bill in section 12 in subsection 1 in the 2nd line (page 2, line 37 in L.D.) by striking out the following: "\$20 of each \$136 fee," and inserting the following: '\$10 of each \$136 fee.'

Amend the bill in section 14 in §6533 in the first paragraph in the 2nd line (page 3, line 16 in L.D.) by striking out the following: "It is unlawful for a person to" and inserting the following: 'a A person to may not'

Amend the bill in section 15 in §6535 by striking out all of subsection 4 (page 4, lines 3 and 4 in L.D.) and inserting the following:

**'4. Fees.** The fee for a license issued under this section is \$133.'

Amend the bill by inserting after section 16 the following:

**'Sec. 17. 12 MRSA §6721-A, sub-§2,** as amended by PL 2007, c. 607, Pt. A, §5, is further amended to read:

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

Amend the bill in section 19 in paragraph E (page 5, line 13 in L.D.) by striking out the following: "\$40" and inserting the following: '\$100'

Amend the bill by inserting after section 23 the following:

'**Sec. 24. 12 MRSA §6851, sub-§2-D**, as amended by PL 2003, c. 170, §4, is further amended to read:

**2-D. Wholesale seafood license with shrimp permit.** At the request of the applicant, the commissioner shall issue a wholesale seafood license with a shrimp permit. A person holding a wholesale seafood license with a shrimp permit may engage in all of the activities in subsection 2 and may buy, sell, process, ship or transport shrimp.

**Sec. 25. 12 MRSA §6856, sub-§3-A**, as enacted by PL 2007, c. 15, §2 and affected by §6, is amended to read:

**3-A. Municipal consultation and approval; depuration harvesting.** WithinThe following provisions apply within a municipality that has a municipal shellfish conservation committee established pursuant to section 6671, the following provisions. Paragraphs A and B apply to shellfish growing areas that have been downgradedreclassified after January 1, 2006 from an approved to a restricted classification for water quality as defined in rule. Paragraph B1 applies to shellfish growing areas reclassified after January 1, 2010 from a prohibited to restricted classification.

A. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area downgradedreclassified from an approved to a restricted classification for depuration harvesting for 2 years from the date of the reclassification to allow the municipality to develop a pollution abatement plan under subsection 3B.

B. ~~Beginning April 1, 2007, a~~A municipality must notify the commissioner within 8 weeks of the reclassification from an approved to a restricted classification of an area whether or not it intends to develop a pollution abatement plan. If the municipality does not wish to develop a pollution abatement plan in accordance with subsection 3B or if it fails to notify the commissioner within the 8-week period, municipal approval is not required.

B-1. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area reclassified from a prohibited to a restricted classification for depuration harvesting. A municipality must document to the commissioner within 4 weeks of the reclassification from a prohibited to a restricted classification that the municipality intends to take significant measures following the reclassification to be incorporated in its pollution abatement plan. If the municipality fails to provide sufficient documentation or does not wish to develop a pollution abatement plan or if it fails to notify the commissioner within the 4-week period, municipal approval is not required. The municipality must provide the commissioner a progress report on activities under its abatement plan every 6 months.

C. If a municipal shellfish conservation committee has a pollution abatement plan as provided in subsection 3B on file with the commissioner, the commissioner must obtain the approval of the committee before taking action to open an area within that municipality for depuration digging.

D. If a municipal shellfish conservation committee has a depuration management plan as provided in subsection 3C approved by the commissioner, the municipality may manage the depuration harvesting over a shellfish growing area within that municipality.

**Sec. 26. 12 MRSA §12760, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Monitoring program.** The commissioner shall, in cooperation with the Department of Marine Resources and ~~the Atlantic Salmon Commission~~, establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. The commissioner has sole authority to take corrective action at fishways as prescribed under this section.

**Sec. 27. 12 MRSA §12804, sub-§1, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the ~~Atlantic Salmon Commission~~Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

**Sec. 28. 37-B MRSA §1112**, as enacted by PL 2001, c. 460, §3, is amended to read:

### **§ 1112. Administration**

The department shall administer this chapter. In carrying out the provisions of this chapter, the department shall consult as appropriate with other state agencies, including the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, the Maine Land Use Regulation Commission, ~~the Maine Atlantic Salmon Commission~~ and the State Planning Office, for their aid and assistance.

**Sec. 29. 37-B MRSA §1119, sub-§3**, as enacted by PL 2001, c. 460, §3, is amended to read:

**3. Review conference.** After receiving the inspector's report and prior to issuing any dam safety order, the commissioner shall hold a review conference and shall invite the emergency management director of the county in which the dam is located to the review conference as well as representatives from appropriate state agencies which may include the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, the Maine Land Use Regulation Commission, ~~the Maine Atlantic Salmon Commission~~ and the State Planning Office, to discuss the public safety, environmental, economic and other concerns relating to the dam and

the necessary remedial measures under consideration. A state dam inspector shall attend the review conference. The commissioner shall maintain a written record of the conference and shall make a copy of this record available to all parties participating in the conference.

**Sec. 30. 38 MRSA §480-B, sub-§10, ¶A,** as enacted by PL 2005, c. 116, §2, is amended to read:

A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the ~~Atlantic Salmon Commission~~Department of Marine Resources; and

**Sec. 31. 38 MRSA §480-U, sub-§2, ¶A,** as amended by PL 2005, c. 330, §17, is further amended to read:

A. The application must contain written certification by a knowledgeable professional that the cranberry cultivation project will not be located in a wetland that has one or more of the following characteristics:

- (1) Is a coastal wetland or is located within 250 feet of a coastal wetland;
- (2) Is a great pond;
- (3) Contains endangered or threatened plant species as defined in Title 12, section 544;
- (4) Contains any type of palustrine natural community of which there are 20 or fewer occurrences in the State;
- (5) Contains any of the following resources:
  - (a) Habitat for species appearing on the official state or federal lists of endangered or threatened species when there is evidence that the species is present;
  - (b) As defined by rule by the Commissioner of Inland Fisheries and Wildlife, whether or not the resource has been mapped, high-value and moderate-value deer wintering areas; deer travel corridors; high-value and moderate-value waterfowl or wading bird habitats, including nesting and feeding areas; shorebird nesting, feeding or staging areas; or seabird nesting islands; or

(c) Critical spawning and nesting areas for Atlantic salmon as defined by rule by the ~~Atlantic Salmon Commission~~Department of Marine Resources whether or not mapped;

(6) Is located within 250 feet of the normal high water line and within the same watershed of any lake or pond classified as GPA under section 465A;

(7) Is a bog dominated by ericaceous shrubs, sedges and sphagnum moss and usually having a saturated water regime, except that applications proposing reclamation of previously mined peat bogs may be considered;

(8) Is land adjacent to the main stem of a major river, as classified in section 467, that is inundated with floodwater during a 100-year flood event and that under normal circumstances supports a prevalence of wetland vegetation, typically adapted for life in saturated soils; or

(9) Contains at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, *Vaccinium macrocarpon* Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

**Sec. 32. 38 MRSA §636, sub-§7, ¶B**, as amended by PL 1999, c. 401, Pt. BB, §19, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife;and the Department of Marine Resources and the Atlantic Salmon Commission;

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment does the following.

1. It eliminates the Atlantic Salmon Commission and the per diem reimbursement for commission members. The funding for the commission was eliminated in Public Law 2009, chapter 462.
2. It removes references to a person's "right" to obtain a license regarding suspensions for failure to pay taxes, comply with support orders or appear in court and replaces them with "eligibility to obtain or hold."
3. It corrects the proposed allocation of \$20 to \$10 from each Class II lobster and crab fishing license for persons over 70 years of age to the Lobster Fund.
4. It clarifies that it is prima facie evidence of possessing illegal scallops if a person licensed under the scallop laws is shucking scallops when the vessel has scallops onboard under the minimum size restriction.
5. It changes the license surcharge for a hand fishing scallop license with tender from \$40 to \$100 to correct a conflict created during the First Regular Session of the 124th Legislature.
6. It provides that the Commissioner of Marine Resources may not open a shellfish area that has been reclassified from a prohibited to a restricted classification after January 1, 2010 to depuration harvesting without the approval of the affected municipality. If a municipality fails to document to the commissioner within 4 weeks of the reclassification that it intends to take significant measures to be incorporated into its pollution abatement plan or if the municipality indicates it will not develop a pollution abatement plan, the commissioner may open that area to depuration harvesting without the consent of the municipality. A municipality must report its progress on the pollution abatement plan every 6 months.
7. It authorizes a wholesale seafood license with shrimp permit holder to process shrimp.
8. It makes a number of technical changes to existing statutes.

**FISCAL NOTE REQUIRED**  
**(See attached)**