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No. 337

H.P. 270

House of Representatives, February 7, 2011

An Act To Make Technical Changes to Aquaculture Laws

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

Presented by Representative MacDONALD of Boothbay.
Cosponsored by Representatives: KRUGER of Thomaston, MAZUREK of Rockland.

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

2 **Sec. 1. 12 MRSA §6072, sub-§8**, as amended by PL 1997, c. 231, §4, is further
3 amended to read:

4 **8. Preference.** ~~Except as provided in subsection 8-A, if~~ If more than one person
5 applies to lease an area, preference must be given as follows:

6 A. First, to the ~~department~~ person who holds a lease for the area or a portion of the
7 area under section 6072-A and who submitted an application for a lease under this
8 section for the area or a portion of the area before the lease under section 6072-A
9 expired;

10 B. Second, to the ~~riparian owner of the intertidal zone within the leased area~~
11 department;

12 C. Third, to a ~~person who fishes commercially and who has traditionally fished in or~~
13 ~~near the proposed lease area~~ the riparian owner of the intertidal zone in which the
14 leased area is located; and

15 D. Fourth, to the ~~riparian owner within 100 feet of leased coastal waters.~~ a person
16 who fishes commercially and who has traditionally fished in or near the proposed
17 lease area; and

18 E. Fifth, to the riparian owner within 100 feet of leased coastal waters.

19 **Sec. 2. 12 MRSA §6072, sub-§8-A**, as enacted by PL 1997, c. 231, §5, is
20 repealed.

21 **Sec. 3. 12 MRSA §6072, sub-§12**, as amended by PL 2005, c. 535, §2, is further
22 amended to read:

23 **12. Renewal.** The commissioner shall renew a lease if:

24 A. The commissioner receives, at least 90 days prior to the ~~termination~~ expiration of
25 a lease, an application for renewal that includes information on the type and amount
26 of aquaculture to be conducted during the new lease term;

27 B. The lessee has complied with the lease agreement during the term of the lease;

28 C. The commissioner determines that renewal of the lease is in the best interest of
29 the State;

30 D. Except as provided in subsection 13-A, the renewal will not cause the lessee to
31 become a tenant of any kind in leases covering an aggregate of more than 500 acres;
32 and

33 E. The lease is not being held for speculative purposes.

34 If a person who holds a lease pursuant to this section applies to renew the lease, the lease
35 remains in effect until the commissioner makes a decision on the renewal application. If
36 the renewal is denied, the lease expires 30 days after the date of the commissioner's
37 decision.

1 When aquaculture has not been routinely or substantially conducted on a lease that is
2 proposed for renewal, the commissioner may renew the lease, as long as the proposed
3 renewal will continue to meet the criteria for approval in subsection 7-A.

4 A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4.
5 Public notice must be given as required under subsection 6 and a hearing must be held if
6 it is requested in writing by 5 persons. The commissioner may review multiple leases
7 concurrently during the lease renewal process.

8 A lease renewal application must include a nonrefundable application fee of no more than
9 \$1,500, the amount to be set by the commissioner depending on the type of aquaculture
10 permitted by the lease.

11 **Sec. 4. 12 MRSA §6072, sub-§12-B**, as enacted by PL 2005, c. 92, §2, is
12 repealed.

13 **Sec. 5. 12 MRSA §6072-A, sub-§18**, as enacted by PL 1997, c. 231, §6, is
14 amended to read:

15 **18. Scientific lease renewal.** A limited-purpose lease for scientific research may be
16 renewed. ~~The commissioner must hold a public hearing before deciding upon the request~~
17 ~~for renewal.~~ A scientific research lease renewal is an adjudicatory proceeding under Title
18 5, chapter 375, subchapter 4, but a public hearing is not mandatory unless it is requested
19 in writing by 5 or more persons. The commissioner may review multiple leases
20 concurrently during the lease renewal process. The commissioner shall renew a
21 limited-purpose lease for scientific research unless the commissioner finds that:

- 22 A. The lease holder has not complied with the terms of the limited-purpose lease;
23 B. Research has not been conducted during the term of the lease; or
24 C. It is not in the best interest of the State to renew the limited-purpose lease.

25 **Sec. 6. 12 MRSA §6072-A, sub-§20**, as enacted by PL 1997, c. 231, §6, is
26 amended to read:

27 **20. Extension of commercial lease.** If a person who holds a limited-purpose lease
28 for commercial aquaculture research and development submits ~~a completed~~ an
29 application under section 6072 for that lease area or a portion of that area before the
30 expiration of that limited-purpose lease, and if the commissioner's decision under section
31 6072 occurs after the expiration of that limited-purpose lease, the lease remains in effect
32 until the commissioner makes a decision. If the commissioner grants that person a lease
33 under section 6072, that person's limited-purpose lease remains in effect until the
34 effective date of the lease issued under section 6072. If the commissioner denies that
35 person a lease under section 6072, that person's limited-purpose lease remains in effect
36 until 30 days after the commissioner's decision.

37 **Sec. 7. 12 MRSA §6072-B, sub-§7**, as enacted by PL 1997, c. 231, §6, is
38 amended to read:

