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MARINE RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 461, L.D. 647, Bill, "An Act Regarding Certain Shellfish Certificates and Permits Issued by the Department of Marine Resources"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 12 MRSA §6852, sub-§4, as amended by PL 2013, c. 282, §11 and affected by §12, is further amended to read:

4. Fee. The fee for a retail seafood license under subsection 1 is \$100. The fee for an enhanced retail certificate under subsection 2-A is \$28 \$100 and must be deposited in the Shellfish Fund under section 6651.

Sec. 2. 12 MRSA §6856, as amended by PL 2015, c. 68, §§10 and 11, is further amended to read:

§6856. Shellfish sanitation; depuration certificate and permits

1. Shellfish sanitation certificate. A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate unless authorized under section 6701 or 6702. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses. A shellfish sanitation certificate does not authorize a person to undertake any of the activities for which a permit is required pursuant to subsection 2-A. Beginning June 1, 2018, the fee for a shellfish sanitation certificate is \$50.

2. Express authorizations. The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation

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1 operations, except that the operations may be limited to the extent required to protect the
2 public health.

3 **2-A. Additional permits.** A person may not engage in an activity for which a
4 permit is required pursuant to this subsection unless the person holds a shellfish sanitation
5 certificate and the applicable permit as provided in this subsection.

6 A. A person may not store shellfish in containers or tanks containing recirculating
7 water without a recirculating wet storage permit. Beginning August 1, 2018, the fee
8 for a recirculating wet storage permit is \$200, except that the fee for a recirculating
9 wet storage permit is \$100 if the holder of the permit accepts as a permit condition
10 the duty to provide and provides the department weekly test results showing the
11 recirculating wet storage facility's compliance with the most recently adopted federal
12 sanitation standards.

13 B. A person may not store shellfish in containers or tanks where nonrecirculating
14 water flows through the containers or tanks or in or on floats in a natural body of
15 water without a flow-through wet storage permit. Beginning August 1, 2018, the fee
16 for a flow-through wet storage permit is \$100.

17 C. A person may not handle, ship, transport or process shellfish in bulk, as defined
18 by the department by rule, without:

19 (1) Attaching a tag to the shellfish in accordance with rules adopted by the
20 department; and

21 (2) A bulk tagging permit. Beginning June 1, 2018, the fee for a bulk tagging
22 permit is \$50.

23 D. A person may not use a vehicle to transport soft-shelled clam shell stock
24 purchased at a location other than the establishment or vehicle authorized under the
25 license without a shellfish buying station permit. Beginning June 1, 2018, the fee for
26 a shellfish buying station permit is \$100.

27 **3. Depuration certificate.** A person may not take shellfish from closed areas for
28 depuration, processing and transportation without a depuration certificate. The
29 commissioner may issue a depuration certificate to a wholesale seafood license holder
30 that authorizes the holder to take shellfish from closed areas for depuration, processing
31 and transportation. The certificate must establish limits on harvesting, depurating and
32 processing methods and any other provisions required to ensure the public safety. The
33 commissioner may permit depuration of shellfish not contaminated by paralytic shellfish
34 poisoning if it is established that the water used during depuration will not contaminate
35 the shellfish with paralytic shellfish poisoning. Beginning May 1, 2018, the fee for a
36 depuration certificate is \$200.

37 **3-D. Soft-shelled clam depuration harvesting in municipalities with municipal**
38 **shellfish conservation programs.** Soft-shelled clam depuration activities conducted
39 within a municipality that has a municipal shellfish conservation program pursuant to
40 section 6671 are subject to the following provisions.

41 A. Using the following general guidelines to identify whether pollution abatement
42 activities are likely to succeed in a shellfish growing area, the commissioner may

1 close a shellfish growing area pursuant to section 6172 for municipal pollution
2 abatement activities.

3 (1) Pollution abatement activities are likely to succeed in shellfish growing areas
4 affected by identified failing residential septic systems and other identified
5 localized sources of human or animal fecal contamination when funding for
6 abatement is available.

7 (2) Pollution abatement activities are not likely to succeed in shellfish growing
8 areas affected by wastewater treatment plant outfall or other point sources of
9 treated or partially treated sewage unless complete removal of pollution sources
10 has been achieved.

11 (3) Abatement activities are not likely to succeed in shellfish growing areas
12 affected by chronic nonpoint source contamination from rivers or streams.

13 At the request of the municipality, the commissioner may allow soft-shelled clam
14 depuration harvesting in a shellfish growing area closed under this paragraph.

15 B. In conducting depuration harvesting activities under this subsection, a person
16 holding a depuration certificate shall engage commercial harvesters holding valid
17 municipal and state commercial shellfish licenses. If there are insufficient
18 municipally licensed commercial harvesters, the depuration certificate holder may
19 supplement with other commercial shellfish harvesters licensed in the State.

20 C. A depuration certificate holder shall maintain a generalized depuration
21 management plan on file with the commissioner that sets forth methods for
22 identifying harvest limits, operational procedures for harvest management and
23 responsibilities of authorized representatives.

24 D. A depuration certificate holder shall pay each municipality an amount equal to
25 50¢ for each bushel of soft-shelled clams taken in that municipality under the
26 depuration certificate. When submitting payment to a municipality under this
27 paragraph, the depuration certificate holder shall include a summary of reports
28 submitted to the department pursuant to rules adopted under subsection 4.

29 **4. Rules.** The commissioner may adopt or amend rules concerning:

30 A. The procedures for issuing certificates and the required qualifications for each
31 type of certificate;

32 B. The minimum sanitation standards for establishments and vehicles;

33 C. The sanitation and quality control standards for shellfish and whole scallops and
34 their products;

35 D. The methods for taking, handling, shipping, transporting and processing of
36 shellfish and whole scallops taken from closed areas;

37 E. The records and reports of takings, purchases, processing, sales, shipping and
38 transporting of shellfish and whole scallops;

39 F. The labeling or marking of shipments of shellfish and whole scallops; and

40 G. Other rules necessary to the public health.

1 The rules must be based on the particular operational requirements of each activity, the
2 most recently adopted federal sanitation standards and the most recent generally accepted
3 research data, in a manner so as to protect the public health and safety while allowing
4 reasonable use of the State's shellfish and whole scallops.

5 **5. Right of entry.** Whenever a certificate has been issued under this section, the
6 commissioner, or the commissioner's agent, must have access to any establishment or part
7 thereof for the purpose of inspection or collection of samples. Denial of access is
8 grounds for suspension or revocation of any certificate or license under the provisions of
9 section 6372.

10 **6. Products embargoed and condemned.** The commissioner, or the
11 commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any
12 shellfish, shellfish product or whole scallop in any establishment whenever it is
13 determined that the product is of unsound quality, contains any filthy, decomposed or
14 putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The
15 commissioner and the commissioner's agent shall cooperate with those state and federal
16 agencies having similar responsibility in the protection of public health and in enforcing
17 the order to embargo, condemn or destroy.

18 In the event that any shellfish, shellfish product or whole scallop in any establishment is
19 embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's
20 agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and
21 kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

22 **9. Disposition of fees.** The commissioner shall deposit fees collected under this
23 section in the Shellfish Fund under section 6651.

24 **Sec. 3. Effective date.** That section of this Act that amends the Maine Revised
25 Statutes, Title 12, section 6852, subsection 4 takes effect April 1, 2018.'

26 SUMMARY

27 This amendment replaces the bill. The bill establishes a fee of \$50 for a shellfish
28 sanitation certificate and establishes additional permits for authorized activities under a
29 shellfish sanitation certificate. The permits established are a recirculating wet storage
30 permit, a flow-through wet storage permit, a bulk tagging permit and a shellfish buying
31 station permit. A recirculating wet storage permit is \$200, unless the holder provides
32 weekly test results showing compliance with federal sanitation standards, in which case
33 the fee is \$100; a flow-through wet storage permit is \$100; a bulk tagging permit is \$50;
34 and a shellfish buying station permit is \$100. The amendment increases the fee for a retail
35 seafood license from \$28 to \$100. The amendment establishes a fee of \$200 for a
36 depuration certificate. Like the bill, the amendment requires the fees collected to be
37 deposited in the Shellfish Fund. The amendment provides specified dates on which the
38 Department of Marine Resources may begin assessing fees established in the amendment.

39 FISCAL NOTE REQUIRED

40 (See attached)