

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-662)
107TH LEGISLATURE

COMMITTEE AMENDMENT "B" to H.P. 1141, L.D. 1237, Bill,
"AN ACT to Temporarily Suspend the Lobster and Crab Fishing
License Moratorium."

Amend said Bill by striking out all of the Title and inserting
in place thereof the following: 'AN ACT to Repeal the Lobster and
Crab Fishing License Freeze.'

Further amend said Bill by striking out all of the emergency
preamble and inserting in place thereof the following:

'Emergency preamble. Whereas, Acts of the Legislature do
not become effective until 90 days after adjournment unless enacted
as emergencies; and

Whereas, the lobster and crab fishing license moratorium was
enacted because of the uncertainty of what the U.S. District Court's
decision on the residency requirement for fishing would be; and

Whereas, the court has rendered its decision declaring the
residency requirements of Title 12, section 4404 unconstitutional;
and

Whereas, eligible Maine residents are unable to obtain lobster
and crab fishing licenses and hardships have developed; and

Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of Maine
and require the following legislation as immediately necessary
for the preservation of the public peace, health and safety; now,
therefore,'

Further amend said Bill by striking out everything after the
enacting clause and before the emergency clause and inserting in
place thereof the following:

'Sec. 1. 12 MRSA §4404, sub-§4, first sentence, as amended by PL 1973, c. 397, is repealed and the following enacted in place thereof:

Any person domiciled in the State of Maine may apply to the commissioner for a lobster and crab fishing license.

Sec. 2. 12 MRSA §4404, sub-§7, is amended to read:

7. Certain persons considered as fishing. Any person, assisting or helping another in lobster or crab fishing, either by operating the boat or in attending to lobster or crab traps or pots, is considered as fishing and must have a current license under this section or as provided in section 4404-A.

Sec. 3. 12 MRSA §4404, sub-§9, as enacted by PL 1973, c. 784, §1, is repealed and the following enacted in place thereof:

9. Application. The applicant shall apply for a license on forms provided by the commissioner. The application shall require such information as may be necessary in order to demonstrate a fulfillment of the requirements of the license, including evidence of domicile in the State of Maine. The commissioner shall not issue a license unless all of the questions on the application are fully answered.

Sec. 4. 12 MRSA §4404, sub-§§ 10, 11, 12 and 13, are enacted to read:

10. Issuance of licenses. The commissioner may issue a license upon receipt of a completed application. The applicant shall be notified when an application is determined to be complete. The commissioner shall have 30 days from the date of receipt of a

completed application in which to review the application before issuing a license.

11. Licenses to be exhibited on demand; prima facie evidence.

A. Any person holding a license shall, at all times when engaged in the activity licensed, exhibit the license issued to him upon demand of any coastal warden or any other authorized agent of the commissioner.

B. Failure to exhibit the requested license shall be prima facie evidence that the person failing is unlicensed.

12. Authority to deny license; hearing upon request.

A. The commissioner may deny a license when he determines that the requirements therefor are not satisfied.

B. The applicant may request a hearing within 15 days of notice of denial of a license.

C. The commissioner shall notify the person denied the license, within 30 days of receipt of the request^{for a hearing,} of the time, the location, the nature of the hearing and a short and plain statement of the issues.

D. Opportunity shall be granted to all parties to respond and to present evidence on the issues involved.

E. After hearing, the commissioner shall either issue the license or deny the license stating the reasons for denial.

13. Judicial review. Any person denied a license after hearing shall have a right to appeal to the Superior Court in the county in which he is domiciled.'

Statement of Fact

This amendment will repeal the moratorium on the issuance of lobster and crab fishing licenses effective immediately. It also repeals those provisions of the lobster licensing law which the Federal Court found to be unconstitutional in Massey vs. Apollonio. The bill requires that an individual be domiciled in Maine in order to be issued a lobster and crab fishing license.

Reported by the Minority of the Committee on Marine Resources.

Reproduced and distributed under the direction of the Clerk of the House.

6/6/75

(Filing No. H-662)