

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1923

H. P. 1676

House of Representatives, June 5, 1975

Reported by the Committee on Marine Resources pursuant to H. P. 1603.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT to Provide for Licensing of Sternmen on Lobster and Crab
Fishing Boats.**

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

Whereas, the moratorium on lobster fishing licenses has prevented the licensing of additional persons desiring to serve as sternmen on lobster boats; and

Whereas, there is a need for licensed sternmen to make possible increased efficiency of the operation of lobster boats; and

Whereas, for purposes of safety, many lobster boat operators require the services of sternmen to operate and maintain fishing equipment; 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,

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

Sec. 1. 12 MRSA § 3401, sub-§ 22 is amended by adding at the end the following:

The term "domicile" means that place where a person lives, is physically present and has the present intent to remain indefinitely.

Sec. 2. 12 MRSA § 3402, sub-§ 3 is repealed and the following enacted in place thereof:

3. General eligibility for resident licenses. Any person is eligible for any resident license which the commissioner is authorized to issue under chapters

401 to 417, providing he has resided in Maine for 6 months next prior to the date of his application, unless a different time period is specified for a particular license.

Sec. 3. 12 MRSA § 4404, sub-§ 7 is amended by adding at the end the following:

Except that this section shall not apply to sternmen as licensed under section 4404-A.

Sec. 4. 12 MRSA § 4404-A is enacted to read:

§ 4404-A. Sternman's license; definitions

As used in this section, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

1. 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.

2. 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.

3. General licensing provisions apply. Except as otherwise specified in this chapter, the general licensing provisions of section 3751 apply to sternmen's licenses.

4. 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.

5. 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.

6. License designation. The license entitles the holder to provide a service as sternman for a lobster boat operator. The lobster boat operator operat-

ing the boat on which the sternman provides the service must have on his person a license to fish for lobsters and crabs as provided in section 4404.

7. License fee. The fee for a sternman's license shall be \$10 which the applicant shall submit with his application.

8. License to serve as sternman for a lobster boat operator. It shall be unlawful for any person to serve as sternman for a lobster boat operator without having a current written license as provided in this section.

9. 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.

10. Lobster boat operator. Any person licensed by the Department of Marine Resources to fish for, take or catch lobsters or crabs and who operates a boat for that purpose is a lobster boat operator.

11. Lobster fund. Five dollars of the license fee of \$10 received from each sternman's license issued shall be allocated to the Lobster Fund and allocated as provided in section 4404, subsection 6.

12. Person providing service as a sternman. Any person currently providing service as a sternman for a lobster boat operator under a valid license issued under section 4404 shall not be in violation of this section and such license shall be valid until January 1, 1976.

13. Residence requirements. Any person domiciled in the State of Maine may apply to the commissioner for a sternman's license.

14. Scope of license for transportation; license to be exhibited. The license entitles the holder to transport his share of the boat catch within the limits of the State, provided he has his license on his person while transporting his share of the catch and exhibits the license while so engaged on request of a coastal warden.

15. Sternman. Any person performing a service on a lobster boat engaged in lobster fishing under an agreement with the operator or owner of such boat shall be a sternman for the purpose of this subchapter.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to provide for licensing of sternmen.