

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1042

6  
7 H.P. 733

House of Representatives, March 13, 1985

8 On motion of Representative Crowley of Stockton Springs, referred to  
9 the Committee on Marine Resources. Sent up for concurrence and ordered  
10 printed.

EDWIN H. PERT, Clerk

Presented by Representative Scarpino of St. George.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT Relating to the Management and  
18 Conservation of the Lobster Resource.  
19

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

22 Sec. 1. 12 MRSA c. 619, sub-c. I, as amended, is  
23 repealed.

24 Sec. 2. 12 MRSA c. 619, sub-c. I-A is enacted to  
25 read:

26 SUBCHAPTER I-A

27 LICENSES

28 §6422. Lobster and crab fishing

29 1. Purpose and findings of fact. The purpose  
30 and findings of fact of this subsection are as fol-  
31 lows.

1           A. The Legislature finds that commercial fishing  
2 for lobster and crab resources has reached levels  
3 of participation, on both a statewide and region-  
4 al basis, that have impaired or threatened to im-  
5 pair the economic welfare of the fisheries of the  
6 State, the overall efficiency of the harvest and  
7 the sustained yield management of the fishery re-  
8 source.

9           B. The Legislature further finds that the State  
10 is the trustee of the coastal lobster and crab  
11 resources and that those resources are in jeopardy  
12 by reason of overexploitation, that certain  
13 fisheries have been substantially impaired and  
14 that present regulatory practices, including li-  
15 censing restriction, have failed to assure that  
16 the resource will be conserved and developed so  
17 as to sustain its maximum yield for the benefit  
18 of the people as required by the trust obliga-  
19 tions of the State. The Legislature further  
20 finds that the fair and reasonable method of pre-  
21 venting further depletion of the resource is by  
22 limiting entry into the commercial fishery in  
23 such a manner as to:

24                   (1) Not deprive those dependent for their  
25 livelihood on the fishery of their opportu-  
26 nity to continue to fish;

27                   (2) Assure a fair and reasonable method of  
28 entry for those who intended to pursue lob-  
29 ster and crab fishing as a livelihood; and

30                   (3) Provide a reasonable recreational fish-  
31 ing opportunity for other citizens of the  
32 State.

33           C. It is the purpose of this subchapter to pro-  
34 mote the conservation and the sustained yield  
35 management of the State's lobster and crab fish-  
36 ery resource and the economic health and stabili-  
37 ty of commercial fisheries.

38           2. Definitions. As used in this subchapter, un-  
39 less the context otherwise indicates, the following  
40 terms have the following meanings.

- 1           A. "Boat" means any vessel or watercraft which  
2           has been licensed by the State or issued a docu-  
3           mentation number by the Federal Government.
- 4           B. "Boat license" means a Class A, Class B,  
5           Class C, Class D or Class X license issued by the  
6           Department of Marine Resources for the operation  
7           of a boat for the purpose of taking lobsters and  
8           crabs.
- 9           C. "Crab" means any edible sea crustacean of  
10           the suborder, Brachyura, taken by traps or pots.
- 11           D. "Earned income" means gross income from har-  
12           vesting marine resources, plus adjusted gross in-  
13           come from all other sources providing personal  
14           services, whether as employee or self-employed,  
15           but does not include income received from invest-  
16           ments, pensions, Social Security or other retire-  
17           ment benefits.
- 18           E. "Harvesting" means the act of taking any ma-  
19           rine animal or marine species.
- 20           F. "Holder" means the individual to whom any  
21           boat license is issued pursuant to the provisions  
22           of this section.
- 23           G. "Sternman" means any person who works as a  
24           helper in the act of taking lobsters or crabs by  
25           pot or trap.
- 26           H. "Trap tag" means a small characteristic mark  
27           or label prescribed and issued by the department.
- 28           3. Applications for a license to operate a boat  
29           for taking lobsters and crabs. The following provi-  
30           sions apply to all classes of boat licenses provided  
31           for in this section, unless a different intent is ex-  
32           pressed.
- 33           A. An application shall contain such information  
34           as the commissioner requires consistent with the  
35           purposes of this section.
- 36           B. If an applicant meets the qualifications re-  
37           quired by this section, the commissioner shall

1 issue to the applicant an appropriate boat li-  
2 cence.

3 C. An applicant applying for a Class A boat li-  
4 cence after January 1, 1989, shall submit to the  
5 commissioner information certified by a public  
6 accountant or certified public accountant on a  
7 certificate issued by the department to support  
8 the applicant's income qualifications.

9 D. Any applicant under subsection 5, paragraphs  
10 A and B, who fails to satisfy the stated qualifi-  
11 cations may petition the commissioner for issu-  
12 ance of a license. The commissioner shall issue  
13 to the applicant the Class A boat license peti-  
14 tioned for if, upon review of the petition, the  
15 commissioner finds that:

16 (1) The applicant substantially meets the  
17 stated qualifications;

18 (2) The applicant has shown by past employ-  
19 ment practices a commitment to earning a  
20 living by commercial lobster fishing; and

21 (3) The denial of a license to operate a  
22 boat for commercial lobster fishing creates  
23 an unreasonable hardship.

24 E. Any party aggrieved by a decision under para-  
25 graph D may appeal to the Superior Court pursuant  
26 to the Maine Rules of Civil Procedure, Rule 80B.

27 F. All information submitted by the applicant to  
28 the commissioner to establish the applicant's  
29 qualification shall be confidential, except for  
30 appeals made under paragraph E.

31 4. Provisions applying to all licenses. The  
32 following apply to all licenses issued pursuant to  
33 this section.

34 A. All licenses are valid upon issuance.

35 B. No person may hold more than one license is-  
36 sued under this section.

1           5. Provisions governing Class A boat licenses.  
2 The following apply to all Class A boat licenses.

3           A. An applicant who applies no later than January  
4 1, 1989, for a Class A boat license for the  
5 taking of lobster and crabs must meet the fol-  
6 lowing requirements.

7                   (1) The applicant must be a state resident.

8                   (2) The applicant must have held a valid  
9 lobster and crab fishing license during the  
10 calendar year prior to the effective date of  
11 this subchapter.

12           B. An applicant who applies for a Class A boat  
13 license after January 1, 1989, must meet the fol-  
14 lowing requirements.

15                   (1) The applicant must be a state resident.

16                   (2) The applicant must:

17                           (a) Have earned at least 50% of his  
18 earned income as a Class A boat license  
19 holder for the previous 3 years;

20                           (b) Have earned at least 50% of his  
21 earned income as a Class B boat license  
22 holder for the previous 3 years;

23                           (c) Have earned at least 50% of his  
24 earned income as a Class C boat license  
25 holder for the previous 3 years;

26                           (d) Prior to the effective date of  
27 this subchapter, have fulfilled the re-  
28 quirements set forth in divisions (a),  
29 (b) and (c) by equivalent experience  
30 and reliance on commercial lobster  
31 fishing as employment;

32                           (e) Meet any combination of the re-  
33 quirements of divisions (a), (b), (c)  
34 and (d), totaling 3 years; or

1                   (f) Have held a Class E license for  
2                   the previous 3 years or have completed  
3                   the program of training established un-  
4                   der section 6423.

5                   C. After January 1, 1989, a Class A boat license  
6                   shall be renewable annually upon payment of the  
7                   required fee, provided that the license holder  
8                   can show that over the 3 previous years at least  
9                   50% of his earned income was derived from the  
10                   taking of lobsters and crabs. In the event the  
11                   license holder has held the license for less than  
12                   3 years, he shall show that at least 50% of his  
13                   income has come from the taking of lobsters and  
14                   crabs during the time he has held the license.

15                   Any license holder not meeting these requirements  
16                   may not renew his license unless the applicant  
17                   can show that:

18                   (1) He was unable to meet the requirements  
19                   set forth in this subsection, because of  
20                   temporary physical disability;

21                   (2) He has substantially met the require-  
22                   ments set forth in this subsection;

23                   (3) The denial of renewal of his license  
24                   creates an unreasonable hardship; or

25                   (4) He was on active military duty longer  
26                   than one of the 3 previous years.

27                   6. Provisions governing Class B boat licenses.  
28                   The following provisions govern Class B boat li-  
29                   censes.

30                   A. An applicant for a Class B boat license for  
31                   the taking of lobsters and crabs must meet the  
32                   following requirements.

33                   (1) The applicant must be a state resident.

34                   (2) The applicant must:

35                   (a) Have held a Class A boat license  
36                   for the previous 2 years;

- 1                   (b) Have held a Class C boat license  
2                   for the previous 2 years;
- 3                   (c) Have held a Class E license for  
4                   the previous 2 years;
- 5                   (d) Prior to the effective date of  
6                   this subchapter, have fulfilled the re-  
7                   quirements set forth in divisions (a),  
8                   (b) and (c) by equivalent experience  
9                   and reliance on commercial lobster  
10                   fishing as employment;
- 11                   (e) Meet any combination of the provi-  
12                   sions of divisions (a), (b), (c) and  
13                   (d), totaling 2 years; or
- 14                   (f) Have satisfactorily completed the  
15                   program of training established under  
16                   section 6423.

17                   B. A Class B boat license shall be renewable an-  
18                   nually by the holder of the license, unless re-  
19                   voked, upon the payment of the required fee.

20                   7. Provisions governing Class C boat licenses.  
21                   An applicant for a Class C boat license must meet the  
22                   following requirements.

23                   A. The applicant must be a state resident.

24                   B. The applicant must be less than 17 years of  
25                   age as of January 1st of the license year.

26                   8. Provisions governing Class D boat license.  
27                   An applicant for a Class D boat license must meet the  
28                   following requirements.

29                   A. The applicant must be a resident of the  
30                   State.

31                   B. Applications for a Class D boat license shall  
32                   only be received between March 1st and March 31st  
33                   annually.

34                   9. Provisions governing Class E licenses. An  
35                   applicant for a Class E license must meet the follow-  
36                   ing requirements.



1 A. The applicant must be a resident of the  
2 State.

3 B. The holder of a Class E license may fish for  
4 lobsters only as a sternman under the direct su-  
5 per vision of a Class A boat license holder.

6 10. Provisions governing Class X boat licenses.  
7 An applicant for a Class X boat license must meet the  
8 following requirements.

9 A. An applicant must hold a valid Class A boat  
10 license.

11 B. The holder of a Class X boat license may fish  
12 for lobsters and crabs only in the offshore wa-  
13 ters as defined in section 6443.

14 C. The holder of a Class X boat license may not  
15 hold any other concurrent lobster fishing li-  
16 censes or permits.

17 D. Any vessel used by the holder of a Class X  
18 boat license shall be distinctively and specially  
19 marked in a manner to be determined by the com-  
20 missioner.

21 11. General license provisions. The following  
22 provisions apply to all licenses.

23 A. A license only authorizes the activities spe-  
24 cific to that license by an individual who is  
25 named in the license.

26 B. No license is required to take or catch crabs  
27 with bare hands or hook and line.

28 C. Each applicant shall describe, on the appli-  
29 cation, a single color design of his buoys.

30 12. Lobster and crab traps or pots. The follow-  
31 ing provisions shall govern all traps and pots in the  
32 coastal waters.

33 A. It shall be unlawful for any person to set,  
34 raise or haul any trap or pot or string of traps  
35 or pots for any lobster or crab or to cause or  
36 allow the same to be done unless:

- 1           (1) He is licensed under this section;  
2           (2) He has a buoy attached to the trap or  
3           pot or string of traps or pots plainly  
4           carved or branded with the boat license num-  
5           ber; and  
6           (3) There is permanently attached to the  
7           trap or pot the trap tag issued by the com-  
8           missioner for the current year.

9           B. It shall be unlawful for any person to set,  
10          raise or haul traps or pots or cause the same to  
11          be done in excess of the number permitted to each  
12          class of license as follows:

13           (1) For a Class A boat license, 800 traps  
14           or pots or combination of traps or pots;

15           (2) For a Class B boat license, 200 traps  
16           or pots or combination of traps or pots;

17           (3) For a Class C boat license, 200 traps  
18           or pots or combination of traps or pots;

19           (4) For a Class D boat license, 25 traps or  
20           pots or combination of traps or pots;

21           (5) For a Class E license, 0 traps; or

22           (6) For a Class X boat license, unlimited.

23          C. The commissioner shall, upon issuance of a  
24          boat license, and annually upon payment of the  
25          required license fee, issue trap tags identified  
26          according to the license year not in excess of  
27          the following number:

28           (1) For a Class A boat license                   880;

29           (2) For a Class B boat license                    220;

30           (3) For a Class C boat license                    220; or

31           (4) For a Class D boat license                    27.

32          D. The commissioner may issue new trap tags in  
33          the event of loss by storm, theft or accident.

1           E. The fees for trap tags shall be as follows:

2                   (1) For a Class A or Class B boat license,  
3                   the trap tag fee shall be 50¢ each;

4                   (2) For a Class C or Class D boat license,  
5                   the trap tag fee shall be 15¢ each; and

6                   (3) For a Class X boat license, the trap  
7                   tag fee shall be \$1 each.

8           F. The fees collected from the sale of trap tags  
9           shall be allocated to the Enforcement Fund.

10           13. Transitional provisions for Class A boat li-  
11           censes. During the first full license year following  
12           enactment, a holder of a Class A boat license shall  
13           declare the number of traps he will fish.

14                   A. If the license holder declares more than 800  
15                   traps, he shall pay an additional 50¢ per trap  
16                   tag for each trap in excess of 800 traps. In  
17                   each subsequent year, the license holder shall  
18                   reduce the number of authorized traps by at least  
19                   10% until the level of 800 traps is reached.

20                   B. If the license holder declares less than 500  
21                   traps, he may increase the number of authorized  
22                   traps by no more than 10% per year until the lev-  
23                   el of 800 traps is reached.

24           14. License fees. The fees for issuance or re-  
25           newal of any license shall be paid between January  
26           1st and April 30th of each year. The fees shall be  
27           as follows:

28                   A. Class A boat license                                   \$100  
29                   (Except that the fee  
30                   shall be \$50 for an  
31                   applicant currently  
32                   enrolled in a full-  
33                   time secondary or  
34                   post-secondary cer-  
35                   tified educational  
36                   program);

37                   B. Class B boat license                                   \$100



1 The commissioner shall convene an advisory committee  
2 composed of himself or his designee, 3 representa-  
3 tives of the Lobster Advisory Council and 3 members  
4 with experience in vocational-educational programs.  
5 The committee shall advise the commissioner on the  
6 content and format of the training program.

7       Sec. 3. 12 MRSA §6431, sub-§1, as enacted by PL  
8 1977, c. 661, §5, is amended to read:

9       1. Minimum and maximum length. It shall be un-  
10 lawful to buy, sell, give away, transport, ship or  
11 possess any lobster which is less than 3 3/16 inches  
12 or more than 5 inches in length, as determined by the  
13 state double gauge lobster measure except as autho-  
14 riized by subsection' 1-A.

15       Sec. 4. 12 MRSA §6431, sub-§1-A is enacted to  
16 read:

17       1-A. Exception for 5 inches and larger lobsters  
18 caught offshore. The holder of an offshore  
19 lobstering license may fish for, take, possess, ship  
20 or transport lobsters more than 5 inches in length as  
21 determined by the state double gauge lobster measure  
22 provided that:

23       A. The lobsters were caught in the offshore wa-  
24 ters as defined in section 6443; and

25       B. The vessel carrying the lobsters larger than  
26 5 inches in length shall remain underway with no  
27 intermittent stops when crossing the State's ter-  
28 ritorial waters until arrival at the buying sta-  
29 tion of a wholesale dealer authorized to package  
30 lobsters larger than 5 inches in length, except  
31 that the vessel may stop to aid another vessel in  
32 distress or in other emergency situations as the  
33 commissioner may define by regulation.

34 The holder of an offshore lobster wholesale dealer's  
35 license may buy, sell, transport, ship or possess  
36 lobsters larger than 5 inches in length according to  
37 regulations adopted by the commissioner to implement  
38 this section.

39       Sec. 5. 12 MRSA §6439, as amended by PL 1981, c.

1 433, §10, is repealed.

2 Sec. 6. 12 MRSA §6439-A, as enacted by PL 1979,  
3 c. 152, §2, is repealed.

4 Sec. 7. 12 MRSA §6439-B is enacted to read:

5 §6439-B. Trawl limits

6 It is unlawful to have on any trawl more than 2  
7 lobster traps in any of the coastal waters subject to  
8 the jurisdiction of the State.

9 Sec. 8. 12 MRSA §6440, sub-§1, as enacted by PL  
10 1977, c. 661, §5, is repealed.

11 Sec. 9. 12 MRSA §6440, sub-§2, as enacted by PL  
12 1977, c. 661, §5, is amended to read:

13 2. Weekends. During the period from 4 p.m.,  
14 Eastern Daylight Savings Time, Saturday, to 1/2 hour  
15 before sunrise the following Monday morning from ~~June~~  
16 May 1st to August October 31st, both days inclusive;

17 Sec. 10. 12 MRSA §6440, sub-§§3 and 4 are en-  
18 acted to read:

19 3. Time of day. During the period from 4 p.m.  
20 until 1/2 hour before sunrise on the following day;  
21 and

22 4. Season. During the period from January 1st  
23 until March 31st, except that within 2 nautical miles  
24 of Monhegan Island the closed period shall be from  
25 June 25th until the following January 1st.

26 Sec. 11. 12 MRSA §6442, as enacted by PL 1983,  
27 c. 687, is repealed.

28 Sec. 12. 12 MRSA §6443 is enacted to read:

29 §6443. Definition of inshore and offshore waters

30 The commissioner shall by rule establish the  
31 boundary between the inshore and offshore waters. In  
32 establishing this boundary, the commissioner shall  
33 generally follow a line located 3 miles off the coast

1 of the mainland and around islands. The commissioner  
2 shall attempt to make this boundary consistent with  
3 federal definitions.

4       Sec. 13. 12 MRSA c. 619, sub-c. III, as amended,  
5 is repealed.

6       Sec. 14. 12 MRSA c. 619, sub-c. III-A is enacted  
7 to read:

8                               SUBCHAPTER III-A

9                               LOBSTER MANAGEMENT FUNDS

10 §6452. Lobster Fund

11       1. Purpose. The Lobster Fund shall be used for  
12 the purpose of propagation of lobsters by liberating  
13 seed and female lobsters in state coastal waters.

14       2. Purchases; liberation. The commissioner may  
15 authorize the expenditure of the money in the Lobster  
16 Fund for the purpose of purchasing seed lobsters from  
17 state lobster pound owners and female lobsters from  
18 wholesale seafood license holders. The commissioner  
19 shall establish the purchase price for seed and fe-  
20 male lobsters after consultation with the industry.  
21 The commissioner shall give priority to purchasing  
22 seed lobsters.

23       3. Liberation and v-notching. The commissioner  
24 shall liberate these lobsters in the coastal waters  
25 after v-notching them in the right flipper. The  
26 right flipper shall be determine as established under  
27 section 6436, subsection 1.

28       4. Tagging program. The commissioner may under-  
29 take a tagging program to determine the migratory  
30 patterns of lobsters purchased and liberated under  
31 this section. The commissioner may authorize the ex-  
32 penditure of up to \$5,000 annually from the Lobster  
33 Fund for this program.

34       5. Nonlapsing funds. The Lobster Fund shall not  
35 lapse.

36 §6453. Enforcement Fund

1           1. Purpose. The commissioner may authorize ex-  
2 penditures from the Enforcement Fund for the enforce-  
3 ment of the marine resources laws.

4           2. Nonlapsing funds. The Enforcement Fund shall  
5 not lapse.

6           §6454. Hatchery Fund

7           1. Purpose. The Hatchery Fund shall be used to  
8 establish and operate a lobster hatchery and  
9 reseeding program for the sole purpose of raising and  
10 releasing juvenile lobsters into the coastal waters  
11 of the State. The commissioner may operate the pro-  
12 gram directly with departmental staff or indirectly  
13 by contract with private parties.

14           2. Nonlapsing funds. The Hatchery Fund shall  
15 not lapse.

16           §6455. Allocation of lobster fees

17           Portions of the fees collected through the sale  
18 of all lobster licenses shall be allocated to the  
19 following funds according to the priorities estab-  
20 lished as follows.

21           1. Lobster Fund. The first \$10 of each license  
22 fee shall be allocated to the Lobster Fund.

23           2. General Fund. The next \$15 of each license  
24 fee shall be allocated to the General Fund.

25           3. Enforcement Fund. The next \$25 of each li-  
26 cence fee shall be allocated to the Enforcement Fund.

27           4. Hatchery Fund. The remaining revenue, if  
28 any, derived from the sale of each license shall be a  
29 allocated to the Hatchery Fund.

30           Sec. 15. 12 MRSA §6851, sub-§2, ¶C, as enacted  
31 by PL 1977, c. 661, §5, is amended to read:

32           C. Buy, sell, process, ship or, within the state  
33 limits, transport lobster caught in the inshore  
34 waters as defined in section 6443 and properly  
35 permitted or lawfully imported lobster meat or



1 parts. This license shall not authorize removing  
2 lobster meat from the shell unless a permit under  
3 section 6857 is held.

4 Sec. 16. 12 MRSA §6851-A is enacted to read:

5 §6851-A. Wholesale offshore lobster license

6 1. License required. Notwithstanding the provi-  
7 sions of section 6851, it shall be unlawful for any  
8 person to engage in the activities authorized under  
9 this section without a current wholesale offshore  
10 lobster license and a current wholesale seafood li-  
11 cence or other license issued under this Part autho-  
12 rizing the activities.

13 2. Licensed activities. The holder of a whole-  
14 sale offshore lobster license may, in the wholesale  
15 or retail trade, buy, sell, process, ship or, within  
16 state limits, transport lobster caught in the  
17 offshore waters.

18 3. License limited. A license shall only autho-  
19 rize these activities at one establishment or with  
20 one vehicle, but not on a vessel rigged to fish for  
21 lobster.

22 4. Records. The holder of a wholesale offshore  
23 lobster license shall maintain separate daily records  
24 of lobsters purchased and sold by number and weight  
25 of lobsters less than or equal to 5 inches in length  
26 and greater than 5 inches in length as determined un-  
27 der section 6431. These records shall indicate the  
28 daily landings in these categories for each vessel  
29 landing lobster caught in the offshore waters.

30 5. Manifests. All shipments of lobsters larger  
31 than 5 inches in length shall be in sealed containers  
32 and shall be accompanied by manifests indicating the  
33 numbers and total weight of lobsters in each ship-  
34 ment.

35 6. Supplemental license. A supplemental license  
36 shall be obtained for each additional establishment  
37 or vehicle.

38 7. Fees. The fees shall be as follows:



1 C. Class C - A "junior" lobsterman's license for  
2 state residents under 17. Trap limit of 200;

3 D. Class D - A recreational lobster license with  
4 a trap limit of 25;

5 E. Class E - A sternman-apprentice license al-  
6 lowing lobster fishing only under the supervision  
7 of a Class A license holder; and

8 F. Class X - An "offshore lobstering" license.  
9 No trap limit. A class X boat license may not be  
10 held concurrently with any other lobster license.

11 Adjustments to license fees are provided for those  
12 over 65 and to full-time students;

13 5. An apprenticeship program is created to train  
14 potential new entrants to the lobster industry; and

15 6. A Hatchery Fund and an Enforcement Fund are  
16 created with revenues from the sale of lobster li-  
17 censes and trap tags. These funds are used to estab-  
18 lish a restocking program for the lobster population  
19 and to strengthen enforcement activities.

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