

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1049

H.P. 745

House of Representatives, March 12, 1991

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A handwritten signature in cursive script that reads "Ed Pert".

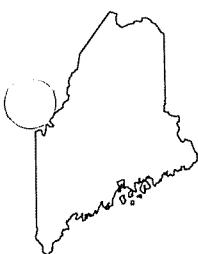
EDWIN H. PERT, Clerk

Presented by Representative FOSS of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Establish a Lobster Management Plan.



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

4 Sec. 1. 12 MRSA §6405-A is enacted to read:

6 §6405-A. Number tag removal

8 The commissioner shall suspend the lobster and crab fishing
10 license of any license holder convicted in court of violating
12 section 6472, subsection 3. The suspension is for 3 years from
14 the date of conviction.

16 Sec. 2. 12 MRSA §6421, sub-§2-A is enacted to read:

18 2-A. Apprentice license. Any person who applies for a
20 lobster and crab fishing license after December 31, 1991 and who
22 has not held a lobster and crab fishing license prior to that
24 date and who is otherwise eligible to hold a lobster and crab
26 fishing license, must be issued an apprentice license. A holder
28 of an apprentice license is authorized to work only as an
30 apprentice under the direct supervision of the holder of a Class
32 I or Class II license.

34 Sec. 3. 12 MRSA §6421, sub-§5, as amended by PL 1989, c. 455,
36 §2, is further amended to read:

38 5. Eligibility. A Class I or Class II lobster and crab
40 fishing license shall may only be issued to an individual and
42 shall must be a resident license. After December 31, 1991, any
44 applicant for a Class I or Class II license shall submit evidence
46 of having held a Class I or Class II license prior to December
48 31, 1991 or of having satisfied the following requirements. The
50 applicant must have:

52 A. Held an apprentice license for 3 years;

B. During each of those 3 years, worked at least 120 days
as an apprentice under the direct supervision of a Class I
or Class II license holder;

C. Spent 20% of each year of apprenticeship in shop time.
For the purposes of this subsection "shop time" means
off-boat time spent on activities traditionally associated
with lobster and crab fishing; and

D. Spent 80% of each year of apprenticeship in boat time.
For purposes of this subsection "boat time" means on-boat
time spent on activities traditionally associated with
lobster and crab fishing.

54 Sec. 4. 12 MRSA §6421, sub-§5-A is enacted to read:

56 5-A. Exemption. Any person 18 years of age or younger may
58 obtain a Class I or Class II license without satisfying the

2 eligibility requirements of subsection 5 as long as the person is
3 a resident and has:

4 A. Held an apprentice license for one year;

6 B. Worked at least 120 days as an apprentice under the
8 direct supervision of a Class I or Class II license holder;
9 and

10 C. Obtained the recommendation of the person with whom the
12 applicant apprenticed stating that the applicant is
13 sufficiently prepared to hold a Class I or Class II license.

14 **Sec. 5. 12 MRSA c. 619, sub-c. V is enacted to read:**

16 **SUBCHAPTER V**

18 **LOBSTER MANAGEMENT PLAN**

20 **§6471. General trap limit**

22 1. Established. The following general trap limits are
24 established:

26 A. From January 1, 1992 to December 31, 1992, 1,000 traps
27 per boat;

28 B. From January 1, 1993 to December 31, 1993, 900 traps per
30 boat;

32 C. From January 1, 1994 to December 31, 1994, 800 traps per
33 boat;

34 D. From January 1, 1995 to December 31, 1995, 700 traps per
36 boat; and

38 E. From January 1, 1996 to December 31, 1996, 600 traps per
39 boat;

40 2. Review by license holders. After December 31, 1996, trap
42 limits remain at 600 traps per boat unless by agreement a
44 majority of those possessing Class I or Class II lobster and crab
46 fishing licenses determine a lower trap limit should be imposed
48 or the plan changed. Any proposed changes must be submitted to
49 the commissioner for review and the commissioner may adopt rules
50 implementing any proposed changes as the commissioner determines
51 appropriate.

52 3. Penalty. Exceeding trap limits under this section is
54 grounds for suspension of a lobster and crab fishing license. A
56 first offense results in a suspension of one year. A subsequent
58 offense results in a suspension of two years.

2 offense results in a 3-year suspension. To suspend a license
3 under this section, the commissioner shall follow the procedures
4 for license suspension or revocation in the Administrative Court,
5 as provided under Title 4, chapter 25.

6 **§6472. Number tags**

8 1. Displayed. After December 31, 1991, each lobster trap
9 set must display a current, colored number tag.

10 2. Issuance. The Department of Marine Resources shall issue
11 each year new, colored number tags to Class I and Class II
12 license holders. Each year the color of issued tags must be
13 different from the previous year's tags. The department may
14 issue to each person applying only as many tags as the number of
15 traps that person is entitled to set pursuant to the allocation
16 formula of section 6473. The department may issue, upon request,
17 additional tags for traps lost up to 10% of the requester's trap
18 limit. The fee per tag is as follows:

20 A. For all tags issued up to the individual trap limit, the
21 fee is 20¢ per tag; and

24 B. For tags issued over the individual trap limit, the
25 fee per tag quadruples for every additional 50 tags. By
26 way of example, the fee for the first 50 tags over the
27 individual trap limit is 80¢ per tag; the fee for the
28 next 50 tags is \$3.20 per tag.

30 3. Removal of tags. It is unlawful for any person except a
31 coastal warden to remove a number tag from any trap, unless the
32 removal is by or with the permission of the owner of the trap.

34 **§6473. Annual individual trap allocation**

36 1. Generally. A person holding a lobster and crab fishing
37 license may apply to the commissioner on or after November 1st of
38 each year for a determination of the person's individual trap
39 allocation for the following year. Each applicant shall provide
40 the commissioner with a report of the applicant's income for the
41 year up to the date of the application, consisting of a notarized
42 letter from a certified public accountant stating the percentage
43 of the applicant's gross income derived from commercial fishing.
44 The percentage must be based on an accounting of all of the
45 applicant's income from whatever source derived including
46 investments, insurance, retirement income, Social Security or
47 inheritance. The percentage may be based on a forecast of future
48 gross earnings pursuant to subsection 3.

50 2. Allocation formula. Individuals must be allocated traps
according to the following formula:

2 A. An individual who derives 75% or more of the individual's
4 gross income from commercial fishing is allocated the entire
 general trap limit under section 6471.

6 B. An individual who derives less than 75% but at least 1%
8 of the individual's gross income from commercial fishing is
 allocated a percentage of the general trap limit under
10 section 6471 that corresponds with the percentage of that
 individual's gross income derived from commercial fishing.

12 C. An individual who derives less than 1% of the
14 individual's gross income from commercial fishing is
 allocated no traps. An individual who falls within this
16 paragraph loses that individual's license and is deemed for
 the purposes of section 6421, subsection 5 not to have held
18 a lobster and crab fishing license prior to December 31,
 1991. The individual is not eligible for a new license
20 until the individual submits evidence to the commissioner of
 having completed an apprenticeship in accordance with
 section 6421, subsection 5.

22 3. Forecasting. An individual may choose to forecast gross
24 earnings for the year for which the allocation is to be
 determined rather than employing figures for the year prior to
26 the year for which the allocation is sought. The option to
 forecast is forfeited for 4 years following any year in which a
28 forecast is made that exceeds or falls short of actual gross
 earnings by more than 4% of the forecasted amount.

30 §6473. Closed period
32

1. Zones. The following zones, the exact boundaries of which
34 must be established by the commissioner by rule, are closed
 during the following periods to the setting of traps not logged
36 pursuant to subsection 2.

38 A. The northern zone is closed from February 14th to March
40 1st.

B. The central zone is closed from February 1st to February
42 14th.

44 C. The southern zone is closed from January 19th to January
46 30th.

D. The special Monhegan Island zone is closed from August
48 1st to August 15th.

50 2. Logging system. The commissioner shall establish a
 logging system whereby any person who wishes to set lobster traps

2 during a closed period in any zone may log the person's traps
4 with the department. The commissioner shall issue special
6 logging flags to be placed on the buoys of the logged traps.

8 3. Prohibition. A person may not set a trap in any zone
10 during the closed period for that zone, unless the trap is logged
12 and the buoy carries a special logging flag. The department, in
14 accordance with section 6207, may seize any trap in any zone
16 during the closed period for that zone that is not properly
18 identified by a special logging flag.

12 STATEMENT OF FACT

14 This bill establishes an apprentice lobster and crab fishing
16 license for persons who have not held a lobster and crab fishing
18 license prior to December 31, 1991. The bill also establishes a
20 lobster management program that sets limits on the number of
22 traps that may be set per boat and per individual. The bill
24 establishes a tagging system to implement the management
program. Finally, this bill establishes certain zones that are
closed for certain specified periods each year to the setting of
traps not logged with the Department of Marine Resources.