

MAINE STATE LEGISLATURE

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REPORT "A"
MARINE RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 577, L.D. 782, Bill, "An Act to Establish a Management Framework for the Lobster Fishery within State Waters"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-I, sub-§57-A is enacted to read:

<u>57-A.</u>	<u>Lobster</u>	<u>Expenses</u>	<u>12 MRSA</u>
<u>Marine</u>	<u>Management</u>	<u>Only</u>	<u>§6447</u>
<u>Resources:</u>	<u>Policy</u>		
<u>Zones</u>	<u>Councils</u>		

Sec. 2. 12 MRSA §6421, as amended by PL 1993, c. 499, §§2 and 3, is further amended to read:

§6421. Lobster and crab fishing licenses

1. License required. It is unlawful for any person to engage in the activities authorized by this license under this section without a current Class I, Class II ~~or~~ Class III or Class IV lobster and crab fishing license or other license issued under this Part authorizing the activities.

2. Licensed activity. The holder of a Class I, Class II ~~or~~ Class III or Class IV lobster and crab fishing license may fish for, take, possess, ship or transport within the State

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lobsters or crabs and sell lobsters or crabs the license holder has taken. The license does not authorize the license holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat. The holder of a Class II or Class III license is liable for the licensed activities under this subsection of all unlicensed crew members assisting that licensee.

3-A. License limitation. A license authorizes activities by individuals as follows.

A. A Class I license authorizes the licensed activities by the individual who is named in the license. Any individual assisting or helping a Class I license holder in these activities must also be licensed.

B. A Class II license authorizes the license holder to engage in the licensed activities. A Class II license holder may engage one unlicensed crew member to assist in the licensed activities under the direct supervision of the Class II license holder.

C. A Class III license authorizes the license holder to engage in the licensed activities. A Class III license holder may engage 2 unlicensed crew members to assist in the licensed activities under the direct supervision of the Class III license holder.

D. A Class IV license authorizes the apprentice so licensed to engage in the licensed activities on that apprentice's sponsor's vessel when the apprentice's sponsor is on board the vessel. A Class IV license holder may not tend any traps unless the traps are fished by the sponsor of the apprentice so licensed.

4. Exception. A license is not required to take or catch crabs with bare hands or hook and line.

5. Eligibility. A Class I, Class II or, Class III or Class IV lobster and crab fishing license may only be issued to an individual and is a resident license. A Class I, Class II or Class III license may be issued to a person only if the person:

A. Possessed a calendar year 1993 or calendar year 1994 Class I, Class II or Class III license issued under this section or possessed a Class I, Class II or Class III license under this section that was issued between January 1, 1995 and March 31, 1995 and owned and operated a boat used for harvesting lobsters in the coastal waters in

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2 calendar year 1993 or 1994 or between January 1, 1995 and
3 March 31, 1995;

4 B. Documents to the satisfaction of the commissioner that
5 the person did not possess a license issued under this
6 section in calendar year 1993 or 1994 and did not apply for
7 a license issued under this section between January 1, 1995
8 and March 31, 1995 because of an injury or other medical
9 condition;

10 C. Held a license issued under this section or section
11 6501, 6701, 6702, 6731, 6745, 6746, 6748 or 6748-A during
12 any 3 consecutive years from March 31, 1985 to March 31,
13 1995;

14 D. Meets the requirements of the apprentice program under
15 section 6422;

16 E. Documents to the commissioner that the commissioner had
17 suspended the person's license privileges for a length of
18 time that included the entire period between January 1, 1993
19 and March 31, 1995; or

20 F. Documents to the commissioner that the person made a
21 substantial investment before April 30, 1995 in equipment
22 directly related to the harvesting of lobsters. The
23 commissioner shall define by rule the term "substantial
24 investment."

25 **6. Buoy colors.** Each license applicant must describe, on
26 the application, a single color design of the applicant's buoys.

27 **7-A. Fee.** Except as provided in subsection 8, the fee for
28 the license is:

29 A. Forty-six dollars for a Class I license for applicants
30 under 18 years of age;

31 B. Ninety-three dollars for a Class I license for
32 applicants 18 years of age or older;

33 C. One hundred eighty-six dollars for a Class II license;
34 and

35 D. Two hundred seventy-nine dollars for a Class III
36 license;

37 E. Forty-six dollars for a Class IV license for applicants
38 under 18 years of age; and

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F. Ninety-three dollars for a Class IV license for applicants 18 years of age or older.

8. Exception. The fee for a Class I or a Class IV license for applicants 70 years of age or older is \$46.

Sec. 3. 12 MRSA §6422 is enacted to read:

§6422. Apprentice program

1. Program established; experience component. By July 1, 1996, the commissioner shall establish by rule an apprentice program for entry into the lobster fishery. The program must include work experience as a sternman. A person must hold a Class IV license under section 6421 to participate in the program.

2. Length of program. The commissioner shall determine the length of time an apprentice is enrolled in the program, which must be a minimum of 2 years.

3. Educational courses. The program may include any educational courses the commissioner determines appropriate. Educational courses may be taught by the department or by any public or private sector association or organization authorized by the commissioner. For any course taught by the department, the commissioner shall set an enrollment fee sufficient to recover all costs incurred by the department in teaching the course.

4. Allowance for waivers. Notwithstanding subsections 1 and 2, the commissioner may waive all or part of the sternman experience component or the program length for a Class IV license holder who can document experience as a sternman. A Class IV license holder who receives a waiver under this subsection must complete any educational courses established under subsection 3.

Sec. 4. 12 MRSA §§6431-A, 6431-B and 6431-C are enacted to read:

§6431-A. Trap limit

1. Limit. Except as provided in subsection 2, it is unlawful for the holder of a Class I, Class II or Class III license issued under section 6421 to have more than 1,200 traps submerged in the coastal waters of the State.

2. Exception. The holder of a Class I, Class II or Class III license issued under section 6421 who documents to the commissioner that the license holder had an average of more than 1,200 traps submerged in the coastal waters of the State as of

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2 June 12, 1995 has until March 1, 2004 to reduce the number of
3 traps to 1,200 or fewer. At a minimum, the license holder must
4 divide the number of submerged traps as of June 12, 1995 that are
5 in excess of 1,200 by the number 8 and, starting in calendar year
6 1996, annually reduce the number of traps by the resulting number.

7 3. Effective date. This section takes effect March 1, 1996.

8
9 **§6431-B. Tag system**

10 By March 1, 1996, the commissioner shall establish by rule a
11 lobster trap tag system under which lobster and crab fishing
12 license holders must purchase tags for the purpose of identifying
13 and tracking traps. The rules must contain provisions for
14 replacing lost tags. The commissioner may impose a per-tag fee
15 to cover the cost of trap tags, the costs of administering and
16 enforcing a lobster trap tag system and the costs associated with
17 lobster management policy councils and referenda pursuant to
18 section 6447. Trap tag fees must be deposited in the Lobster
19 Management Fund established under section 6431-C.

20
21 **§6431-C. Lobster Management Fund**

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23 1. Lobster Management Fund. The Lobster Management Fund is
24 established as a dedicated nonlapsing fund. The fund is
25 administered by the department.

26
27 2. Purpose. All money credited to the Lobster Management
28 Fund must be used to cover the costs of trap tags and the
29 administration and enforcement of a lobster trap tag system under
30 section 6431-B and the costs associated with lobster management
31 policy councils and referenda pursuant to section 6447.

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33 **Sec. 5. 12 MRSA §§6446 and 6447 are enacted to read:**

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35 **§6446. Lobster management zones**

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37 1. Establishment of zones. The commissioner may establish
38 by rule zones to facilitate local or regional management of
39 lobster fishery efforts.

40
41 2. Rules for zones. Notwithstanding any other provision of
42 law, the commissioner may not adopt rules that limit fishing
43 efforts in a zone established under subsection 1 unless those
44 rules are proposed by a lobster management policy council
45 established for a zone pursuant to section 6447 and the proposed
46 rules were approved in a referendum pursuant to section 6447,
47 subsection 6. The rules adopted by the commissioner must
48 accurately reflect the intent of the rules proposed by the
49 lobster management policy council, but are not required to be a
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verbatim rendition of the proposed rules. The rules adopted under this section may regulate only the following:

- A. The number of lobster traps fished and the time periods allowed for complying with that number;
- B. The number of lobster traps allowed on a trawl; and
- C. The time of day when lobster fishing may occur.

3. Public hearing not required. In adopting rules under subsection 2, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052. The commissioner shall comply with all other provisions of Title 5, chapter 375 when adopting rules under subsection 2.

4. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

§6447. Lobster management policy councils

1. Councils. The commissioner shall establish a lobster management policy council for each zone created under section 6446. Council members must be reimbursed pursuant to Title 5, section 12004-I, subsection 57-A.

2. Rules for operation. By July 1, 1996, the commissioner shall establish by rule operating procedures for lobster management policy councils, including, but not limited to, the number of members on councils, the election and terms of council members and the process for referenda on council policies. A council must have an odd number of voting members.

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote.

4. Legislative representation. The President of the Senate and the Speaker of the House shall jointly appoint a Legislator to each lobster management policy council. The Legislator is a nonvoting member and serves a 2-year term.

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2 5. Council authority. Upon approval in a referendum under
3 subsection 6, a lobster management policy council may propose to
4 the commissioner regulations for a zone to place the following
5 limitations on lobster and crab fishing license holders that fish
6 in that zone, provided the proposed limitations are stricter than
7 the limitations under section 6431-A, 6439, 6439-A or 6440:

8 A. The number of lobster traps fished and the time periods
9 allowed for complying with that number;

10 B. The number of lobster traps allowed on a trawl; and

11 C. The time of day when lobster fishing may occur.

12
13 6. Referendum on policy proposals. A lobster management
14 policy council must submit proposed regulations to referendum in
15 the zone in which the regulations would apply before submitting
16 those proposed regulations to the commissioner. A lobster
17 management council may submit proposed regulations to the
18 commissioner if the proposed regulations are approved by 2/3 of
19 those voting in the referendum.
20

21
22 7. Council member and voter qualifications. A person may
23 not be a member of a zone's lobster management policy council or
24 vote in a zone's council election or referendum unless that
25 person:
26

27 A. Possesses a Class I, Class II or Class III lobster and
28 crab fishing license issued under section 6421; and

29 B. Is a resident of the zone.

30
31 8. Role of advisory council. Notwithstanding any
32 provisions to the contrary, the commissioner may adopt rules
33 under this section without the advice and consent of the Marine
34 Resources Advisory Council.
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37 Sec. 6. 12 MRSA §6451, sub-§8 is enacted to read:

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39 8. Apprentice program. The commissioner may authorize the
40 expenditure of money in the Lobster Fund to cover the initial
41 costs of developing and delivering the educational component of
42 the apprentice program under section 6422, subsection 3. Any
43 expenditures must be reimbursed to the Lobster Fund from the fees
44 charged under section 6422, subsection 3.
45

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47 Sec. 7. Allocation. The following funds are allocated from the
48 Lobster Management Fund to carry out the purposes of this Act.

49
50 1995-96 1996-97

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2 MARINE RESOURCES, DEPARTMENT OF

4 Administration - Marine Resources

6	Positions - Other Count	(2.0)	(2.0)
	Personal Services	\$36,624	\$48,832
8	All Other	62,500	80,000
	Capital Expenditures	12,000	
10			
	TOTAL	<u>\$111,124</u>	<u>\$128,832</u>

12 Provides allocations for the
 14 costs of 2 additional Clerk
 16 Typist II positions and
 administrative costs
 18 necessary for administering
 new lobster management
 requirements and for the
 20 costs of establishing and
 operating 5 Lobster
 22 Management Policy Councils.

24 Marine Patrol - Bureau of

26	Positions - Other Count	(3.0)	(3.0)
	Personal Services	\$79,388	\$105,850
28	All Other	30,300	40,400
	Capital Expenditures	31,500	5,000
30			
	TOTAL	<u>\$141,188</u>	<u>\$151,250</u>

32 Allocates funds for one Boat
 34 Specialist position, 2 Marine
 Patrol Officer positions and
 36 additional operating and
 capital costs pertaining to
 38 the enforcement of the new
 lobster management framework.

42	DEPARTMENT OF MARINE RESOURCES		
	TOTAL	<u>\$252,312</u>	<u>\$280,082'</u>

44 Further amend the bill by inserting at the end before the
 46 statement of fact the following:

· FISCAL NOTE

48		1995-96	1996-97
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APPROPRIATIONS/ALLOCATIONS

2	Other Funds	\$252,312	\$280,082
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REVENUES

8	General Fund	\$16,200	\$21,600
	Other Funds	256,812	286,082

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12 Authorizing an additional lobster fishing license category
 14 will increase General Fund revenue by \$16,200 and \$21,600 in
 16 fiscal years 1995-96 and 1996-97, respectively. In addition, the
 18 new license category will increase dedicated revenues collected
 by the Department of Marine Resources by \$4,500 and \$6,000 in
 fiscal years 1995-96 and 1996-97, respectively.

20 The Department of Marine Resources will require Lobster
 22 Management Fund allocations of \$252,312 and \$280,082 in fiscal
 24 years 1995-96 and 1996-97, respectively, for additional
 26 enforcement and administrative costs pertaining to the creation
 of a new management framework for the lobster fishery and for the
 costs of establishing five regional Lobster Management Policy
 Councils. The commissioner is authorized to impose fees that
 will generate adequate dedicated revenue to cover the increased
 enforcement and administrative costs.

28 This bill may increase prosecutions for Class D crimes. If
 30 a jail sentence is imposed, the additional costs to the counties
 32 are estimated to be \$83.22 per day per prisoner. These costs are
 34 not reimbursed by the State. The number of prosecutions that may
 result in a jail sentence and the resulting costs to the county
 jail system are expected to be insignificant.

36 The additional workload, administrative costs and indigent
 38 defense costs associated with the minimal number of new cases
 40 filed in the court system can be absorbed within the budgeted
 42 resources of the Judicial Department. The collection of
 additional fines may also increase General Fund revenue by minor
 amounts.'

STATEMENT OF FACT

44 This amendment is the majority report of the Joint Standing
 46 Committee on Marine Resources.

48 This amendment replaces the bill. It establishes an
 50 apprentice program for new entrants into Maine's lobster

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2 fishery. The Commissioner of Marine Resources is authorized to
3 establish the program by rule. Participation in the program is
4 for a minimum of 2 years and includes a requirement for
5 experience working as a sternman.

6 The amendment also places limitations on who may obtain a
7 lobster and crab fishing license.

8 The amendment creates a trap limit of 1,200 lobster traps
9 for license holders fishing in Maine waters, effective March 1,
10 1996. It allows people who fish more than 1,200 traps to reduce
11 their traps to the 1,200-trap level over 8 years.

12 The amendment also creates a trap tag system to identify and
13 track traps and to fund the trap tag system and the operation of
14 local lobster management policy councils.

15 The amendment provides the Commissioner of Marine Resources
16 the authority to establish zones to facilitate local or regional
17 management of lobster fishery efforts. It also provides that
18 whenever a zone is established a lobster management policy
19 council is created. The council may propose zone regulations to
20 the commissioner, provided the regulations are stricter than
21 state law and license holders who fish in the zone approve of the
22 regulations in a referendum. The proposed rules must receive a
23 2/3 vote of approval from the license holders who vote in the
24 referendum. The commissioner may adopt rules for a zone only
25 when those rules are proposed by a council following approval in
26 a referendum.

27 The amendment also adds an allocation section and a fiscal
28 note.