

MAINE STATE LEGISLATURE

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MARINE RESOURCES

Reported by: The Majority of the Committee.

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STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 337, L.D. 918, Bill, "An Act to Ensure a Sustainable Urchin Fishery in the State and to Promote Competition in the Maine Sea Urchin Processing Industry"

Amend the bill by striking out the title and substituting the following:

'An Act to Ensure a Sustainable Urchin Fishery in the State'

Further 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. 12 MRSA §6533, as enacted by PL 1993, c. 604, §1, is amended to read:

§6533. Training required for tender's license

The commissioner may not issue a sea urchin beat and scallop diving tender license under section 6748-B 6535 to any person for calendar year 1995 or later unless that person has attended a safety training session offered under this section.

1. Tender safety training session. By August 15, 1994, the commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin beat and scallop diving tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the

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2 handharvesting of sea urchins and scallops. For any training
3 session taught by the department, the commissioner shall charge a
4 fee for that session to recover all costs incurred by the
5 department in teaching the training session.

6 2. **Allowance for waivers.** The commissioner may waive the
7 requirement to attend a training session offered under this
8 section for any person who demonstrates to the commissioner,
9 either through documented experience or technical or professional
10 accreditation, a level of knowledge at least equal to that
11 expected from a person who completed the session. It is the
12 responsibility of the person seeking such a waiver to request
13 that waiver in writing to the commissioner and to provide the
14 commissioner with any documentation the commissioner determines
15 necessary to make a decision.

16 **Sec. 2. 12 MRSA §6535** is enacted to read:

17 **§6535. Sea urchin and scallop diving tender license**

18
19 **1. License required.** It is unlawful for a person to
20 operate a boat as a platform for the harvesting of sea urchins
21 and scallops by hand, to act as a diving tender on a boat or to
22 possess, strip, transport or sell scallops or sea urchins unless
23 that person is licensed under this section, section 6701 or
24 section 6748.

25
26 **2. Licensed activity.** A person licensed under this section
27 may tend divers and operate a boat as a platform for the
28 harvesting of sea urchins and scallops by hand and may possess,
29 ship, transport and sell sea urchins and scallops. A sea urchin
30 and scallop diving tender license does not authorize the holder
31 to harvest sea urchins and scallops.

32
33 **3. Eligibility.** A sea urchin and scallop diving tender
34 license may be issued only to an individual and is a resident
35 license.

36
37 **4. Fee.** The fee for a sea urchin and scallop diving tender
38 license is \$89.

39
40 **5. Prima facie evidence.** The failure of at least one
41 person on board the boat operated as a platform during periods of
42 diving to harvest scallops or sea urchins to have a license
43 issued under section 6701 or 6748 is prima facie evidence of a
44 violation of this section.

45
46 **Sec. 3. 12 MRSA §6748-B**, as enacted by PL 1993, c. 416, §2,
47 is repealed.

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Sec. 4. 12 MRSA §6748-D is enacted to read:

§6748-D. Sea urchin hand-raking and trapping license

1. License required. It is unlawful for a person to engage in the activities authorized under this section without a current sea urchin hand-raking and trapping license.

2. Licensed activity. The holder of a sea urchin hand-raking and trapping license may take sea urchins by hand-raking or by trap and may possess, ship, transport or sell sea urchins taken by that licensee.

3. Eligibility. A sea urchin sea-urchin hand-raking and trapping license may be issued only to an individual and is a resident license.

4. Fee. The fee for a sea urchin hand-raking and trapping license is \$89.

Sec. 5. 12 MRSA §6749, as enacted by PL 1993, c. 416, §2, is repealed and the following enacted in its place:

§6749. Sea urchin harvesting season and closed days

It is unlawful for a person to fish for or take sea urchins:

1. Season. From May 1st to August 31st; and

2. Closed days. During the following time periods from September 1st to October 31st and from March 1st to April 31st:

A. From 1/2 hour after sunset Saturday to 1/2 hour before sunrise the following Monday; and

B. From 1/2 hour after sunset Tuesday to 1/2 hour before sunrise the following Thursday.

Sec. 6. 12 MRSA §6749-N, as amended by PL 1995, c. 198, §1, is further amended to read:

§6749-N. Closed areas; 1995 to 1998

Notwithstanding section 6749, in calendar years 1995, 1996, 1997 and 1998, it is unlawful for a person to fish for or take sea urchins from:

1. Zone 1. Zone 1, from April 1st to August 15th 31st. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort

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Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then running southerly to the TB1 whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

2. Zone 2. Zone 2, from May 15th 1st to October 1st. For the purpose of this article, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

~~The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.~~

The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.

Sec. 7. 12 MRSA §6749-0, as enacted by PL 1993, c. 740, §3, is repealed and the following enacted in its place:

§6749-0. Limited entry; exceptions

1. Handfishing and dragging licenses. The commissioner may not issue a handfishing sea urchin license or a sea urchin dragging license for calendar year 1994, 1995, 1996, 1997 or 1998 to any person unless that person possessed that license in the previous calendar year.

2. Hand-raking and trapping license. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1995 or 1996 to any person unless that person possessed either a handfishing sea urchin license or a sea urchin dragging license in the previous calendar year. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1997 or 1998 to any person unless that person possessed a sea urchin hand-raking and trapping license in the previous calendar year.

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2 3. Exceptions. The commissioner may grant a license under
3 this section to a person who was licensed to harvest sea urchins
4 in the year prior to the previous calendar year but did not
5 possess a license in the previous calendar year due to physical
6 injury or other medical condition. The person must provide the
7 commissioner with documentation from a physician describing the
8 physical injury or other medical condition.

9
10 4. License transfer. The commissioner may transfer the
11 license of a deceased holder of a license issued under this
12 section to a member of the deceased license holder's family. For
13 the purposes of this subsection, "member of the deceased license
14 holder's family" means a deceased license holder's child by birth
15 or adoption, stepchild or spouse.

16 **Sec. 8. 12 MRSA §6749-P and §6749-Q,** as enacted by PL 1993,
17 c. 740, §3, are amended to read:

18 **§6749-P. Licenses by zone**

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20 For calendar years 1995, 1996, 1997 and 1998, a person
21 eligible to purchase a license under section 6749-O, may purchase
22 those licenses only for Zone 1 or Zone 2. All of those licenses
23 issued to any one person in any one year must be for the same
24 zone. A handfishing sea urchin license, a sea urchin hand-raking
25 and trapping license or a sea urchin dragging license authorizes
26 the licensed activity only in the zone for which it is issued. A
27 sea urchin dragging license must list the documentation or
28 registration number of the vessel to be used by that licensee
29 when dragging. A vessel documentation number or registration
30 number may not be listed on more than one sea urchin boat license.

31 **§6749-Q. License surcharges**

32
33 The following surcharges are assessed on licenses sold for
34 calendar years 1995, 1996 and 1997:

35
36 **1. Handfishing sea urchin license.** One hundred and sixty
37 dollars on a sea urchin hand-harvesting handharvesting license;

38
39 **1-A. Sea urchin hand-raking and trapping license.** One
40 hundred and sixty dollars on a sea urchin hand-raking and
41 trapping license;

42
43 **2. Sea urchin dragging license.** One hundred and sixty
44 dollars on a sea urchin dragging license;

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46 **3. Sea urchin boat tender's license.** Thirty-five dollars
47 on a sea urchin boat tender's license;

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4. Wholesale seafood license with a sea urchin buyer's permit. Five hundred dollars on a wholesale seafood license with a sea urchin buyer's permit; and

5. Wholesale seafood license with a sea urchin processor's permit. Two thousand five hundred dollars on a wholesale seafood license with a sea urchin processor's permit.

~~The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.~~

The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.

Sec. 9. 12 MRSA §6749-U is enacted to read:

§6749-U. Extension of closing dates.

The commissioner may by rule extend the closing dates established under sections 6749 and 6749-N for entire zones or portions of zones for the purpose of conserving spawning sea urchins.

Sec. 10. Report. The Commissioner of Marine Resources shall report by February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the feasibility of administering a roe-yield standard as a means of conserving the State's sea urchin resource. The joint standing committee of the Legislature having jurisdiction over marine resource matters may report out legislation concerning roe-yield standards during the Second Regular Session of the 117th Legislature.'

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

FISCAL NOTE

The establishment of several new licensure categories will increase General Fund and dedicated revenues collected by the Department of Marine Resources. The exact amounts can not be determined at this time.

The Department of Marine Resources will incur some minor additional costs to adopt certain rules, to enforce certain provisions and to submit a required report to the Legislature.

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2 These costs can be absorbed within the department's existing
budgeted resources.

4 This bill may increase prosecutions for Class D crimes. If
6 a jail sentence is imposed, the additional costs to the counties
are estimated to be \$83.22 per day per prisoner. These costs are
8 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.

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

18

20 **STATEMENT OF FACT**

22 The amendment replaces the bill and makes the following
additions and changes to the sea urchin laws.

24

26 1. It enacts requirements that scallop diver tenders be
licensed and complete the same safety training as is required of
sea urchin divers.

28

30 2. It enacts a license for sea urchin hand-raking and
trapping.

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34 3. It changes the dates during which both sea urchin zones
will be closed from May 15th to August 15th to May 1st to August
31st.

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38 4. It enacts Sunday and Wednesday closure of the urchin
fishery during the months of September, October, March and April.

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42 5. It changes the closing dates in Zone 1 from April 1st to
August 15th to April 1st to August 31st.

44

46 6. It changes the closure dates in Zone 2 from May 15th to
October 1st to May 1st to October 1st.

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50 7. It enacts an exception to the sea urchin limited entry
provisions that allows the Commissioner of Marine Resources to
grant a sea urchin license to a person who was licensed to
harvest sea urchins in the year prior to the previous calendar
year but did not possess a license in the previous calendar year
due to physical injury or any other medically related reason.

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The person must provide the commissioner with documentation from a physician describing the physical injury or any other medically related reason.

8. It enacts a provision that allows the Commissioner of Marine Resources to transfer the license of a deceased license holder to a member of the deceased license holder's family.

9. It clarifies that a person who holds a sea urchin license may fish only in the zone for which the license is issued.

10. It permits the commissioner to extend closing dates in zones or a portion of zones for the conservation of spawning sea urchins.

11. It requires the Commissioner of Marine Resources to report by February 1, 1996 on the feasibility of administering a roe-yield standard as a means of conserving Maine's sea urchin resource.

12. It adds a fiscal note to the bill and amends the title of the bill.

This amendment is the majority report of the committee.