

# MAINE STATE LEGISLATURE

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H. 816

L.D. 1714

DATE: 3/21/96

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MARINE RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1252, L.D. 1714, Bill, "An Act to Establish a Sea Urchin Management Plan"

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-B is enacted to read:

Table with 3 columns: 57-B, Sea Urchin, None, 12 MRSA. Rows: Marine Resources, Zones, Zone Council, §6749-X

Sec. 2. 12 MRSA §6301, sub-§2, ¶¶P and Q, as enacted by PL 1995, c. 492, §3 and affected by §5, are amended to read:

P. A lobster transportation license issued under section 6854 expires on March 31st of each year; and

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year.

Sec. 3. 12 MRSA §6301, sub-§2, ¶¶R to U are enacted to read:

R. A sea urchin and scallop diving tender license issued under section 6535 expires on June 30th of each year;

S. A handfishing sea urchin license issued under section 6748 expires on June 30th of each year;

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2 T. A sea urchin dragger's license issued under section  
6748-A expires on June 30th of each year; and

4 U. A sea urchin hand-raking and trapping license issued  
under section 6748-D expires on June 30th of each year.

6  
8 **Sec. 4. 12 MRSA §6749-N**, as amended by PL 1995, c. 392, §6,  
is further amended to read:

10 **§6749-N. Closed areas; 1995 to 1999**

12 Notwithstanding section 6749, in calendar licensing years  
14 1995, 1996, 1997 1997-98 and 1998 1998-99, it is unlawful for a  
person to fish for or take sea urchins from:

16 1. **Zone 1.** Zone 1, from ~~April~~ May 1st to August July  
18 31st. For the purposes of this article, "Zone 1" means all  
coastal waters west of a line beginning at the easternmost point  
20 of Fort Point State Park on Cape Jellison then running  
southwesterly to channel marker #1 south of Sears Island, then  
22 running southwesterly to channel marker BW "11" located between  
Marshall's Point and Bayside in the Town of Northport, then  
24 running southwesterly to channel marker #9 east of Great Spruce  
Head located in the Town of Northport, then running southerly to  
26 Graves channel marker northeast of the Town of Camden, then  
running southeasterly to the Penobscot Bay Buoy east of Rockland  
28 harbor, then running southerly to the TBl whistle southwest of  
Junken Ledge, then running southeasterly to Red Nun #10 buoy at  
30 Foster Ledges, then running due south magnetic to the boundary of  
the State's coastal waters; and

32 2. **Zone 2.** Zone 2, from May 1st to ~~October-1st~~ July 31st.  
34 For the purpose of this article, "Zone 2" means all coastal  
waters east of that line established in subsection 1, including  
36 all coastal waters of the Penobscot River north of Fort Point  
State Park.

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

44 **Sec. 5. 12 MRSA §6749-O, sub-§§1 and 2**, as enacted by PL 1995,  
c. 392, §7, are amended to read:

46 1. **Handfishing and dragging licenses.** The Except as  
48 provided in subsections 3 and 4, the commissioner may not issue a  
handfishing sea urchin license or a sea urchin dragging license  
for calendar year 1994,--1995, 1996,--1997 or licensing years  
50 1997-98 or 1998 1998-99 to any person unless that person  
possessed that license in the previous calendar licensing year.

2           **2. Hand-raking and trapping license.** The Except as  
4 provided in subsections 3 and 4, the commissioner may not issue a  
6 sea urchin hand-raking and trapping license for calendar year  
8 1995-~~or~~ 1996 to any person unless that person possessed either a  
10 handfishing sea urchin license or a sea urchin dragging license  
12 in the-previous calendar year 1995. The commissioner may not  
14 issue a sea urchin hand-raking and trapping license for calendar  
16 licensing year 1997 1997-98 or 1998 1998-99 to any person unless  
18 that person possessed a sea urchin hand-raking and trapping  
20 license in the previous calendar licensing year. A person who is  
22 issued a sea urchin hand-raking and trapping license may not be  
24 issued a handfishing sea urchin license or a sea urchin dragging  
26 license in the same licensing year.

16           **Sec. 6. 12 MRSA §6749-P,** as amended by PL 1995, c. 392, §8,  
18 is further amended to read:

18           **§6749-P. Licenses by zone**

20           For calendar years-1995, year 1996,-1997 and licensing years  
22 1997-98 and 1998 1998-99, a person eligible to purchase a license  
24 under section 6749-O may purchase those licenses only for Zone 1  
26 or Zone 2. All of those licenses issued to any one person in any  
28 one year must be for the same zone. In licensing years 1997-98  
30 and 1998-99, a person may not change the zone in which the person  
32 harvested sea urchins in the previous licensing year unless the  
34 change is authorized in accordance with section 6749-Z. A  
36 handfishing sea urchin license, a sea urchin hand-raking and  
38 trapping license or a sea urchin dragging license authorizes the  
40 licensed activity only in the zone for which it is issued. A sea  
42 urchin dragging license must list the documentation or  
44 registration number of the vessel to be used by that licensee  
46 when dragging. A vessel documentation number or registration  
48 number may not be listed on more than one sea urchin boat  
50 license.

38           **Sec. 7. 12 MRSA §6749-Q, first ¶,** as enacted by PL 1993, c.  
40 740, §3, is amended to read:

42           The following surcharges are assessed on licenses sold for  
44 calendar years-1995, year 1996 and 1997 licensing year 1997-98:

44           **Sec. 8. 12 MRSA §6749-T,** as enacted by PL 1993, c. 740, §3,  
46 is amended to read:

46           **§6749-T. Repeal**

48           This article is repealed ~~on January 1,~~ June 30, 1999.

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Sec. 9. 12 MRSA §§6749-V to 6749-Z are enacted to read:

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**§6749-V. Dragging closure**

Notwithstanding section 6749-N, it is unlawful for a person to fish for or take sea urchins with a drag or any combination of drags in the coastal waters of the State from May 1st to September 30th.

**§6749-W. Open days**

**1. Prohibition.** It is unlawful for a person to fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

**2. Designation of open days; Zone 1.** The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 1 under section 6749-N, subsection 1:

A. One hundred and fifty days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 150 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

**3. Designation of open days; Zone 2.** The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 2 under section 6749-N, subsection 2:

A. One hundred and seventy days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 170 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

Rules adopted pursuant to this section are routine technical rules as defined in the Title 5, chapter 375, subchapter II-A.

**§6749-X. Sea Urchin Zone Council**

**1. Appointment; composition.** The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of 18 members. The commissioner shall appoint the members as follows:

A. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 1;

B. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 2;

C. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 1;

D. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 2;

E. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 1;

F. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 2;

G. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 1;

H. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 2; and

I. Two scientists who have expertise in marine resources management.

In making appointments under paragraphs A, B, C and D, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

**2. Term.** Council members serve for 2 years and continue serving until a successor is duly appointed and qualified. When a vacancy occurs, the commissioner shall fill the vacancy by appointing a member from the same category of members listed in subsection 1 as the member who vacated the council.

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2 3. Purpose. The council shall make recommendations to the  
3 commissioner concerning the designation of open days for the  
4 harvesting of sea urchins by handfishing, dragging, hand-raking  
5 and trapping pursuant to section 6749-W.

6 4. Chair and officers. The council shall annually choose  
7 one of its members to serve as chair for a one-year term. The  
8 council may select other officers and designate their duties.

10 5. Meetings. The council shall meet at least once each  
11 year. The council may also meet at other times at the call of  
12 the chair or the chair's designee or the call of the commissioner  
13 or the commissioner's designee.

14 **§6749-Y. Penalty**

16 Notwithstanding section 6204, a person who violates or fails  
17 to comply with this subchapter commits a Class D crime that is  
18 punishable by a fine of not less than \$500. The fine may not be  
19 suspended.

22 **§6749-Z. Changing zones; 1997-98 and 1998-99**

24 1. Authorization of changes. Beginning in the 1997-98  
25 licensing year, a person eligible to purchase a license under  
26 section 6749-O who wishes to change the zone in which the person  
27 harvests sea urchins may not change zones unless the change is  
28 authorized by the commissioner in accordance with this section.

30 2. Zone change request on application. A person eligible  
31 to purchase a license under section 6749-O who wishes to change  
32 the zone in which that person was licensed to harvest sea urchins  
33 in the previous licensing year must indicate on a sea urchin  
34 harvesting license application a preference to change the zone in  
35 which the person harvests sea urchins. The commissioner shall  
36 stamp each sea urchin harvesting license application with the  
37 time and date of submission.

38 3. Conditions for authorization. The commissioner shall  
39 authorize zone change requests for a zone if the number of  
40 licenses issued for that zone in the previous licensing year is  
41 less than the number of licenses issued for that zone in the year  
42 before the previous licensing year. The total number of  
43 authorized change requests for a zone during a licensing year may  
44 not exceed the number by which the number of licenses issued for  
45 that zone in the previous licensing year is less than the number  
46 of licenses issued for that zone in the year before the previous  
47 licensing year. The commissioner shall authorize zone change  
48 requests in chronological order of requests received under this  
49 section.

**Sec. 9. Transition provisions.** Licenses issued in calendar year 1996 under the Maine Revised Statutes, Title 12, sections 6535, 6748, 6748-A and 6748-D remain in effect until June 30, 1997. A person issued a license in calendar year 1996 under Title 12, sections 6748, 6748-A and 6748-D may not fish in a zone between January 1, 1997 and June 30, 1997 other than the zone for which the license was issued in calendar year 1996.

**Sec. 10. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 12, section 6749-N and enact Title 12, sections 6749-V and 6749-W take effect May 1, 1996. Those sections of this Act that amend Title 12, section 6301 and enact Title 12, section 6301, subsection 2, paragraphs R, S, T and U take effect December 31, 1996.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.'

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

**FISCAL NOTE**

**1996-97**

**REVENUES**

General Fund	(\$214,045)
Other Funds	(297,300)

The change in the expiration date for sea urchin harvesting licenses will result in a one-time reduction of General Fund revenue of \$214,045 in fiscal year 1996-97. It will also reduce dedicated revenue to the Department of Marine Resources by \$297,300 in fiscal year 1996-97. The one-time loss in dedicated revenue for the Sea Urchin Research Fund may result in the temporary lay-off of one half-time position and the curtailment of research activities.

This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.70 per day per prisoner. These costs are 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.

The additional workload, administrative costs and indigent defense costs associated with the minimal number of new cases



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2 filed in the court system can be absorbed within the budgeted  
resources of the Judicial Department. The collection of  
4 additional fines may also increase General Fund revenue by minor  
amounts.

6 The Department of Marine Resources will incur some minor  
additional costs to adopt certain rules and administer new  
8 requirements pertaining to the harvest of sea urchins. These  
costs can be absorbed within the department's existing budgeted  
10 resources.'

12 **STATEMENT OF FACT**

14 The amendment replaces the bill. It establishes new sea  
16 urchin harvesting seasons for both sea urchin harvesting zones  
and it enacts a process for selecting the days in which  
18 harvesting is allowed. The amendment sets a season for  
hand-harvesting, raking and trapping from August 1st to April  
20 30th of the following year. The Commissioner of Marine Resources  
must by rule select 150 days in Zone 1 and 170 days in Zone 2  
22 that are open to urchin harvesting by hand, rake or trap. The  
amendment sets a season for harvesting by drags from October 1st  
24 to April 30th of the following year. The Commissioner of Marine  
Resources must by rule select up to 150 days in Zone 1 and up to  
26 170 days in Zone 2 that are open to urchin harvesting by drag.

28 The commissioner's selection of open harvesting days must be  
made in consultation with the Sea Urchin Zone Council, which is  
30 established in the amendment.

32 The amendment also enacts a process for harvesters to change  
the zone in which they harvest sea urchins during the remaining 2  
34 years of the moratorium on entry into the urchin fishery. The  
process requires changes to be authorized by the Commissioner of  
36 Marine Resources. The commissioner may authorize a switch to a  
zone at the time of licensing only when the number of licenses  
38 issued for a zone in the previous licensing year is less than the  
number of licenses issued 2 years earlier. The total switches in  
40 a year may not exceed the number by which the licenses issued for  
a zone in the previous licensing year is less than the number of  
42 licenses issued 2 years earlier.

44 The amendment also changes the expiration date of sea urchin  
harvesting licenses from December 31st to June 30th. It also  
46 extends 1996 calendar year licenses to June 30, 1997 and requires  
harvesters to fish during the extended period in the zone for  
48 which the license was issued. It also extends the repeal date of  
the sea urchin fishery moratorium, the zones and other emergency  
50 provisions from January 1, 1999 to June 30, 1999.

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2           The amendment also enacts a \$500 minimum fine for a  
4 violation of the sea urchin laws and adds a fiscal note to the  
bill.

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