

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

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Legislative Document

No. 1714

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H.P. 1252

House of Representatives, January 16, 1996

**An Act to Establish a Sea Urchin Management Plan.**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICE of South Bristol.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6 **Whereas,** more than 38,000,000 pounds of sea urchins having a  
total landed value of nearly \$35,000,000 were harvested in  
Maine's coastal waters during 1994; and

8  
10 **Whereas,** sea urchins are among the 3 highest valued  
fisheries in the State; and

12 **Whereas,** this pressure on the sea urchin resource is rapidly  
depleting the resource; and

14  
16 **Whereas,** the continuation of the sea urchin fishery depends  
on the maintenance of sustainable yields; and

18 **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
20 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
22 safety; now, therefore,

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

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

28	<u>57-B.</u>	<u>Sea</u>	<u>None</u>	<u>12 MRSA</u>
	<u>Marine</u>	<u>Urchin</u>		<u>§6749-E</u>
30	<u>Resources:</u>	<u>Council</u>		

32 **Sec. 2. 12 MRSA c. 617, sub-c. II** is amended by repealing the  
subchapter headnote and enacting the following in its place:

34  
36 **SUBCHAPTER II**  
**SUSPENSION AND REVOCATION PENALTIES**

38 **Sec. 3. 12 MRSA §§6405-A and 6405-B** are enacted to read:

40 **§6405-A. Suspension; based on first and 2nd convictions**

42 Notwithstanding section 6401, subsection 2, the commissioner  
44 shall suspend the sea urchin handfishing, dragging and  
hand-raking and trapping licenses of any license holder convicted  
46 of violating or failing to comply with any provision of chapter  
623, subchapter II-C. The suspensions are as follows.

48 **1. First conviction.** For a first conviction, the  
50 commissioner shall suspend the licenses for 10 days from the date  
of the first conviction.

2           2. Second conviction. For a 2nd conviction, the  
3 commissioner shall suspend the licenses for one year from the  
4 date of the 2nd conviction.

6           **§6405-B. Revocation; 3rd conviction**

7           The commissioner shall revoke for life the sea urchin  
8 handfishing, dragging and hand-raking and trapping licenses of  
9 any permit holder who is convicted of a 3rd offense of violating  
10 or failing to comply with any provision of chapter 623,  
11 subchapter II-C.

12           **Sec. 4. 12 MRSA §6749**, as repealed and replaced by PL 1995,  
13 c. 392, §5, is repealed and the following enacted in its place:

16           **§6749. Sea urchin harvesting closures**

18           A person may not fish for or take sea urchins:

20           1. General closure. From May 1st to July 31st, both days  
21 inclusive;

22           2. Closed period. From August 1st to October 31st, both  
23 days inclusive, and February 1st to April 30th, both days  
24 inclusive, from 1/2 hour after sunset on Saturday to 1/2 hour  
25 before sunrise on the following Monday; and

26           3. Dragging closure. Notwithstanding subsection 1, from  
27 May 1st to October 14th when the method of harvesting is with a  
28 drag or any combination of drags.

30           **Sec. 5. 12 MRSA §§6749-E to 6749-G** are enacted to read:

32           **§6749-E. Sea Urchin Council**

34           1. Appointment; composition. The Sea Urchin Council,  
35 referred to in this section as the "council," established by  
36 Title 5, section 12004-I, subsection 57-B, consists of 6  
37 members. Each member is appointed by the Governor as follows:

38           A. Two sea urchin harvesters who hold a current license to  
39 harvest sea urchins;

40           B. Two sea urchin processors who hold current wholesale  
41 seafood licenses with sea urchin processors' permits; and

42           C. Two scientists who have expertise in marine resources  
43 management.

44           2. Term. Council members serve for 2 years and continue  
45 serving until a successor is duly appointed and qualified. In  
46 the case of a vacancy caused by death, resignation or other  
47 circumstances, the council shall elect a successor to fill the  
48 vacancy.

2 reason, the Governor shall fill the vacancy by appointing a  
3 member from the same category of members listed in subsection 1  
4 as the member who vacated the council.

5 3. Purpose. The council shall make recommendations to the  
6 commissioner concerning the use of the Sea Urchin Research Fund  
7 established in section 6749-R.

8 4. Report. The council shall report to the joint standing  
9 committee of the Legislature having jurisdiction over marine  
10 resource matters on a yearly basis on:

11 A. The status of grants made with funds derived from  
12 license surcharges for resource protection activities,  
13 including the results or conclusions of such activities; and

14 B. The status of pending grant proposals requesting funds  
15 derived from license surcharges for resource protection  
16 activities.

17 5. Chair and officers. The council shall annually choose  
18 one of its members to serve as chair for a one-year term. The  
19 council may select other officers and designate their duties.

20 6. Meetings. The council shall meet at least 4 times a  
21 year at regular intervals. It may also meet at other times at  
22 the call of the chair or chair's designee, or the commissioner or  
23 the commissioner's designee.

24 **§6749-F. Conservation beds**

25 By September 1, 1996, the commissioner shall establish  
26 conservation beds in each zone established in section 6749-N.  
27 Harvesting of sea urchins in the conservation beds is prohibited.

28 **§6749-G. Yield requirements**

29 A person who holds a wholesale seafood license with a sea  
30 urchin processor's permit or a wholesale seafood license with a  
31 sea urchin buyer's permit may not purchase, process, sell, ship  
32 or transport outside the State any sea urchins with an average  
33 sea urchin roe yield of less than 10% per lot with a 2% tolerance  
34 by volume. The commissioner shall adopt regulations setting  
35 forth a mechanism to measure roe yields.

36 **Sec. 6. 12 MRSA §6749-N,** as amended by PL 1995, c. 392, §6,  
37 is repealed and the following enacted in its place:

38 **§6749-N. Closed areas; 1996 to 2003**

2 Notwithstanding section 6749, in calendar years 1996, 1997,  
3 1998, 1999, 2000, 2001, 2002 and 2003, it is unlawful for a  
4 person to fish for or take sea urchins from:

5 1. Zone 1. Zone 1, from February 1st to July 31st. For  
6 the purposes of this article, "Zone 1" means all coastal waters  
7 west of a line beginning at the southernmost tip of Small Point  
8 then running due south magnetic to the boundary of the State's  
9 coastal waters;

10 2. Zone 2. Zone 2, from March 1st to August 31st. For the  
11 purposes of this article, "Zone 2" means all coastal waters in  
12 the area between the following 2 lines:

13 A. A line beginning at the southernmost tip of Small Point  
14 then running due south magnetic to the boundary of the  
15 State's coastal water; and

16 B. A line beginning at the easternmost point of Fort Point  
17 State Park on Cape Jellison then running southwesterly to  
18 channel marker #1 south of Sears Island, then running  
19 southwesterly to channel marker BW "11" located between  
20 Marshall's Point and Bayside in the Town of Northport, then  
21 running southwesterly to channel marker #9 east of Great  
22 Spruce Head located in the Town of Northport, then running  
23 southerly to Graves channel marker northeast of the Town of  
24 Camden, then running southeasterly to the Penobscot Bay Buoy  
25 east of Rockland harbor, then running southerly to the TBl  
26 whistle southwest of Junken Ledge, then running  
27 southeasterly to Red Nun #10 buoy at Foster Ledges, then  
28 running due south magnetic to the boundary of the State's  
29 coastal waters;

30 3. Zone 3. Zone 3, from April 1st to September 30th. For  
31 the purposes of this article, "Zone 3" means all coastal waters  
32 in the area between the following 2 lines:

33 A. A line beginning at the easternmost point of Fort Point  
34 State Park on Cape Jellison then running southwesterly to  
35 channel marker #1 south of Sears Island, then running  
36 southwesterly to channel marker BW "11" located between  
37 Marshall's Point and Bayside in the Town of Northport, then  
38 running southwesterly to channel marker #9 east of Great  
39 Spruce Head located in the Town of Northport, then running  
40 southerly to Graves channel marker northeast of the Town of  
41 Camden, then running southeasterly to the Penobscot Bay Buoy  
42 east of Rockland harbor, then running southerly to the TBl  
43 whistle southwest of Junken Ledge, then running  
44 southeasterly to Red Nun #10 buoy at Foster Ledges, then  
45 running due south magnetic to the boundary of the State's  
46 coastal waters; and

2           B. A line beginning at the southernmost point of Schoodic  
3           Point then running due south magnetic to the boundary of the  
4           State's coastal waters; and

5           4. Zone 4. Zone 4, from February 1st to July 31st. For  
6           the purposes of this article, "Zone 4" means all coastal waters  
7           east of a line beginning at the southernmost point of Schoodic  
8           Point then running due south magnetic to the boundary of the  
9           State's coastal waters.

10           **Sec. 7. 12 MRSA §6749-O, sub-§§1 and 2,** as repealed and  
11           replaced by PL 1995, c. 392, §7, are amended to read:

12           **1. Handfishing and dragging licenses.** The Except as  
13           provided in subsections 3 to 5, the commissioner may not issue a  
14           handfishing sea urchin license or a sea urchin dragging license  
15           for calendar year ~~1994, 1995,~~ 1996, 1997 ~~or,~~ 1998, 1999, 2000,  
16           2001, 2002 or 2003 to any person unless that person possessed  
17           that license in the previous calendar year.

18           **2. Hand-raking and trapping license.** The Except as  
19           provided in subsections 3 to 5, the commissioner may not issue a  
20           sea urchin hand-raking and trapping license for calendar year  
21           ~~1995- or~~ 1996 to any person unless that person possessed either a  
22           handfishing sea urchin license or a sea urchin dragging license  
23           in the previous calendar year. The commissioner may not issue a  
24           sea urchin hand-raking and trapping license for calendar year  
25           1997 ~~or,~~ 1998, 1999, 2000, 2001, 2002 or 2003 to any person  
26           unless that person possessed a sea urchin hand-raking and  
27           trapping license in the previous calendar year. A person who is  
28           issued a sea urchin hand-raking and trapping license may not be  
29           issued a handfishing sea urchin license or a sea urchin dragging  
30           license in the same calendar year.

31           **Sec. 8. 12 MRSA §6749-O, sub-§5** is enacted to read:

32           **5. New licenses.** The commissioner may issue annually a  
33           number of new sea urchin harvesting licenses that equals the  
34           difference between the number of licenses issued in the prior  
35           calendar year and the number of licenses issued in 1994. The new  
36           licenses must be distributed equitably among the classes of  
37           handfishing, dragging and hand-raking and trapping licenses. The  
38           commissioner shall establish by rule a lottery system for  
39           awarding the new licenses.

40           **Sec. 9. 12 MRSA §6749-P,** as amended by PL 1995, c. 392, §8,  
41           is further amended to read:

42           **§6749-P. Licenses by zone**

43           For calendar years ~~1995, 1996, 1997 and,~~ 1998, 1999, 2000,  
44           2001, 2002 and 2003, a person eligible to purchase a license

2 under section 6749-O may purchase those licenses only for ~~Zone-1~~  
3 ~~or-Zone-2~~ 2 adjacent zones. All of those licenses issued to any  
4 one person in any one year must be for the ~~same-zone~~ 2 adjacent  
5 zones. A handfishing sea urchin license, a sea urchin  
6 hand-raking and trapping license or a sea urchin dragging license  
7 authorizes the licensed activity only in the ~~zone~~ 2 adjacent  
8 zones for which it is issued. A sea urchin dragging license must  
9 list the documentation or registration number of the vessel to be  
10 used by that licensee when dragging. A vessel documentation  
11 number or registration number may not be listed on more than one  
12 sea urchin boat license.

13 **Sec. 10. 12 MRSA §6749-Q, first ¶,** as enacted by PL 1993, c.  
14 740, §3, is amended to read:

15 The following surcharges are assessed on licenses ~~sold-for~~  
16 ~~calendar-years-1995,-1996-and-1997:~~

17 **Sec. 11. 12 MRSA §6749-Q, last ¶,** as enacted by PL 1995, c.  
18 392, §8 and c. 462, Pt. A, §32, is amended to read:

19 The commissioner shall deposit all surcharges assessed in  
20 this section in the Sea Urchin Research Fund established in  
21 section 6749-R. The commissioner may use up to 50% of the annual  
22 surcharges to enforce this subchapter.

23 **Sec. 12. 12 MRSA §6749-R,** as enacted by PL 1993, c. 740, §3,  
24 is amended to read:

25 **§6749-R. Sea Urchin Research Fund**

26 The Sea Urchin Research Fund, referred to in this article as  
27 the "fund," is established in and is administered by the  
28 department. Balances in the fund may not lapse and must be  
29 carried forward and used for the purposes of this section.

30 **1. Uses of the fund.** The commissioner shall use the fund  
31 ~~for~~ to develop resource protection measures, study the  
32 effectiveness of current resource protection measures, finance  
33 additional measures related to the sea urchin resource as  
34 determined necessary by the commissioner or conduct research  
35 directly related to sea urchin fishery management information  
36 needs. The purpose of that research directly related to sea  
37 urchin fishery management information must be to determine, with  
38 the highest reliability possible given available resources, the  
39 greatest level of effort that may be applied to the sea urchin  
40 fishery without harming the long-term economic and biological  
41 sustainability of the sea urchin fishery. The commissioner shall  
42 consider recommendations of the Sea Urchin Council when planning  
43 for fund expenditures.



2           **2. Sources of revenue.** The fund is capitalized by  
3 surcharges assessed under section 6749-Q. In addition to those  
4 revenues, the commissioner may accept and deposit in the fund  
5 money from any other source, public or private. All money in the  
6 fund must be used for the purposes set forth in this section.

7           ~~**3. Reports.** The commissioner shall submit an interim and a  
8 final report on expenditures from the fund and research findings  
9 to the joint standing committee of the Legislature having  
10 jurisdiction over marine resource matters. An interim report  
11 must be submitted by July 1, 1996. A final report must be  
12 submitted by January 1, 1998.~~

13           **Sec. 13. 12 MRSA §§6749-S and 6749-T**, as enacted by PL 1993,  
14 c. 740, §3, are repealed and the following enacted in their place:

15           **§6749-S. Log books**

16           **1. Requirements.** A person who holds a wholesale seafood  
17 license with a sea urchin processor's permit or with a sea urchin  
18 buyer's permit shall:

19           A. Maintain a log book in that person's place of business  
20 at all times documenting the following mandatory information  
21 for each lot of sea urchins purchased from individual  
22 harvesters:

23                   (1) The harvester's harvesting license number;

24                   (2) The location of the harvest by bay;

25                   (3) The total pounds by lot;

26                   (4) The total pounds subject to yield testing sample,  
27 which must be no less than 1% of the total pounds per  
28 diver lot;

29                   (5) The average sea urchin roe yield by lot;

30                   (6) The date of harvest and yield tests; and

31                   (7) The sea urchin processor's or buyer's license  
32 number;

33           B. Submit a copy of each log sheet documenting each  
34 shipment of either whole sea urchins or processed sea urchin  
35 roe to the department on a monthly basis by the 15th day of  
36 the month following the reporting period;

2 C. Attach a photocopy of the corresponding log pages to the  
4 bill of lading for each shipment leaving the State for  
6 processing or packaging; and

8 D. Clearly label all processed or packaged products with  
10 the sea urchin processor's or buyer's permit number.

12 **2. Signature.** The log must be signed by the principal  
14 holder of the processor's permit or by the principal holder's  
16 designee.

18 **§6749-T. Repeal**

20 Sections 6749-N, 6749-O and 6749-P are repealed on January  
22 1, 2004.

24 **Sec. 14. 12 MRSA §6749-V is enacted to read:**

26 **§6749-V. Enforcement and penalties.**

28 A person who violates or fails to comply with this  
30 subchapter commits a Class D crime and may be punished pursuant  
32 to section 6204 for a first conviction. Notwithstanding section  
34 6204 and Title 17-A, sections 4-A and 1301, a person may be  
36 punished by a fine not to exceed \$5,000 for a 2nd conviction and  
38 a fine not to exceed \$10,000 for a 3rd conviction.

40 **Sec. 15. Transition provisions; Sea Urchin Council.** When making  
42 initial appointments to the Sea Urchin Council pursuant to Maine  
44 Revised Statutes, Title 12, section 6749-E, the Governor shall  
46 appointment to one-year terms one sea urchin harvester who holds  
48 a current license to harvest urchins, one sea urchin processor  
who holds a current license and one scientist who has expertise  
in marine resources. Subsequent appointments for the positions  
held by these members must be for 2-year terms. The purpose of  
these initial appointments is to stagger the terms of council  
members so that one harvester, one processor and one scientist  
are appointed each year.

50 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

52 **STATEMENT OF FACT**

54 This bill makes the following changes and additions to the  
56 sea urchin laws.

58 The bill creates the Sea Urchin Council to advise the  
60 Commissioner of Marine Resources the on use of the Sea Urchin  
Research Fund. The bill also broadens the purposes for which the

2 fund may be used and allows the commissioner to use 1/2 of the  
fund's annual revenues to enforce sea urchin laws.

4 The bill increases the fines for 2nd and 3rd convictions of  
the sea urchin laws. The bill also requires a 10-day license  
6 suspension for a first conviction of the sea urchin laws; a  
one-year license suspension for a 2nd conviction of the sea  
8 urchin laws; and a lifetime license revocation for a 3rd  
conviction of the sea urchin laws.

10

The bill prohibits dragging for sea urchins between May 1st  
12 and October 14th.

14 The bill increases the number of sea urchin harvesting zones  
from 2 to 4 and establishes closure times for each zone. The  
16 zone closures are as follows:

- 18 Zone 1 (western) February 1st - July 31st
- Zone 2 (midwestern) March 1st - August 31st
- 20 Zone 3 (mideastern) April 1st - September 30th
- Zone 4 (eastern) February 1st - July 31st

22

Maine waters are closed to all sea urchin harvesting for 3  
24 months, from May 1st to July 31st.

26 The bill allows sea urchin harvesters to fish in 2 adjacent  
zones.

28

The bill prohibits sea urchin harvesting on Sundays during  
30 the months of August, September, October, February, March and  
April.

32

The bill extends for 4 years certain emergency provisions  
34 relating to sea urchin harvesting and excludes from the repeal  
certain emergency provisions. All of the emergency provisions  
36 are currently scheduled to be repealed January 1, 1999. The bill  
extends the repeal date to January 1, 2004. The emergency  
38 provisions are the harvesting zones, limited entry, licensing by  
zone, license surcharges, the Sea Urchin Research Fund and log  
40 books. The bill excludes license surcharges, the Sea Urchin  
Research Fund and log books from the repeal date.

42

The bill requires the commissioner to establish conservation  
44 beds in each zone. Sea urchin harvesting is prohibited in the  
beds at all times.

46

The bill establishes a roe-yield content of 10% per lot,  
48 with a 2% tolerance by volume.

50 The bill allows the commissioner to annually issue a number  
of new sea urchin licenses that equals the difference between the  
52 number of licenses issued in the prior calendar year and the

2 number of licenses issued in 1994. The new licenses must be  
distributed equitably among the classes of handfishing, dragging  
4 and hand-raking and trapping licenses. The commissioner is  
required to establish a lottery system for awarding the new  
licenses.

6  
8 The bill also establishes specific log book requirements for  
holders of wholesale seafood licenses with a sea urchin  
processor's permit and for holders of wholesale seafood licenses  
10 with a sea urchin buyer's permit.