

MAINE STATE LEGISLATURE

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MAJORITY
MARINE RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1028, L.D. 1445, Bill, "An Act to Establish a Requirement That Holders of Lobster Fishing Licenses Must Own or Control the Vessel from Which They Conduct Authorized Activities"

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

Sec. 1. 12 MRSA §6431-E is enacted to read:

§6431-E. Vessel limitation

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Family member" means a brother, sister, son-in-law, daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent.

B. "Owner" means:

(1) An individual who is the owner of a vessel registered under chapter 715, subchapter I or the owner of a vessel documented under 46 Code of Federal Regulations, Part 67;

(2) The person who owns the highest percentage of a partnership, corporation or other entity that is the

COMMITTEE AMENDMENT

owner of a vessel registered under chapter 715, subchapter I or a vessel documented under 46 Code of Federal Regulations, Part 67; or

(3) When 2 or more people own in equal proportion the highest percentages of a partnership, corporation or other entity that owns a vessel registered under chapter 715, subchapter I or a vessel documented under 46 Code of Federal Regulations, Part 67, one of the highest percentage owners as designated by the owners of that partnership, corporation or other entity.

C. "Qualifying period" means any 46 days during 3 consecutive months in one calendar year.

D. "Replacement vessel" means a vessel that is substituted for the use of a vessel that is no longer utilized by an individual, partnership, corporation or other entity.

2. Owner or family member on board. Except as provided in subsection 3, beginning January 1, 2000 a person who holds a Class I, Class II or Class III lobster and crab fishing license may not fish for or take lobsters from a vessel unless:

A. The owner of that vessel is present on that vessel and holds a Class I, Class II or Class III lobster and crab fishing license; or

B. A family member of the vessel owner under paragraph A is present on that vessel and holds a Class I, Class II or Class III lobster and crab fishing license.

3. Exemptions; individuals. The commissioner may authorize a person to fish for or take lobsters from a vessel when an owner or family member is not on board pursuant to subsection 2 if that person holds a Class I, Class II or Class III lobster and crab fishing license and:

A. The owner of that vessel holds a Class I, Class II or Class III lobster and crab fishing license, documents to the commissioner that an illness or disability temporarily prevents that owner from fishing for or taking lobsters from that vessel, and requests in writing to the commissioner that the commissioner authorize that person to use that vessel to fish for or take lobsters and tend the owner's traps pursuant to section 6434;

B. Is the owner of a vessel that has become temporarily inoperable because of an accident or a mechanical failure

and requests in writing permission from the commissioner to use that vessel to fish for or take lobsters;

C. Documents to the commissioner by December 31, 2000 that that person fished for or took lobsters during the qualifying period in each of calendar years 1995, 1996 and 1997 from the same vessel and that vessel did not have on board an individual who meets the criteria of subsection 2, paragraph A or B. A person may not qualify for the exemption under this paragraph unless that person continues to fish for or take lobsters from the vessel from which the person harvested lobsters during the qualifying period in each of calendar years 1995, 1996 and 1997, or from a replacement vessel; or

D. An individual, partnership, corporation or other entity documents to the commissioner by December 31, 2000 that that individual or partnership, corporation or other entity rented, leased or otherwise made available that vessel to the holder of a Class I, Class II or Class III lobster and crab fishing license during the qualifying period in each of calendar years 1995, 1996 and 1997 for the purpose of fishing for or taking lobsters. A person authorized under this paragraph may fish for or take lobsters only from the vessel that was made available during the qualifying period in each of calendar years 1995, 1996 and 1997, or a replacement vessel.

4. Rules. The commissioner may adopt rules to implement and administer this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 2. Report. By January 1, 1999, the Commissioner of Marine Resources shall submit to the joint standing committee of the Legislature having jurisdiction over marine resources matters a report and recommendations on funding through dedicated revenues the registration of marine resources license holders and other persons pursuant to laws that restrict participation in a fishery conducted in the coastal waters of the State. The commissioner shall examine existing sources of dedicated revenues derived under the Maine Revised Statutes, Title 12, Part 9 and the appropriateness of utilizing those revenues to fund registering license holders and other persons. The joint standing committee of the Legislature having jurisdiction over marine resources matters may report out legislation during the First Regular Session of the 119th Legislature regarding the use of dedicated revenues by the Department of Marine Resources to fund the registration of marine resources license holders and

2 other persons pursuant to laws that limit participation in a
fishery conducted in the coastal waters of the State.

4 **Sec. 3. Contingent effective date.** Section 1 of this Act is
effective only if the State Budget Officer certifies by August 1,
6 1999 that dedicated revenues have been allocated to the
Department of Marine Resources to fund the department's costs of
8 registering license holders under the Maine Revised Statutes,
Title 12, Part 9 and other persons pursuant to laws that limit
10 participation in fisheries conducted in the coastal waters of the
State.'

12
14 Further amend the bill by inserting at the end before the
summary the following:

16 **FISCAL NOTE**

18 The Department of Marine Resources may incur future Other
Special Revenue costs of \$45,396 and \$51,666 in fiscal years
20 1999-2000 and 2000-01, respectively, for one additional
Supervisor of Licensing position and operating costs necessary to
22 administer certain licensing requirements. The department's need
for this additional position and the dedicated funding source to
24 be used to fund this position will depend on forthcoming
recommendations from the Commissioner of Marine Resources to the
26 Legislature and any subsequent statutory changes enacted by the
Legislature.

28
30 If section 1 of the bill becomes effective, this bill may
increase prosecutions for Class D crimes. If a jail sentence is
32 imposed, the additional costs to the counties are estimated to be
\$86.45 per day per prisoner. These costs are not reimbursed by
34 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
38 The additional workload, administrative costs and indigent
defense costs associated with the minimal number of new cases
40 filed in the court system can be absorbed within the budgeted
resources of the Judicial Department. The collection of
42 additional fines may also increase General Fund revenue by minor
amounts.'

44 **SUMMARY**

46
48 The amendment replaces the bill. It establishes
requirements regarding the use of boats to harvest lobsters and
it provides exemptions to those requirements. The amendment also
50 provides that the requirements will not go into effect unless the

2 Department of Marine Resources is provided by August 1, 1999
3 dedicated revenues to fund the registration of marine resources
4 license holders and other persons under laws that restrict
5 participation in a fishery conducted in the coastal waters of the
6 State. The amendment requires the Commissioner of Marine
7 Resources to report by January 1, 1999 to the joint standing
8 committee of the Legislature having jurisdiction over marine
9 resources matters on the use of dedicated revenues for such
10 registrations.

11
12 Regarding requirements on the use of boats to harvest
13 lobsters, the amendment provides that starting January 1, 2000, a
14 person who harvests lobsters must fish from a boat that has on
15 board an individual who harvests lobsters and who is the
16 registered or documented owner of that boat, or who is a family
17 member of that registered or documented owner. The amendment
18 makes provisions for boats that are owned by partnerships,
19 corporations or other entities. The amendment provides
20 exemptions from these requirements under which the Commissioner
21 of Marine Resources may authorize a person to use a vessel to
22 harvest lobsters in the following cases:

23
24 1. If the owner, because of an illness or disability, is
25 temporarily unable to harvest lobsters, a person who is not the
26 owner or a family member may use the boat to harvest lobsters and
27 to tend the owner's lobster traps;

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29 2. If the owner's boat is temporarily inoperable, the owner
30 may utilize another person's boat to harvest lobsters;

31
32 3. If a person harvested lobsters for 46 days during a
33 3-month period in each of calendar years 1995, 1996 and 1997 from
34 a boat upon which an owner or family member of the owner was not
35 on board, that person may continue to harvest lobsters from that
36 boat, or a boat that replaces that boat. The person must
37 document to the Commissioner of Marine Resources the facts
38 required for this exemption by December 31, 2000; or

39
40 4. If an individual or business made available a boat to a
41 person for the purpose of harvesting lobsters for 46 days during
42 a 3-month period in each of calendar years 1995, 1996 and 1997,
43 that individual or business may continue to make that boat, or a
44 replacement boat, available to a person for the purpose of
45 harvesting lobsters. The individual or business must document to
46 the Commissioner of Marine Resources the facts required for this
47 exemption by December 31, 2000.

48 It also adds a fiscal note to the bill.