

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

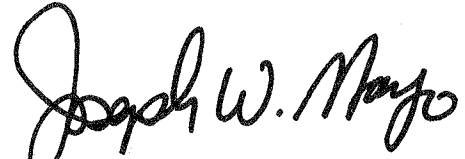
No. 1488

H.P. 1056

House of Representatives, March 11, 1997

An Act to Allow Lobster Management Zones to Restrict Entry.

Reference to the Committee on Marine Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.

Cosponsored by Representatives: CIANCHETTE of South Portland, LEMONT of Kittery.

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

2
4 **Sec. 1. 12 MRSA §6001, sub-§§12-A, 22-A and 30-B** are enacted to read:

6 12-A. Declared lobster zone. "Declared lobster zone" means
8 the zone a person declares in accordance with section 6447,
10 subsection 7, paragraph B as the zone in which the person fishes
12 a majority of that person's lobster traps.

14 22-A. Limited harvesting lobster zone. "Limited harvesting
16 lobster zone" means a zone in which the use of lobster traps is
18 limited in accordance with section 6446, subsection 2, paragraph
20 G.

22 30-B. New zone entrant. "New zone entrant" means a person
24 who:

26 A. Holds a Class I, Class II or Class III lobster and crab
28 fishing license;

30 B. Wishes to choose as that person's declared lobster zone
32 a limited harvesting lobster zone; and

34 C. In the previous licensing year designated a declared
36 lobster zone that is different from the limited harvesting
38 lobster zone that the person wishes to declare in the
40 current year.

42 **Sec. 2. 12 MRSA §6446, sub-§2,** as repealed and replaced by PL
44 1995, c. 568, §4, is amended to read:

46 2. Rules for zones. The commissioner may adopt rules for a
48 zone established under subsection 1 ~~that place limits on lobster~~
50 ~~and crab fishing license holders who fish in that zone regarding~~
~~the number of lobster traps fished and the time periods allowed~~
~~for complying with that number, the number of lobster traps~~
~~allowed on a trawl and the time of day when lobster fishing may~~
~~occur~~ only when the rules were proposed by the lobster management
policy council established for that zone pursuant to section
6447, subsection 1 and the proposed rules were approved in a
referendum pursuant to section 6447, subsection 6. The
commissioner may accept the rules proposed by a lobster
management policy council as reasonable and adopt those rules or
reject the council's proposed rules as unreasonable. The rules
adopted under this subsection by the commissioner must accurately
reflect the intent of the rules proposed by a lobster management
policy council but are not required to be a verbatim rendition of
the proposed rules. The commissioner may adopt rules that place
limitations on lobster and crab fishing license holders who fish
in a zone, provided that the limitations are equal to or stricter

2 than the limitations under sections 6431-A, 6431-D, 6439, 6439-A
3 and 6440. Such limitations may be placed on:

4 D. The number of lobster traps fished and the time periods
5 allowed for complying with that number;

6 E. The number of lobster traps allowed on a trawl;

7 F. The time of day when lobster fishing may occur; and

8
9
10 G. The number of Class I, Class II and Class III license
11 holders who may fish a majority of their lobster traps in a
12 zone, provided that:

13
14 (1) The number is equal to the number of license
15 holders who, as of December 31st of the first full
16 calendar year in which the zone was operational,
17 designated that zone as their declared lobster zone; or

18
19 (2) The number is less than or equal to a 20%
20 reduction from the number of license holders who, as of
21 December 31st of the first full calendar year in which
22 the zone was operational, designated that zone as their
23 declared lobster zone. The reduction must be achieved
24 over time by attrition. For the purposes of this
25 section, "attrition" means the failure of a person to
26 renew a license or the renewal of a license upon which
27 a person designates a different zone as that person's
28 declared lobster zone.

29
30 Rules adopted under this paragraph are major substantive
31 rules pursuant to Title 5, chapter 375, subchapter II-A.

32
33 **Sec. 3. 12 MRSA §6446, sub-§6,** as enacted by PL 1995, c. 568,
34 **§6,** is amended to read:

35
36 **6. Petition for rule prohibited.** A person may not petition
37 the commissioner pursuant to Title 5, section 8055 for the
38 adoption or modification of a rule for a lobster management zone
39 established under this section that regulates the number of
40 lobster traps fished and the time periods allowed for complying
41 with that number, the number of lobster traps allowed on a trawl
42 and, the time of day when lobster fishing may occur and the
43 number of Class I, Class II and Class III license holders who may
44 fish a majority of their lobster traps in a zone.

45
46 **Sec. 4. 12 MRSA §6447, sub-§5, ¶¶B and C,** as enacted by PL
47 1995, c. 468, §8, are amended to read:

48
49 **B. The number of lobster traps allowed on a trawl; and**

50
51 **C. The time of day when lobster fishing may occur; and**

2 **Sec. 5. 12 MRSA §6447, sub-§5, ¶D** is enacted to read:

4 D. The number of Class I, Class II and Class III license
6 holders who may fish a majority of their lobster traps in a
 zone, provided that:

8 (1) The number is equal to the number of license
10 holders who, as of December 31st of the first full
12 calendar year in which the zone was operational,
 designated that zone as their declared lobster zone; or

14 (2) The number is less than or equal to a 20%
16 reduction from the number of license holders who, as of
18 December 31st of the first full calendar year in which
20 the zone was operational, designated that zone as their
22 declared lobster zone. The reduction must be achieved
 over time by attrition. For the purposes of this
 section, "attrition" means the failure of a person to
 renew a license or the renewal of a license upon which
 a person designates a different zone as that person's
 declared lobster zone.

24 **Sec. 6. 12 MRSA §6447, sub-§7, ¶B**, as enacted by PL 1995, c.
26 468, §8, are amended to read:

28 B. Declared on a license application at the time of
30 obtaining a Class I, Class II or Class III license that zone
32 as the zone in which the person predominantly--harvests
34 lobsters fishes a majority of that person's lobster traps.
 For the purposes of this subsection, a person may declare
 only one zone as the zone in which the person predominantly
 harvests-lobsters fishes a majority of that person's lobster
 traps.

36 **Sec. 7. 12 MRSA §§6448 to 6450** are enacted to read:

38 **§6448. Fishing in limited harvesting lobster zones**

40 It is unlawful for a person who holds a Class I, Class II or
42 Class III lobster and crab fishing license to fish a majority of
44 that person's lobster traps in a limited harvesting lobster zone
 unless that person's license indicates that zone as that person's
 declared lobster zone.

46 **§6449. Choosing limited harvesting lobster zone as declared**
48 **lobster zone**

50 The commissioner may not allow a person who holds a Class I,
52 Class II or Class III lobster and crab fishing license to choose
 as that person's declared lobster zone a limited harvesting
 lobster zone unless that person:

2 A. Possessed in the prior licensing year a Class I, Class
4 II or Class III lobster and crab fishing license that
 designated that limited harvesting lobster zone as that
 person's declared lobster zone; or

6
 B. Is authorized by the commissioner as a new zone entrant
8 in accordance with section 6450 to designate that limited
 harvesting lobster zone as that person's declared lobster
10 zone.

12 §6450. New zone entrants into limited harvesting lobster zones

14 1. License application. A person who wishes to be a new
 zone entrant into a limited harvesting lobster zone must indicate
16 on that person's Class I, Class II or Class III lobster and crab
 fishing license application a preference to designate that zone
18 as the person's declared lobster zone. The commissioner shall
 stamp each lobster and crab fishing license that contains a new
20 zone entrant request with the time and date of submission.

22 2. Authorization of new zone entrants. The commissioner
 shall authorize new zone entrants for a limited harvesting
24 lobster zone if the number of license holders in the licensing
 year 2 years before the current licensing year who designated
26 that zone as their declared lobster zone is less than the limit
 established for that zone under section 6446, subsection 2,
28 paragraph G.

30 3. Number of authorized requests. The total number of
 authorized new zone entrant requests in a licensing year may not
32 exceed the positive number derived from the following equation:
 The numerical limits established for that zone under section
34 6446, subsection 2, paragraph G minus the number of license
 holders in the licensing year 2 years before the current
36 licensing year who designated that zone as their declared lobster
 zone.

38
 4. Requests granted in chronological order. The
40 commissioner shall authorize new zone entrants in chronological
 order of requests received under this section.

42
 5. New zone entrant request denial. If the commissioner
44 denies a new zone entrant request, the applicant may choose as
 that person's designated zone the zone so designated in the
46 previous licensing year on that person's Class I, Class II or
 Class III lobster and crab fishing license.

2

SUMMARY

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6 This bill allows a lobster management zone council to
8 recommend rules to the Commissioner of Marine Resources to limit
10 the number of people who may fish a majority of their lobster
12 traps in a zone. It also gives the Commissioner of Marine
14 Resources authority to adopt those rules. The rules may limit
16 the number of people who may fish a majority of their traps in a
18 zone to a number that is less than or equal to a 20% reduction
from the number of lobster and crab fishing license holders who,
as of December 31st of the first full calendar year in which the
zone was operational, designated that zone as their declared
lobster zone. The bill also provides a method for allowing new
zone entrants to fish a majority of their traps in a limited
harvesting lobster zone when the number falls below the capped
amount.