

# MAINE STATE LEGISLATURE

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L.D. 2021

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## MARINE RESOURCES

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### STATE OF MAINE SENATE 118TH LEGISLATURE SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 743, L.D. 2021, Bill, "An Act Concerning Commercial Fishing in the Vicinity of Monhegan Island"

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

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

**Sec. 1. 12 MRSA §6421, sub-§5, ¶C,** as enacted by PL 1995, c. 468, §3, is amended to read:

C. Meets the requirements of the apprentice program under section 6422 or section 6475;

**Sec. 2. 12 MRSA §6422, sub-§4, ¶¶A and B,** as amended by PL 1997, c. 250, §7, are further amended to read:

A. Documents to the commissioner that the person obtained practical lobster fishing experience as a sternman employed by the holder of a Class II or Class III license issued under section 6421; ~~or~~

B. Documents to the commissioner that the person obtained practical lobster fishing experience as a holder of a student license issued under section 6421; ~~or~~

**Sec. 3. 12 MRSA §6422, sub-§4, ¶E** is enacted to read:

E. Documents to the commissioner that the person obtained practical lobster fishing experience as an apprentice in the Monhegan Lobster Conservation Area pursuant to section 6475.

Sec. 4. 12 MRSA c. 619, sub-c. V is enacted to read:

**SUBCHAPTER V**

**MONHEGAN LOBSTER CONSERVATION AREA**

**§6471. Monhegan Lobster Conservation Area**

**1. Monhegan Lobster Conservation Area.** The following coastal waters of the State in the vicinity of Monhegan Island are known as the Monhegan Lobster Conservation Area:

Beginning at a point located on Loran line 9960-25850 that is 2 nautical miles southwesterly of the nearest shore of Monhegan Island; then following Loran line 9960-25850 in a southwesterly direction to the point where it intersects the 3-mile territorial sea line; then following the territorial sea line around the southern end of Monhegan Island to the point where it intersects Loran line 9960-12889; then following Loran line 9960-12889 in a somewhat northerly direction to the point where it intersects a point that is 2 nautical miles from the nearest shore of Monhegan Island; then following a line that is 2 nautical miles from the nearest shore of Monhegan Island and that continues around the northern end of Monhegan Island to the point of beginning.

**§6472. Closed and open seasons**

**1. Closed season.** It is unlawful for a person to fish for or take lobsters in the Monhegan Lobster Conservation Area from June 26th to November 30th, both days inclusive, and on any day not included in the open season established by the commissioner under subsection 2.

**2. Open season.** The commissioner shall annually by November 1st establish by rule an open season of 180 consecutive days between December 1st and the following June 25th during which a person may fish for or take lobsters in the Monhegan Lobster Conservation Area.

**A.** Before establishing the open season under this section, the commissioner shall determine the open season preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474.

**B.** In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052.

2        C. A person may not petition the commissioner pursuant to  
4        Title 5, section 8055 for the adoption or modification of a  
      rule establishing the open lobster season in the Monhegan  
      Lobster Conservation Area.

6        D. Notwithstanding any provisions to the contrary, the  
8        commissioner may adopt rules under this subsection without  
10       the advice and consent of the Marine Resources Advisory  
      Council. Rules adopted pursuant to this subsection are  
12       routine technical rules pursuant to Title 5, chapter 375,  
      subchapter II-A.

14       **§6473. Fishing in other waters**

16       1. Limitations. A person registered for Monhegan Lobster  
      Conservation Area trap tags under section 6474 may not fish for  
18       or take lobsters:

20       A. In the State's 3-mile territorial sea at any time,  
      except in that portion of the coastal waters designated  
22       under section 6471 as the Monhegan Lobster Conservation Area  
      during the open season established for the area under  
24       section 6472; and

26       B. In federal waters during the Monhegan Lobster  
      Conservation Area closed season.

28       **§6474. Fishing without Monhegan trap tags prohibited**

30       1. Prohibition. It is unlawful for a person to submerge a  
      lobster trap in the Monhegan Lobster Conservation Area unless a  
32       lobster trap tag designated for use in the Monhegan Lobster  
      Conservation Area is affixed to the trap. The commissioner shall  
34       charge fees and deposit those fees for Monhegan Lobster  
36       Conservation Area trap tags in accordance with section 6431-B.

38       2. Trap tag expiration. Trap tags issued for use during a  
      Monhegan Lobster Conservation Area open season expire upon the  
40       closing of that season.

42       3. Trap tag eligibility for the 1998-99 open season. The  
      commissioner may not issue Monhegan Lobster Conservation Area  
44       trap tags to a person between the effective date of this section  
      and June 25, 1999 unless that person:

46       A. Possesses a Class I, Class II or Class III lobster and  
      crab fishing license;

48       B. Registered with the commissioner for harvesting lobsters  
50       during the January 1, 1997 to June 25, 1997 open season

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2       under rules that established the Monhegan Island Area  
3       Lobster Trap Regulation; and

4       C. Documents to the commissioner that that person harvested  
5       lobsters at any time between January 1, 1997 and June 25,  
6       1997 under rules that established the Monhegan Island Area  
7       Lobster Trap Regulation.

8  
9       A person eligible to obtain trap tags under this section is  
10       deemed registered for the purpose of obtaining Monhegan Lobster  
11       Conservation Area trap tags for the 1998-99 open season, unless  
12       that person notifies the commissioner by November 30, 1998 that  
13       the person chooses to not be registered.

14  
15       4. Trap tag eligibility after July 31, 1999. Except as  
16       provided under subsection 5, the commissioner may not issue  
17       Monhegan Lobster Conservation Area trap tags to a person after  
18       July 31, 1999 unless that person:

19       A. Registered with the commissioner to purchase Monhegan  
20       Lobster Conservation Area trap tags for the prior open  
21       season, documents to the commissioner that the person  
22       harvested lobsters from the Monhegan Lobster Conservation  
23       Area in the prior open season and registers with the  
24       commissioner during the period between June 26th and August  
25       1st immediately following the prior open season for Monhegan  
26       Lobster Conservation Area trap tags for the subsequent open  
27       season;

28  
29       B. Registered with the commissioner to purchase Monhegan  
30       Lobster Conservation Area trap tags for the prior open  
31       season, documents to the commissioner that that person did  
32       not harvest lobsters from the Monhegan Lobster Conservation  
33       Area in the prior open season because of an illness or  
34       medical condition and registers with the commissioner during  
35       the period between June 26th and August 1st immediately  
36       following the prior open season for Monhegan Lobster  
37       Conservation Area trap tags for the subsequent open season;  
38       or

39       C. Becomes registered for trap tag registration pursuant to  
40       section 6475.

41       5. License suspension and eligibility. A person eligible  
42       to register for Monhegan Lobster Conservation Area trap tags  
43       under subsection 4, paragraph A if not for the suspension of that  
44       person's Class I, Class II or Class III lobster and crab fishing  
45       license may not, for the purpose of admitting new registrants, be  
46       considered to have failed to register pursuant to section 6475,  
47       subsection 1, paragraph C, subparagraph (3). Upon reinstatement  
48       to register for Monhegan Lobster Conservation Area trap tags  
49       under subsection 4, paragraph A if not for the suspension of that  
50       person's Class I, Class II or Class III lobster and crab fishing  
51       license may not, for the purpose of admitting new registrants, be  
52       considered to have failed to register pursuant to section 6475,  
53       subsection 1, paragraph C, subparagraph (3). Upon reinstatement

of that person's license, that person is deemed registered and the commissioner may issue trap tags to that person, unless that person notifies the commissioner before reinstatement that the person chooses to not be registered.

6. Limit on number of registrants. The total number of individuals registered to obtain Monhegan Lobster Conservation Area trap tags may not exceed the number of individuals initially eligible pursuant to subsection 3, paragraphs A, B and C.

7. Periods of registration. Monhegan Lobster Conservation Area trap tag registrations are valid as follows.

A. A person registered under subsection 3 is registered for the entire period from the effective date of this section until July 31, 1999, unless that person notifies the commissioner by November 30, 1998 that the person chooses to not be registered.

B. A person registered under subsection 4, paragraph A or B is registered for the entire period from August 1st of the year of registration until the following July 31st.

C. A person registered under subsection 4, paragraph C is registered for the entire period from the date of registration until the following July 31st.

D. A person registered under section 5 through the reinstatement of a suspended license is registered for the entire period from the date of license reinstatement until the following July 31st.

**§6475. New participants; apprenticeship**

1. New participants. A person who is not registered to obtain Monhegan Lobster Conservation Area trap tags may obtain trap tags if that person becomes registered for Monhegan Lobster Conservation Area trap tags pursuant to this section.

A. The commissioner shall maintain a registry of persons who have completed the Monhegan Lobster Conservation Area apprenticeship under paragraph B. Each person included in the registry must be listed chronologically according to the time and date the commissioner received a validated log book under paragraph B.

B. A person fulfills the time requirements of a Monhegan Lobster Conservation Area apprenticeship if, after November 30, 1998, that person serves for 150 fishing days during a minimum period of 24 months in the Monhegan Lobster

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Conservation Area on a vessel operated by a Monhegan Lobster Conservation Area trap tag registrant who agrees to sponsor that person as an apprentice. For the purposes of this subsection, a "fishing day" means 5 hours or more in a calendar day of lobster-fishing-related activity. The commissioner shall administer the apprenticeship pursuant to rules adopted under section 6422 regarding an apprentice log book and educational courses. A person completes a Monhegan Lobster Conservation Area apprenticeship upon presentation to the commissioner of a validated log book that documents that person meets the requirements of this paragraph.

C. A person listed in the registry under paragraph A may register for Monhegan Lobster Conservation Area trap tags if:

(1) That person possesses a Class I, Class II or Class III lobster and crab fishing license;

(2) That person has been listed in the registry longer than all other persons listed; and

(3) A person registered for trap tags in an open season does not register to obtain trap tags for the subsequent open season under section 6474, subsection 4, paragraph A or B.

The commissioner shall by August 15th notify a person who becomes eligible for registration under this paragraph. If that person does not register with the commissioner within 30 days, that person becomes ineligible for registration and the commissioner shall immediately notify the next individual who has been listed for the longest period of time in the registry. That individual must register within 30 days.

**2. Registration in later years.** A person who registers for Monhegan Lobster Conservation Area trap tags under subsection 1 must follow the provisions of section 6474, subsection 4, paragraph A or B to register for trap tags for each subsequent open season.

**3. License requirements; apprenticeship.** License requirements for an apprenticeship in the Monhegan Lobster Conservation Area are as follows.

A. A person who does not possess a Class I, Class II or Class III lobster and crab fishing license must possess an apprentice license issued under section 6421 to be an apprentice in the Monhegan Lobster Conservation Area. The waiver provisions of the apprentice program under section

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6422, subsection 4 do not apply to an apprentice in the Monhegan Lobster Conservation Area.

B. A person who possesses a Class I, Class II or Class III lobster and crab fishing license is not required to possess an apprentice license issued under section 6421 to be an apprentice in the Monhegan Lobster Conservation Area.

4. Issuance of commercial lobster license. A person who does not possess a Class I, Class II or Class III lobster and crab fishing license may be issued a Class I, Class II or Class III lobster and crab fishing license upon completion of the apprenticeship under subsection 1, paragraph B.

**§6476. Former registrants**

A person whose registration to obtain Monhegan Lobster Conservation Area trap tags has lapsed may be listed in the registry under section 6475, subsection 1, paragraph A and may purchase trap tags if the person becomes registered pursuant to section 6475, subsection 1, paragraph C. A person included in the registry pursuant to this subsection must be listed chronologically according to the time and date the commissioner received written notification from that person requesting that person be listed in the registry.

**§6477. Student license holder**

Notwithstanding section 6474, the commissioner may issue up to 15 Monhegan Lobster Conservation Area trap tags to a person issued a student license under section 6421. The license holder must tend the tagged traps from a vessel operated by a person registered under section 6474. The student license holder must be present when that license holder's lobster traps are tended. A student license holder shall certify on forms supplied by the commissioner that a person registered under section 6474 agrees to allow the student license holder to fish for or take lobsters from that person's vessel.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

**DEPARTMENT OF MARINE RESOURCES**

**Administration - Division of**

All Other

\$2,700



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Allocates funds for the estimated travel,  
meal and lodging expenses of the Task Force  
to Study Lobster Subzones and Exclusive Use  
of the Lobster Resource.

**Sec. 6. Task force established.** The Task Force to Study Lobster Subzones and Exclusive Use of the Lobster Resource, referred to in this Act as the "task force," is established.

**1. Appointments.** Appointments to the task force must be made within 30 days of the effective date of this Act. The task force is comprised of the following 13 members appointed by the Commissioner of Marine Resources:

A. Two members representing the general public;

B. One member who is a resident of Monhegan Island and who holds a Class I, Class II or Class III lobster and crab fishing license;

C. One member who is a resident of Friendship and who holds a Class I, Class II or Class III lobster and crab fishing license;

D. One member who is a resident of a town on the State's western coast and who holds a Class I, Class II or Class III lobster and crab fishing license;

E. One member who is a resident of a town on the State's eastern coast and who holds a Class I, Class II or Class III lobster and crab fishing license;

F. One member who is a resident of a town on the State's central coast and who holds a Class I, Class II or Class III lobster and crab fishing license;

G. Two members with scientific expertise in the State's lobster fishery;

H. Two employees of the Department of Marine Resources, one of whom is an employee of the Bureau of Marine Patrol;

I. One member who is a member of the Lobster Advisory Council; and

J. One member who is a member of the Marine Resources Advisory Council.

**2. Duties.** The task force shall study the use of subzones within the current lobster zone structure as a management tool.

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2 The task force shall study issues related to subzones, including,  
4 but not limited to, exclusive access in those subzones to the  
6 lobster resource and the relationship of the subzones to the  
8 existing 7 lobster policy management zones established by the  
10 commissioner under Title 12, section 6446. The task force shall  
also examine the policy and legal implications and benefits and  
risks of establishing the subzones, including the preservation of  
local culture and traditions on island communities and in  
mainland communities.

12 **3. Meetings; election of chair.** Within 10 days after  
14 appointment of all members, the Commissioner of Marine Resources  
shall call and convene the first meeting of the task force. The  
task force shall select a chair from among its members.  
Additional meetings may be called by the chair or by a majority  
of task force members.

18 **4. Compensation.** Task force members serve without per  
20 diem. Members may be compensated for travel, meal and lodging  
expenses if such compensation is approved by a majority of task  
force members and if adequate funding is available.

22 **5. Funding.** The task force may seek, accept and expend  
24 private or public funding for any activity related to the  
accomplishment of its duties.

26 **6. Staffing.** The Department of Marine Resources shall  
28 provide the task force with staffing and clerical support from  
within existing budgeted resources.

30 **7. Budget.** The Department of Marine Resources shall  
32 administer the task force's budget.

34 **8. Report.** The task force shall submit its findings and  
36 recommendations, together with any implementing legislation, to  
the joint standing committee of the Legislature having  
jurisdiction over marine resources matters by January 1, 1999.  
38 The joint standing committee of the Legislature having  
jurisdiction over marine resources matters is authorized to  
40 report out legislation during the First Regular Session of the  
119th Legislature regarding lobster management zones and subzones.

42 **Sec. 7. Transition.** The Commissioner of Marine Resources  
44 shall amend rules relating to the Monhegan Island Area Lobster  
Trap Regulation to make them conform to the requirements of this  
46 Act. Rules relating to the Monhegan Island Area Lobster Trap  
Regulation in effect on the effective date of this Act continue  
48 in effect until amended by the Commissioner of Marine Resources,  
except that any portion of those rules that are inconsistent with  
50 the provisions of this Act are void and of no effect. A person

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who holds a valid 1998 lobster and crab fishing license and who was registered to harvest lobsters in the Monhegan Island Conservation Area for the 1997-98 season but who is not deemed to be registered for Monhegan Lobster Conservation Area trap tags pursuant to the Maine Revised Statutes, Title 12, section 6474, subsection 3 may harvest lobsters under the person's 1998 license in waters other than those within the Monhegan Lobster Conservation Area in accordance with applicable laws and rules. Rulemaking under this section is routine technical rulemaking in accordance with Title 5, chapter 375, subchapter II-A.'

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

**FISCAL NOTE**

**1998-99**

**APPROPRIATIONS/ALLOCATIONS**

Other Funds \$2,700

The estimated travel, meal and lodging expenses for members of the Task Force to Study Lobster Subzones and Exclusive Use of the Lobster Resource will total \$2,700 in fiscal year 1998-99. The Department of Marine Resources does not have adequate funding to cover these expenses, a requirement to authorize reimbursement of member expenses. The task force is authorized to accept private contributions to cover these and other costs. An Other Special Revenue allocation of \$2,700 in fiscal year 1998-99 is included for the total estimated costs in the event that private funding is collected. If the task force is not successful in raising private contributions and no other additional resources are provided, the task force members may not be reimbursed for their expenses.

The Department of Marine Resources will incur some minor additional costs to provide staffing and clerical support for the task force and to enforce compliance with the Monhegan Lobster Conservation Area regulations. These costs can be absorbed within the department's existing budgeted resources.

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 \$86.45 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.

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

8  
10 SUMMARY

12 The amendment is the majority report. It replaces the  
14 bill. It creates the Monhegan Lobster Conservation Area in the  
state waters surrounding Monhegan Island. It prohibits a person  
from harvesting lobsters from the area unless the person uses  
lobster traps fitted with tags designated for use in the area.

16 It limits fishing in the area during the initial 1998-99  
18 open season to people who were registered under Department of  
20 Marine Resources rules for harvesting in the area from January 1,  
1997 to June 25, 1997; harvested lobsters from the area any time  
22 between January 1, 1997 to June 25, 1997; and possess Class I,  
Class II or Class III lobster and crab fishing licenses. A  
24 person who is not initially eligible to harvest lobsters in the  
area may become eligible if the person completes a minimum 2-year  
26 apprenticeship and if a harvester leaves the area's lobster  
fishery.

28 A person who holds a student lobster license may fish up to  
30 15 traps in the Monhegan Lobster Conservation Area provided the  
person fishes with a person who is registered to harvest lobsters  
in the area.

32 The open season for the Monhegan Lobster Conservation Area  
34 is a 180-day period between December 1st and June 25th of the  
following year established annually by the Commissioner of Marine  
36 Resources.

38 A person who harvests lobsters in the Monhegan Lobster  
40 Conservation Area may not fish in any other state waters at any  
time and may not harvest lobsters in federal waters during the  
area's closed season.

42 The amendment also creates a 13-member task force to study  
44 the use of subzones within the current lobster zone structure.  
The task force must report its findings and recommendations by  
46 January 1, 1999.

48 The amendment strikes the emergency preamble and clause.

50 The amendment also adds a fiscal note to the bill.