

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2543

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H.P. 1811

House of Representatives, February 4, 2000

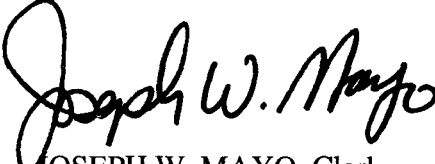
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**An Act Regarding Limited Entry Into the Maine Shrimp Fishery.**

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Reported by Representative ETNIER for the Joint Standing Committee on Marine Resources pursuant to Resolve 1999, chapter 69, section 4.

Reference to the Joint Standing Committee on Marine Resources suggested and printing ordered under Joint Rule 218.

  
JOSEPH W. MAYO, Clerk

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

2  
4       **Sec. 1. 12 MRSA §6302-A, sub-§1**, as amended by PL 1999, c. 491, §3 and affected by §9, is further amended to read:

6       **1. Tribal exemption; commercial harvesting licenses.** A  
8 member of the Passamaquoddy Tribe who is a resident of the State  
10 is not required to hold a state license or permit issued under  
12 section 6421, 6501, 6505-A, 6505-C, 6535, 6536, 6601, 6701, 6702,  
14 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or ~~6804~~  
16 6804-A to conduct activities authorized under the state license  
18 or permit if that member holds a valid license issued by the  
20 tribe to conduct the activities authorized under the state  
22 license or permit. A member of the Passamaquoddy Tribe issued a  
24 tribal license pursuant to this subsection to conduct activities  
26 is subject to all laws and rules applicable to a person who holds  
28 a state license or permit to conduct those activities and to all  
30 the provisions of chapter 625, except that the member of the  
32 tribe:

34       A. May utilize lobster traps tagged with trap tags issued  
36 by the tribe in a manner consistent with trap tags issued  
38 pursuant to section 6431-B. A member of the tribe is not  
40 required to pay trap tag fees under section 6431-B if the  
42 tribe issues that member trap tags;

44       B. May utilize elver fishing gear tagged with elver gear  
46 tags issued by the tribe in a manner consistent with tags  
48 issued pursuant to 6505-B. A member of the tribe is not  
required to pay elver fishing gear fees under section 6505-B  
if the tribe issues that member elver fishing gear tags;  
and

      C. Is not required to hold a state shellfish license issued  
under section 6601 to obtain a municipal shellfish license  
pursuant to section 6671.

38       **Sec. 2. 12 MRSA §6804**, as enacted by PL 1999, c. 491, §5 and  
40 affected by §9, is repealed.

42       **Sec. 3. 12 MRSA §§6804-A and 6804-B** are enacted to read:

44       **§6804-A. Shrimp licenses**

46       **1. License required.** It is unlawful for a person to engage  
48 in the activities authorized under this section without a current  
shrimp trap license or shrimp drag license. A person may not  
possess both a shrimp trap license and a shrimp drag license.

2        2. Licensed activities. The holder of a shrimp trap  
license or shrimp drag license may fish for or take shrimp or  
possess, ship, transport or sell shrimp that the license holder  
4        has taken. A license issued under subsection 8, paragraph B or C  
also authorizes unlicensed crew members aboard the vessel  
6        declared by the license holder to engage in these activities.

8        3. Boat declaration. The license holder shall declare the  
name of the vessel to be used for fishing under the license at  
10       the time of application for the license and may not change that  
declaration during the license year unless the original vessel is  
12       sold and replaced, has been damaged and will be under repair for  
not less than one month or has been destroyed or lost.

14       4. Reporting. The holder of a license issued under this  
section shall submit to the department data as required by rules  
16       adopted by the commissioner. The commissioner may deny an  
application for the renewal of a license issued under this  
18       section if the license holder fails to report the required  
information.

22       5. Exception. Notwithstanding subsection 1, a person may  
take or possess no more than one peck of shrimp for personal use  
24       in one day without a license.

26       6. Eligibility. A shrimp trap license or a shrimp drag  
license may be issued only to an individual. Beginning in  
28       calendar year 2002, the commissioner may issue a shrimp trap  
license or a shrimp drag license only to a person who possessed  
30       that license in the previous calendar year. For calendar year  
2002, a person shall document to the commissioner that person's  
32       eligibility for a license under this section by December 31, 2001.

34       7. Eligibility: 2001. The commissioner may issue a shrimp  
trap license or a shrimp drag license for calendar year 2001 only  
36       to a person if the person:

38       A. Possessed a commercial fishing license issued under  
section 6501 for at least 2 consecutive years between  
40       January 1, 1994 and May 24, 1999;

42       B. Identified on a license application that the person  
fished for shrimp during the same 2 years; and

44       C. Shows proof of ownership of a vessel registered under  
chapter 715, subchapter I or documented under 46 Code of  
46       Federal Regulations, Part 67 or is designated on forms  
48       provided by the commissioner as the operator of a registered  
or documented vessel by the owner of the vessel.

50

2 A person eligible under this subsection may be issued either a  
3 shrimp trap license or a shrimp drag license for calendar year  
4 2001. This subsection is repealed January 1, 2002.

5 8. Fees. Fees for the shrimp trap license and the shrimp  
6 drag license are as follows:

7 A. Thirty-three dollars for a resident license that  
8 authorizes the license holder to engage in the licensed  
9 activities under subsection 2;

10 B. Eighty-nine dollars for a resident license that  
11 authorizes the license holder and crew members to engage in  
12 the licensed activities under subsection 2; and

13 C. Three hundred and thirty-four dollars for a nonresident  
14 license that authorizes the license holder and crew members  
15 to engage in the licensed activities under subsection 2.

16 9. Disposition of fees. All fees for shrimp trap licenses  
17 and shrimp drag licenses must be deposited in the Shrimp  
18 Management Fund established in section 6805.

19 **§6804-B. Shrimp license appeals process**

20 1. Appeal of license denial. A person who is denied a  
21 shrimp trap license or a shrimp drag license because that person  
22 does not meet the eligibility requirements of section 6804-A,  
23 subsection 6 or 7 may appeal to the commissioner under this  
24 section for a review of that license denial.

25 2. Criteria for license issuance on appeal. The  
26 commissioner may issue a license on appeal only if the following  
27 criteria are met:

28 A. The person held a commercial fishing license for at  
29 least 2 of the years between January 1, 1994 and May 24,  
30 1999 and identified on a license application that the person  
31 fished for shrimp during the same 2 years; and

32 B. The person documents that:

33 (1) A substantial illness or other medical condition  
34 on the part of the person or a family member prevented  
35 that person from meeting the eligibility requirements  
36 for a shrimp trap license or a shrimp drag license.  
37 The person must provide the commissioner with  
38 documentation from a physician describing the illness  
39 or other medical condition. For the purposes of this  
40 subparagraph, "family member" means a spouse, brother,  
41 sister, or child of the person.

2 sister, son-in-law, daughter-in-law, parent by blood,  
4 parent by adoption, mother-in-law, father-in-law, child  
by blood, child by adoption, stepchild, stepparent,  
grandchild or grandparent;

6 (2) Service in the United States Armed Forces or the  
8 United States Coast Guard precluded that person from  
participating in the shrimp fishery and meeting the  
10 requirements for a shrimp trap license or a shrimp drag  
license; or

12 (3) That person did not possess a shrimp trap license  
14 or a shrimp drag license in the previous calendar year  
because the commissioner had suspended the person's  
16 license privileges for a period of time that included  
the previous calendar year.

18 3. Appeals process. A person appealing a license denial  
20 under this section must request the review in writing. The  
commissioner shall hold a hearing on the appeal if it is  
22 requested in writing within 10 days of the initial request. If a  
hearing is requested, it must be held within 10 days of the  
24 request unless a longer period is mutually agreed to in writing,  
and it must be conducted in the Augusta area.

26 A hearing held under this subsection is informal. At the  
28 hearing, the appellant may present any evidence concerning the  
criteria listed in subsection 2 that might justify issuing a  
30 license to the person and the commissioner may request any  
additional information the commissioner considers necessary. Any  
32 medical information provided as part of the appeal is a  
confidential record for the purposes of Title 1, section 402,  
34 subsection 3, paragraph A.

36 Issuance of a license on appeal is at the discretion of the  
38 commissioner, except that a license may not be issued unless the  
criteria in subsection 2 are met. Decisions of the commissioner  
must be in writing.

40 **Sec. 4. 12 MRSA §6805, sub-§3,** as enacted by PL 1999, c. 491,  
42 §5, is amended to read:

44 **3. Source of revenue.** In addition to the fees derived from  
46 the ~~commercial~~ shrimp trap license and the shrimp drag license,  
the fund may receive money from any source for the purposes  
described in subsection 2.

48 **Sec. 5. Limited entry task force.** The Task Force to Continue  
50 Study of a Limited Entry System for the Maine Shrimp Fishery,  
referred to in this section as the "task force," is established  
as follows.

2           1. The task force consists of the following 8 members,  
appointed by the Commissioner of Marine Resources:

4           A. Seven members representing the shrimp industry, who must  
6           reflect a geographical distribution along the coast and  
represent users of different gear types; and

8           B. One member employed by the Department of Marine  
10           Resources who has expertise in the shrimp fishery.

12           All appointments must be made no later than 30 days following the  
effective date of this Act. Members of the task force serve  
14           without compensation. The task force shall select a chair at its  
first meeting.

16           2. The first meeting of the task force must convene no later  
18           than 45 days following the effective date of this Act. The task  
force shall provide advance notice of each meeting to the members  
20           of the joint standing committee of the Legislature having  
jurisdiction over marine resources matters.

22           3. The task force shall study a long-term limited entry  
24           system for the shrimp fishery, including the following issues:

26           A. Issues related to entry into the fishery, including, but  
not limited to, transferability of licenses between family  
28           members, apprenticeship programs, prior experience  
requirements and geographical distribution;

30           B. Exit provisions;

32           C. Limits on total numbers of licenses; and

34           D. Any other issues the task force considers appropriate.

36           4. The task force shall complete its work and submit its  
38           findings and recommendations and any proposed legislation by  
December 15, 2002 to the joint standing committee of the  
40           Legislature having jurisdiction over marine resources matters.  
That committee may report out legislation during the First  
42           Regular Session of the 121st Legislature regarding limited entry  
in the shrimp fishery.

44           5. The Department of Marine Resources shall provide the task  
46           force with staff and clerical assistance. The Commissioner of  
Marine Resources may accept and administer any outside funds  
48           contributed to support the work of the task force.

2           **Sec. 6. Effective date.** Those sections of this Act that amend  
the Maine Revised Statutes, Title 12, sections 6302-A and 6805,  
4           repeal Title 12, section 6804 and enact Title 12, sections 6804-A  
and 6804-B take effect on January 1, 2001.

6  
8   **SUMMARY**

10           This bill implements the recommendations of the Task Force  
to Study Limited Entry in the Shrimp Fishery. The bill repeals  
12           the current commercial shrimp license and replaces it with a  
shrimp trap license and a shrimp drag license. The bill  
14           establishes eligibility requirements for those licenses based on  
historical participation in the shrimp fishery between 1994 and  
16           1999. The bill establishes an appeals process for a person who  
is denied a shrimp trap license or a shrimp drag license because  
18           that person does not meet the eligibility requirements. The bill  
limits the exemption for fishing for or possessing shrimp for  
20           personal use to no more than one peck of shrimp in one day  
without a license.

22           The bill also establishes the Task Force to Continue Study  
of a Limited Entry System for the Maine Shrimp Fishery to study  
24           issues associated with a long-term limited entry system for the  
shrimp fishery.