

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1010

S.P. 299

In Senate, February 20, 2001

An Act to Manage the Sea Urchin Fishery.

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LEMONT of York.
Cosponsored by Representative LEMOINE of Old Orchard Beach.

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

2
3 **Sec. 1. 5 MRSA §12004-I, sub-§57-B**, as enacted by PL 1995, c.
4 595, §1, is amended to read:

6 **57-B.** Sea Urchin None 12 MRSA
7 Marine Zone Council Expenses §6749-X
8 Resources: Only
9 Zones

10 **Sec. 2. 12 MRSA §6404-B**, as enacted by PL 1999, c. 244, §1,
11 is amended to read:

12 **§6404-B. Suspension based on conviction of fishing on**
13 **closed days for sea urchin fishing**

14
15 The commissioner shall suspend the sea urchin fishing
16 license of any license holder convicted in court of violating
17 section 6749-W or any rule adopted under section 6749. The
18 suspension must be for one year from the date of conviction.

19
20 **Sec. 3. 12 MRSA §6404-D** is enacted to read:

21
22 **§6404-D. Suspension based on conviction of sea urchin**
23 **fishing in a closed area**

24
25 The commissioner shall suspend the sea urchin fishing
26 license of any license holder convicted in court of violating
27 section 6749-N. The suspension must be for one year from the
28 date of conviction.

29
30 **Sec. 4. 12 MRSA §6748, sub-§5** is enacted to read:

31
32 **5. Rebuttable presumption.** It is unlawful for an individual
33 to dive from a vessel with sea urchins on board unless that
34 individual is licensed under this section. It is a rebuttable
35 presumption that an individual diving from a vessel with sea
36 urchins on board at any time of the year is diving for the
37 purpose of fishing for or taking sea urchins.

38
39 **Sec. 5. 12 MRSA §6749**, as repealed and replaced by PL 1995,
40 c. 392, §5, is repealed and the following enacted in its place:

41
42 **§6749. Sea urchin harvesting season and open days**

43
44 **1. Closed season.** It is unlawful for a person to fish for
45 or take sea urchins from May 1st to August 31st.

46
47 **2. Open days.** The commissioner, in consultation with the
48 Sea Urchin Zone Council under section 6749-X, shall establish by

2 rule, within that area designated Zone 1 and that area designated
3 as Zone 2 under section 6749-N, the open days for those zones
4 during which a person may fish for or take sea urchins. Rules may
5 specify the open days for gear type and may further define more
6 than one time period. Rules adopted pursuant to this subsection
7 are routine technical rules as defined in Title 5, chapter 375,
8 subchapter II-A.

9
10 3. Prohibition. It is unlawful for a person to possess
11 aboard a vessel, fish for or take sea urchins on any day not
12 designated as open to sea urchin harvesting under this section.

13
14 **Sec. 6. 12 MRSA §6749-N, sub-§3** is enacted to read:

15
16 3. Conservation areas. The commissioner may adopt rules to
17 establish conservation areas pursuant to section 6171 for the
18 purposes of sea urchin research that are considered closed areas
19 for the purpose of this section. Fishing for sea urchins in a
20 conservation area adopted through the department for sea urchin
21 research is considered a violation of this subchapter and subject
22 to the penalties under section 6749-Y. Rules adopted pursuant to
23 this subsection are routine technical rules as defined in Title
24 5, chapter 375, subchapter II-A.

25
26 **Sec. 7. 12 MRSA §6749-O, sub-§§2-A and 2-B,** as enacted by PL
1997, c. 685, §3, are amended to read:

27
28 **2-A. License eligibility.** The commissioner may not issue a
29 handfishing sea urchin license, a sea urchin dragging license or
30 a sea urchin hand-raking and trapping license to any person ~~for~~
31 ~~calendar year 1999, 2000 or 2001~~ unless that person possessed
32 that license in the previous calendar year or becomes eligible to
33 obtain that license pursuant to a lottery under subsection 2-B.

34
35 **2-B. Sea urchin license lottery.** The commissioner shall
36 establish by rule a lottery system under which a person who did
37 not hold a handfishing sea urchin license, a sea urchin dragging
38 license or a sea urchin hand-raking and trapping license in the
39 previous calendar year may become eligible to obtain that license
40 ~~in calendar year 1999, 2000 or 2001~~ for use in a zone established
41 pursuant to section 6749-N. The rules for a lottery system must
42 include provisions for the method and administration of a
43 lottery. The rules may include provisions for a method under
44 which a person may submit more than one entry in a lottery based
45 on the prior calendar years a person held a license that qualify
46 that person for a lottery. Rules adopted pursuant to this
47 subsection are routine technical rules as defined in Title 5,
48 chapter 375, subchapter II-A.

2 A. Pursuant to section 6749-P, all licenses issued to a
person in a calendar year must be for use in the same zone.

4 B. A person may not enter more than one license lottery
during a calendar year.

6
8 C. A person is eligible to enter a lottery for a
handfishing sea urchin license and a sea urchin hand-raking
and trapping license if that person held in the previous
10 calendar year a sea urchin and scallop diving tender license
issued under section 6535 that was valid for more than 30
12 days or if that person held in the previous calendar year a
handfishing scallop license issued under section 6701.

14
16 D. A person is eligible to enter a lottery for a sea urchin
dragging license if that person held in the previous
calendar year a commercial fishing license issued under
18 section 6501, a scallop boat license issued under section
6702, a mahogany quahog license issued under section 6731 or
20 a mussel boat license issued under section 6746.

22 E. Except as provided in paragraph F, the number of persons
awarded eligibility in a lottery for a handfishing sea
24 urchin license, a sea urchin hand-raking and trapping
license or a sea urchin dragging license in a zone must be
26 in accordance with the exit ratio for that license in that
zone. For the purposes of this paragraph, "exit ratio"
28 means that one person may be awarded eligibility in a
license lottery for every 5 persons who held that license in
30 the year prior to the previous calendar year but who did not
renew that license in the previous calendar year.

32
34 F. The commissioner may hold a combined lottery for sea
urchin handfishing licenses and sea urchin hand-raking and
trapping licenses in a zone if the exit ratio for those
36 licenses in that zone is reached. For the purposes of this
paragraph, "exit ratio" means that one person may be awarded
38 eligibility in a lottery to obtain either a sea urchin
handfishing license or a sea urchin hand-raking and trapping
40 license for every 5 persons who held a sea urchin
handfishing license or a sea urchin hand-raking and trapping
42 license in the year prior to the previous calendar year but
who did not renew the license in the previous calendar year.

44
46 **Sec. 8. 12 MRSA §6749-Q, first ¶**, as amended by PL 1997, c.
685, §5, is further amended to read:

48 The following surcharges are assessed on licenses ~~sold for~~
calendar-years-1998,-1999,-2000-and-2001 issued by the department:

50

2 **Sec. 9. 12 MRSA §6749-Q, sub-§5**, as amended by PL 1995, c.
462, Pt. A, §32, is further amended to read:

4 **5. Wholesale seafood license with a sea urchin processor's**
5 **permit.** ~~Two-thousand-five-hundred~~ One thousand dollars on a
6 wholesale seafood license with a sea urchin processor's permit.

8 **Sec. 10. 12 MRSA §6749-R, sub-§1**, as repealed and replaced by
PL 1999, c. 790, Pt. A, §13, is amended to read:

10 **1. Uses of the fund.** The commissioner shall use the fund
12 for research directly related to sea urchin fishery management
14 information needs and for reporting to licensed sea urchin
16 harvesters, boat tenders, processors and buyers on the results of
18 research and the use of fund revenues. The purpose of that
20 research must be to determine, with the highest reliability
22 possible given available resources, the greatest level of effort
24 that may be applied to the sea urchin fishery without harming the
26 long-term economic and biological sustainability of the sea
28 urchin fishery. The commissioner shall consult with the Sea
Urchin Zone Council under section 6749-X before deciding upon
research projects and awarding grants from the fund. The fund
may also be used to cover the costs associated with determining
eligibility for licenses under this subchapter, for law
enforcement and support for the Sea Urchin Zone Council,
including reimbursement for travel expenses. Up to 30% of
allotted revenues may be used for law enforcement purposes.

30 **Sec. 11. 12 MRSA §6749-T**, as amended by PL 1997, c. 685, §7,
is repealed.

32 **Sec. 12. 12 MRSA §6749-W**, as amended by PL 1999, c. 244, §4,
is repealed.

34 **Sec. 13. 12 MRSA §6749-X, sub-§3, ¶A**, as enacted by PL 1997,
36 c. 177, §7, is amended to read:

38 A. The designation of open days for the harvesting of sea
40 urchins by handfishing, dragging, hand-raking and trapping
pursuant to section 6749-W or under rules adopted under
42 section 6749;

44 **Sec. 14. 12 MRSA §6749-X, sub-§6** is enacted to read:

46 **6. Compensation.** Members are entitled to compensation
according to Title 5, chapter 379.

48 **Sec. 15. Effective date.** That section of this Act that repeals
50 the Maine Revised Statutes, Title 12, section 6749-W takes effect
December 31, 2001.

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SUMMARY

The bill makes the following changes to the laws regarding the sea urchin fishery.

1. It allows Sea Urchin Zone Council members to be reimbursed for expenses only.

2. It requires the Commissioner of Marine Resources to suspend the sea urchin fishing license for one year from the date of a license holder's conviction for fishing in a closed area.

3. It establishes a rebuttable presumption that anyone diving from a boat with sea urchins aboard is diving for sea urchins.

4. It requires the Commissioner of Marine Resources to establish by rule open days for sea urchin harvesting for Zone 1 and Zone 2 after consultation with the Sea Urchin Zone Council and repeals the current provision governing open days. The bill also makes it unlawful for a person to harvest sea urchins on a day not designated as an open day.

5. It requires the Commissioner of Marine Resources to adopt rules to establish conservation areas for the purpose of sea urchin research and makes fishing for sea urchins in those areas a violation subject to the penalties under the Maine Revised Statutes, Title 12, section 6749-Y.

6. It strikes the provision that would repeal Title 12, chapter 623, subchapter II-C, article 3, "Emergency Limitations; Sea Urchin Fishery," and makes conforming changes in contemplation of the law continuing past 2001.

7. It reduces the surcharge for a sea urchin processor's permit from \$2500 to \$1000.

8. It authorizes use of the Sea Urchin Research Fund for reimbursement for travel expenses for Sea Urchin Zone Council members.