

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1555

H.P. 1152

House of Representatives, March 13, 2001

**An Act to Require Fishing Boats Rather than Individuals to be Licensed
for Saltwater Commercial Ventures.**

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Representative PINKHAM of Lamoine.

2
4
6
8
10
12
14
16
18
20
22
24
26

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

Sec. 1. 12 MRSA §6001, sub-§2-A is enacted to read:

2-A. Boat owner. "Boat owner" means:

A. 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;

B. An individual who owns the highest percentage of individual ownership in a commercial entity that is the owner of a vessel registered under chapter 715, subchapter I or a vessel documented under 46 Code of Federal Regulations, Part 67; or

C. When 2 or more individuals own in equal proportion the highest percentages of individual ownership in a commercial 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 individual owners as designated by the owners of that commercial entity.

Sec. 2. 12 MRSA §6001, sub-§14-A is enacted to read:

14-A. Family member. "Family member" means a husband, wife, 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.

Sec. 3. 12 MRSA §6001, sub-§33, as enacted by PL 1977, c. 661, §5, is amended to read:

33. Person. "Person" means any individual, firm, corporation, commercial entity or agency or political subdivision of government.

Sec. 4. 12 MRSA §6001, sub-§36-A is enacted to read:

36-A. Replacement vessel. "Replacement vessel" means a vessel that is substituted for a vessel that is no longer utilized by a person.

Sec. 5. 12 MRSA §6301, sub-§2, ¶B, as amended by PL 1993, c. 497, §1, is further amended to read:

2 B. A shellfish handfishing and raking license issued under
3 section ~~6601~~ 6602 or a shellfish boat license issued under
4 section 6603 expires on April 30th of each year;

6 **Sec. 6. 12 MRSA §6302-A, sub-§1**, as amended by PL 1999, c.
7 491, §3 and affected by §9, is further amended to read:

8 **1. Tribal exemption; commercial harvesting licenses.** A
9 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
11 section ~~6421,--6501~~ 6501-A, 6505-A, 6505-C, 6535, 6536, ~~6601~~ 6602,
12 6603, 6701, ~~6702~~ 6702-A, 6703, ~~6731~~ 6731-B, 6731-C, 6745, 6746
13 6746-A, 6748, ~~6748-A~~, 6748-D, ~~6748-E~~, 6751, 6803 or 6804 to
14 conduct activities authorized under the state license or permit
15 if that member holds a valid license issued by the tribe to
16 conduct the activities authorized under the state license or
17 permit. A member of the Passamaquoddy Tribe issued a tribal
18 license pursuant to this subsection to conduct activities is
19 subject to all laws and rules applicable to a person who holds a
20 state license or permit to conduct those activities and to all
21 the provisions of chapter 625, except that the member of the
22 tribe:

24 A. May utilize lobster traps tagged with trap tags issued
25 by the tribe in a manner consistent with trap tags issued
26 pursuant to section 6431-B. A member of the tribe is not
27 required to pay trap tag fees under section 6431-B if the
28 tribe issues that member trap tags;

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

36 C. Is not required to hold a state shellfish license issued
37 under section ~~6601~~ 6602 or 6603 to obtain a municipal
38 shellfish license pursuant to section 6671.

40 **Sec. 7. 12 MRSA §6302-A, sub-§2**, as enacted by PL 1997, c.
41 708, §1 and affected by §3, is amended to read:

42 **2. Tribal exemption; sustenance or ceremonial tribal use.**
43 Notwithstanding any other provision of law, a member of the
44 Passamaquoddy Tribe who is a resident of the State may at any
45 time take, possess, transport and distribute:

48 A. Any marine organism, except lobster, for sustenance use
49 if the tribal member holds a valid sustenance fishing
50 license issued by the tribe. A sustenance fishing license

holder who fishes for sea urchins may not harvest sea urchins out of season;

B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster license issued by the tribe. The sustenance lobster license holder's traps must be tagged with sustenance use trap tags issued by the tribe in a manner consistent with trap tags issued pursuant to section 6431-B; however, a sustenance lobster license holder may not harvest lobsters for sustenance use with more than 25 traps; and

C. Any marine organism for noncommercial use in a tribal ceremony within the State, if the member holds a valid ceremonial tribal permit issued to the tribal member by the Joint Tribal Council of the Passamaquoddy Tribe or the governor and council at either Passamaquoddy reservation.

For purposes of this subsection, "sustenance use" means all noncommercial consumption or noncommercial use by any person within the Passamaquoddy reservation at Pleasant Point or Indian Township or at any location within the State by a tribal member, by a tribal member's immediate family or within a tribal member's household. The term "sustenance use" does not include the sale of marine organisms. A member of the Passamaquoddy Tribe who takes a marine organism under a license or permit issued pursuant to this subsection must comply with all laws and rules applicable to a person who holds a state license or permit that authorizes the taking of that organism, except that a state law or rule that sets a season for the harvesting of a marine organism does not apply to a member of the Passamaquoddy Tribe who takes a marine organism for sustenance use or for noncommercial use in a tribal ceremony. A member of the Passamaquoddy Tribe issued a license or permit under this subsection is exempt from paying elver gear fees under section 6505-B or trap tag fees under section 6431-B and is not required to hold a state shellfish license issued under section ~~6601~~ 6602 or 6603 to obtain a municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy Tribe who fishes for or takes lobster under a license or permit issued pursuant to this subsection must comply with the closed periods under section 6440.

Sec. 8. 12 MRSA §6302-A, sub-§§3 and 4, as enacted by PL 1997, c. 708, §1 and affected by §3, are repealed.

Sec. 9. 12 MRSA §6311 is enacted to read:

§6311. Commercial fishing fees

2 1. Resident fees. The following fees apply to a boat owned
by an individual who is a resident of the State or a commercial
4 entity that is headquartered or incorporated in the State for
resident licenses issued under sections 6421-C, 6501-A, 6603,
6702-A, 6731-C, 6746-A and 6748-E:

6 A. If the boat is 20 feet or less in length, \$50;

8 B. If the boat is greater than 20 feet in length and up to
10 36 feet in length, \$200;

12 C. If the boat is greater than 36 feet in length and up to
14 42 feet in length, \$250;

16 D. If the boat is greater than 42 feet in length and up to
50 feet in length, \$300; and

18 E. If the boat is greater than 50 feet in length, \$750.

20 2. Nonresident fees. The following fees apply to a boat
owned by an individual who is a nonresident or a commercial
22 entity that is not headquartered or incorporated in the State for
a license issued under sections 6421-C, 6501-A, 6603, 6702-A,
24 6731-C, 6746-A and 6748-E:

26 A. If the boat is 20 feet or less in length, \$150;

28 B. If the boat is greater than 20 feet in length and up to
30 36 feet in length, \$600;

32 C. If the boat is greater than 36 feet in length and up to
42 feet in length, \$750;

34 D. If the boat is greater than 42 feet in length and up to
36 50 feet in length, \$900; and

38 E. If the boat is greater than 50 feet in length, \$2,250.

40 A license issued pursuant to this section expires one year from
the date of issue.

42 **Sec. 10. 12 MRSA §6312** is enacted to read:

44 **§6312. Owner requirement exemption**

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

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

4 **2. Owner requirement.** A licensed boat may not be used to
5 harvest a marine organism unless the licensed boat
6 owner or family member is on board.

8 **3. Exemptions to owner requirement.** Notwithstanding
9 subsection 2, the commissioner may authorize a person to harvest
10 a marine organism from a boat when the boat owner or a family
11 member is not on board if:

12 A. The boat owner holds a license for the boat to be used
13 to harvest the marine organism, documents to the
14 commissioner that an illness or disability temporarily
15 prevents that owner from harvesting the marine organism from
16 the boat and requests in writing to the commissioner that
17 the commissioner authorize another person to use the owner's
18 boat to harvest that marine organism;

19 B. A licensed boat has become temporarily inoperable
20 because of an accident or a mechanical failure and the
21 person who owns that inoperable boat requests in writing
22 permission from the commissioner to use another person's
23 boat to harvest a marine organism;

24 C. The person documents to the commissioner by December 31,
25 2002 that the person harvested a marine organism during the
26 qualifying period in each of calendar years 1997, 1998 and
27 1999 from the same boat and that boat did not have on board
28 the boat owner or a family member of the boat owner. A
29 person may not qualify for the exemption under this
30 paragraph unless that person continues to harvest the marine
31 organism from the vessel from which the person harvested
32 marine organisms during the qualifying period in each of
33 calendar years 1997, 1998 and 1999 or from a replacement
34 vessel; or

35 D. The person documents to the commissioner by December 31,
36 2002 that that person rented, leased or otherwise made
37 available that boat to a holder of a license issued pursuant
38 to sections 6421-C, 6501-A, 6603, 6702-A, 6731-C, 6746-A and
39 6748-E to harvest a marine organism during the qualifying
40 period in each of calendar years 1997, 1998 and 1999 for the
41 purpose of harvesting that marine organism. A person
42 authorized under this paragraph may harvest the marine
43 organism only from the boat that was made available during
44 the qualifying period in each of calendar years 1997, 1998
45 and 1999 or a replacement vessel.

50

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

6 **Sec. 11. 12 MRSA §6404**, as amended by PL 1995, c. 468, §2, is
7 further amended to read:

8 **§6404. Suspension based on conviction of scrubbing lobsters**

9 The commissioner shall suspend the lobster and crab fishing
10 license, wholesale seafood license and the commercial fishing
11 boat license of any license holder convicted in court of
12 violating section 6438-A. The suspension must be for one year
13 from the date of conviction.

14 **Sec. 12. 12 MRSA §6421**, as corrected by RR 1999, c. 1, §16,
15 is repealed.

16 **Sec. 13. 12 MRSA §6421-C** is enacted to read:

17 **§6421-C. Lobster and crab fishing license**

18 1. Boat requirement. It is unlawful for a person to use a
19 boat to fish for or take lobsters and crabs unless:

20 A. That boat carries a lobster and crab fishing license
21 issued by the commissioner;

22 B. The license for that boat is purchased by and in the
23 name of the person who owns the boat; and

24 C. Except as provided under section 6312, the boat owner or
25 a family member of the boat owner is on board that boat when
26 the boat is used to harvest lobsters and crabs.

27 2. Permitted activities. A person on board a boat that
28 complies with subsection 1 may fish for, take, possess, ship or
29 transport within the State lobsters or crabs and sell lobsters or
30 crabs harvested by that boat. A person may not remove lobster
31 meat from the shell or take, possess, transport or ship lobster
32 parts or meat unless that person holds a permit under section
33 6851, 6854, 6857 or 6862.

34 3. Exception. A lobster and crab fishing license is not
35 required for an individual to take or catch crabs with bare hands
36 or hook and line.

37 4. Eligibility. A lobster and crab fishing license may
38 only be issued to an individual who is a resident of the State or
39

2 a commercial entity that is headquartered or incorporated in the
3 State.

4 5. Buoy colors. A person who fishes for or takes lobsters
5 must describe, on a form provided by the commissioner, a single
6 color design of that person's buoys.

8 6. Fee. The fee for a lobster and crab fishing license is
9 established under section 6421-C.

10 7. Owner liability. A boat owner on board a boat licensed
11 under this section is liable for the activities authorized under
12 this section of all persons on board that boat.

14 **Sec. 14. 12 MRSA §6422,** as amended by PL 1999, c. 490, §§2
15 and 3, is repealed.

18 **Sec. 15. 12 MRSA §6431-A, sub-§1,** as repealed and replaced by
19 PL 1999, c. 187, §1, is amended to read:

20 **1. Limit.** Before March 1, 2000, the holder of a Class I,
21 Class II or Class III license issued under section ~~6421~~ 6421-C
22 may not submerge more than 1,000 traps. After February 29, 2000,
23 the holder of a Class I, Class II or Class III license issued
24 under section ~~6421~~ 6421-C may not submerge more than 800 traps.
25 If a lower trap limit is adopted by rule for a zone pursuant to
26 section 6446, a license holder who fishes in that zone may not
27 submerge a number of traps that exceeds the lower limit.

30 The number of traps fished from a vessel may not exceed the
31 applicable trap limit established in this subsection, regardless
32 of the number of license holders fishing from that vessel.

34 **Sec. 16. 12 MRSA §6431-B,** as enacted by PL 1995, c. 468, §5,
35 is amended to read:

36 **§6431-B. Tag system**

38 By March 1, 1996, the commissioner shall establish by rule a
39 lobster trap tag system under which ~~lobster--and--crab--fishing~~
40 ~~license-holders~~ a person who fishes for or takes lobsters must
41 purchase tags for the purpose of identifying and tracking traps.
42 The rules must contain provisions for replacing lost tags. The
43 commissioner may impose a per-tag fee to cover the cost of trap
44 tags, the costs of administering and enforcing a lobster trap tag
45 system and the costs associated with lobster management policy
46 councils and referenda pursuant to section 6447. Trap tag fees
47 must be deposited in the Lobster Management Fund established
48 under section 6431-C.

50

2 **Sec. 17. 12 MRSA §6431-E**, as amended by PL 1999, c. 26, §1,
is repealed.

4 **Sec. 18. 12 MRSA §6432, sub-§§2 and 3**, as enacted by PL 1977,
6 c. 661, §5, are amended to read:

8 **2. Marking.** It shall ~~be~~ is unlawful to set, raise, lift or
transfer any lobster trap or buoy unless it is clearly marked
10 with the owner's ~~lobster and crab fishing license number~~ name and
address.

12 **3. Color design.** It shall ~~be~~ is unlawful to set, raise,
14 lift or transfer any lobster trap unless the color design of the
attached buoy is the same as the color design that is on file
16 with the license application and is displayed on the boat, or
unless the person ~~is duly licensed and~~ possesses written
18 permission from the rightful owner of the lobster trap or buoy.
Prior notification of changes in buoy color design shall must be
provided to the commissioner.

20 **Sec. 19. 12 MRSA §6434**, as amended by PL 1993, c. 543, §2, is
22 further amended to read:

24 **§6434. Molesting lobster gear**

26 No A person may not raise, lift, transfer, possess or in any
28 manner molest any lobster trap, warp, buoy or car except as
provided in this section.

30 **1. Permitted activities.** Lobster traps, warps, buoys and
cars may be raised, lifted, transferred, possessed or otherwise
32 molested by the following:

34 A. A marine patrol officer;

36 B. The ~~licensed~~ owner;

38 C. Any person having written permission from the ~~licensed~~
owner; and

40 D. Any person authorized by rule pursuant to subsection 2.

42 **2. Adoption of rules required.** The commissioner shall
44 ~~promulgate~~ adopt rules, no later than January 1, 1990,
authorizing the removal of traps, warps, buoys or cars that are
46 washed up above the mean low tide mark or are otherwise abandoned
or lost.

48

2 **3. Prohibition.** Traps, warps, buoys or cars may not be
used for fishing by any person other than the licensed owner
unless with written permission from the licensed owner.

4
6 **4. Additional penalty.** If ~~the holder of a lobster and crab~~
~~fishing license~~ a person violates this section by cutting a
lobster trap line, the court shall:

8 A. Order that person to pay to the owner of the trap line
10 that was cut an amount equal to twice the replacement value
of all traps lost as a result of that cutting; and

12 B. Direct that person to provide proof of payment of that
14 restitution to the Commissioner of Marine Resources as
required by section 6402, subsection 1.

16 A penalty imposed under this subsection is in addition to any
18 penalty imposed under section 6204.

20 **Sec. 20. 12 MRSA §6435**, as amended by PL 1981, c. 433, §8, is
further amended to read:

22 **§6435. Setting near weirs**

24 It ~~shall be~~ is unlawful to set any lobster trap within 300
26 feet of the mouth of any fish weir when the weir owner or
operator is licensed under section ~~6501~~ 6501-A and when the weir
28 is licensed under Title 38, chapter 9.

30 **Sec. 21. 12 MRSA §6443**, as repealed and replaced by PL 1989,
c. 878, Pt. A, §32, is amended to read:

32 **§6443. Underwater storage**

34 Beginning January 1, 1990, any trap or other container used
36 for storing lobsters beneath the surface of the coastal waters
must be clearly marked with the wholesale seafood license number
38 ~~or the fishing license number~~ of the person storing the lobsters
or with the name and address of the person storing the lobsters.
40 Any trap or other container and the contents in it found in
violation of this section may be seized and the contents returned
42 to their natural habitat.

44 **Sec. 22. 12 MRSA §6445**, as amended by PL 1999, c. 771, Pt. B,
§3 and affected by Pt. D, §§1 and 2, is further amended to read:

46 **§6445. Logbooks for lobster harvesters**

2 The commissioner shall adopt rules requiring any person
3 ~~holding a lobster and crab fishing license~~ who fishes for or
4 takes lobsters and crabs to maintain a logbook. The rules must
5 indicate the type of data that must be recorded in the logbook,
6 the manner for producing the logbooks and the method for
7 analyzing data from the logbooks. The commissioner shall charge
8 a fee for the logbook that is sufficient to recover all costs
9 associated with the production of the logbook and the analysis of
10 the data. Fees received by the department from the sale of
11 logbooks are dedicated revenue and must be used by the department
12 for the purposes of this section. The logbook and data analysis
13 may be produced and conducted by the department or may be
14 produced and conducted by a public or private entity under
15 contract with the department. Disclosure of any data collected
16 under this section is subject to the confidentiality provisions
17 of section 6173. A person who fails to maintain a logbook when
18 required to do so commits a civil violation for which a
19 forfeiture of not less than \$100 and not more than \$500 may be
20 adjudged.

21 **Sec. 23. 12 MRSA §6446, sub-§2**, as repealed and replaced by PL
22 1995, c. 568, §4, is amended to read:

23 **2. Rules for zones.** The commissioner may adopt rules for a
24 zone established under subsection 1 that place limits on ~~lobster~~
25 ~~and crab fishing license holders~~ persons who fish for or take
26 lobsters and crabs who fish in that zone regarding the number of
27 lobster traps fished and the time periods allowed for complying
28 with that number, the number of lobster traps allowed on a trawl
29 and the time of day when lobster fishing may occur only when the
30 rules were proposed by the lobster management policy council
31 established for that zone pursuant to section 6447, subsection 1
32 and the proposed rules were approved in a referendum pursuant to
33 section 6447, subsection 6. The commissioner may accept the
34 rules proposed by a lobster management policy council as
35 reasonable and adopt those rules or reject the council's proposed
36 rules as unreasonable. The rules adopted under this subsection
37 by the commissioner must accurately reflect the intent of the
38 rules proposed by a lobster management policy council but are not
39 required to be a verbatim rendition of the proposed rules.
40

41 **Sec. 24. 12 MRSA §6446, sub-§3**, as enacted by PL 1995, c. 468,
42 §8, is amended to read:

43 **3. Application of zone rules.** The commissioner may adopt
44 rules that define the application of zone rules to a person ~~who~~
45 ~~holds a license under section 6421~~ and who fishes for lobsters in
46 more than one zone.
47
48

2 **Sec. 25. 12 MRSA §6447, sub-§5**, as amended by PL 1999, c. 187,
§3, is further amended to read:

4 **5. Council authority.** Upon approval in a referendum under
subsection 6, a lobster management policy council may propose to
6 the commissioner rules for a zone to place the following
limitations on lobster ~~and crab fishing license holders that fish~~
8 harvesting in that zone, provided the proposed limitations are
equal to or stricter than the limitations under section 6431-A,
10 6439, 6439-A or 6440:

12 A. The number of lobster traps fished and the time periods
14 allowed for complying with that number;

16 B. The number of lobster traps allowed on a trawl; and

18 C. The time of day when lobster fishing may occur.

20 **Sec. 26. 12 MRSA §6447, sub-§7**, as amended by PL 1999, c. 508,
§2, is further amended to read:

22 **7. Council member and voter qualifications.** A person may
24 not be a member of a zone's lobster management policy council or
vote in a zone's council election or referendum unless that
26 person:

28 A. ~~Possesses a Class I, Class II or Class III lobster and~~
~~crab fishing license issued~~ Is the owner of a boat licensed
30 under section 6421 ~~6421-C~~; and

32 B. Declared at the time of obtaining a ~~Class I, Class II or~~
~~Class III~~ boat license under section 6421-C the zone in
34 which the ~~person~~ owner fishes a majority of that ~~person's~~
~~owner's~~ lobster traps. A ~~person~~ boat owner may declare only
36 one zone as the zone in which the ~~person~~ owner fishes a
majority of that ~~person's~~ owner's lobster traps.

38 ~~The holder of a lobster and crab fishing license issued under~~
40 ~~section 6421~~ A person may fish for lobsters in any zone.

42 **Sec. 27. 12 MRSA §6451, sub-§1**, as amended by PL 1997, c. 19,
§4, is further amended to read:

44 **1. Allocation of license fees.** ~~Ten dollars of each \$93~~
46 ~~fee, \$20 of each \$186 fee, \$30 of each \$279 fee and \$5 of each~~
~~\$46 fee for each lobster and crab fishing license~~ A 5% annual
48 surcharge must be assessed on lobster and crab fishing licenses
and allocated to the Lobster Fund, which must be used for the
50 purposes of lobster biology research, of propagation of lobsters

2 by liberating seed lobsters and female lobsters in Maine coastal
waters and of establishing and supporting lobster hatcheries.

4 **Sec. 28. 12 MRSA §6451, sub-§8**, as enacted by PL 1995, c. 468,
§9, is repealed.

6 **Sec. 29. 12 MRSA §6455, sub-§2**, as amended by PL 1993, c. 545,
8 §2, is further amended to read:

10 **2. Qualifications of members.** From each district, 3
members must be appointed who meet the following criteria:

12 A. One person who is a full-time harvester ~~and who has held~~
14 ~~a valid lobster and crab fishing license for at least 5~~
~~consecutive years;~~

16 B. One person who is a dealer or pound operator and who:

18 (1) Has held a valid wholesale shellfish license or
20 lobster transport license for a period of at least 5
consecutive years; or

22 (2) Is the manager of, or an officer in, a business
24 entity operating in the State that holds a valid
wholesale shellfish license or lobster transport
26 license; and

28 C. One person who is a public member.

30 A person is eligible for appointment to the council from a
district only if that person is a resident of the district or if
32 that person's place of business is located within the district.

34 **Sec. 30. 12 MRSA §6455, sub-§5**, as amended by PL 1997, c. 211,
§3, is further amended to read:

36 **5. Fund established; license surcharge assessed.** The
38 Lobster Promotion Fund, referred to in this subchapter as the
"fund," is established to carry out the purposes of this
40 subchapter. The department shall pay to the fund all money
appropriated or received by the department for the purposes of
42 this subchapter, except that the department may retain funds
necessary to reimburse the department for the actual cost of
44 collecting the license surcharges established in this
subsection. The fund is capitalized from ~~the following a 5%~~
46 ~~annual surcharges~~ surcharge assessed on ~~the following lobster and~~
crab fishing boat licenses issued by the department for calendar
48 years ~~1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000~~ 2002
and ~~2001~~ 2003:

50

2 A. ~~Class I crab and lobster licenses for persons 18 to 69~~
years of age, \$25,

4 B. ~~Class II crab and lobster licenses, \$50,~~

6 C. ~~Class III crab and lobster licenses, \$75,~~

8 D. ~~Wholesale seafood licenses with lobster permits, \$200,~~

10 E. ~~Lobster transportation licenses, \$200.~~

12 A person holding more than one of the licenses listed in this
14 subsection is assessed a surcharge only on the highest
surchargeable license held.

16 The Treasurer of State shall hold all surcharges assessed by this
18 subsection in the fund and invest all money in the fund until
20 disbursed to the council upon request of the council. Interest
from investments accrues to the fund.

22 All money in the fund is subject to allocation by the
24 Legislature. Unexpended balances in the fund at the end of the
fiscal year may not lapse but must be carried forward to be used
for the same purposes.

26 In addition to payment of the regular license fee and the
28 surcharge, a person purchasing a license subject to the
surcharges established in this subsection may make voluntary
30 contributions to the fund at the time the license is purchased.
Voluntary contributions received by the department from a
32 licensee pursuant to this subsection must be deposited in the
fund by the department and must be used by the council for the
34 purposes of this subchapter.

36 **Sec. 31. 12 MRSA §6473**, as enacted by PL 1997, c. 574, §4, is
amended to read:

38 **§6473. Fishing in other waters**

40 **1. Limitations.** A person boat registered for use in the
42 Monhegan Lobster Conservation Area ~~trap tags under section 6474~~
may not be used to fish for or take lobsters:

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

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

4 **Sec. 32. 12 MRSA §6474, sub-§§3, 4, 5, 6 and 7,** as enacted by PL
1997, c. 574, §4, are repealed.

6 **Sec. 33. 12 MRSA §§6475, 6476 and 6477,** as enacted by PL 1997,
8 c. 574, §4, are repealed.

10 **Sec. 34. 12 MRSA §6478** is enacted to read:

12 **§6478. Boat use in Monhegan Lobster Conservation Area**

14 **1. Limitation.** A boat may not be used in the Monhegan
Lobster Conservation Area to fish for or take lobsters unless:

16 A. A person issued a license under section 6421-C for that
18 boat documents to the commissioner that the boat was used in
20 the area during the 2001 open season to fish for or take
lobsters;

22 B. A person issued a license under section 6421-C for that
24 boat documents to the commissioner that the boat is a
26 replacement vessel for a boat used in the area during the
2001 open season to fish for or take lobsters; or

28 C. The boat is issued a license under section 6421-C and is
admitted for use in the area pursuant to subsection 2.

30 The commissioner shall register each boat that meets the criteria
32 of this subsection and is used to fish for or take lobsters in
34 the Monhegan Lobster Conservation Area. A boat owner shall have
on board the certificate of registration when the boat is used to
fish for or take lobsters in the area.

36 **2. Admittance of new boats.** A boat that was not used in
38 the Monhegan Lobster Conservation Area during the 2001 open
season to fish for or take lobsters may be used to fish for or
take lobsters in the area if:

40 A. The boat is documented under subsection 1, paragraph A
42 or is a replacement vessel documented under subsection 1,
44 paragraph B and is no longer used to fish for or take
lobsters in the area; and

46 B. The boat has been listed in the boat registry
48 established in this paragraph longer than any other boat has
been listed. The commissioner shall maintain a registry of
50 boats for which the persons who own the boats have requested
admittance into the area for use to fish for or take

2 lobsters. Each boat included in the registry must be listed
3 according to the time and date the commissioner received a
4 written request from the person who owns the boat for
5 admittance to the area.

6 **Sec. 35. 12 MRSA §6501**, as amended by PL 1999, c. 491, §4, is
7 repealed.

8 **Sec. 36. 12 MRSA §6501-A** is enacted to read:

9 **§6501-A. Commercial fishing boat license**

10 **1. Boat requirements.** It is unlawful for a person to use a
11 boat to fish for or take fish unless:

12 A. That boat carries a commercial fishing license issued by
13 the commissioner;

14 B. The license for that boat is purchased by and in the
15 name of the person who owns the boat; and

16 C. Except as provided under section 6312, the boat owner or
17 a family member of the boat owner is on board that boat when
18 the boat is used to harvest fish.

19 **2. Permitted activities.** A person on board a boat that
20 complies with subsection 1 may fish for or take fish or possess,
21 ship, transport or sell fish that the person has taken.

22 **3. Exemptions.** The following acts are exempt from the
23 licensing requirements of this section.

24 A. A person may fish for, take, possess or transport any
25 species of fish if the fish have been taken by speargun,
26 harpoon, minnow trap, hand dip net or hook and line and are
27 only for personal use.

28 B. A person may fish for, take, possess or transport
29 halibut if the halibut have been taken by tub-trawl and are
30 only for personal use.

31 C. A person may fish for, take, possess, ship, transport or
32 sell smelts if the smelts have been taken by hook and line
33 through the ice.

34 **4. Fees.** Fees for commercial fishing licenses are
35 established under section 6311.

36 **5. Definition.** For the purposes of this chapter, "fish"
37 means all marine finfish, squid and shrimp and other marine
38 species.

2 animals, except lobsters, crabs, sea urchins, shellfish,
scallops, marine worms, elvers and eels.

4 6. Owner liability. A boat owner on board a boat licensed
under this section is liable for the activities authorized under
6 this section of all persons on board that boat.

8 **Sec. 37. 12 MRSA §6525-A, sub-§1,** as enacted by PL 1983, c.
731, §2, is amended to read:

10 **1. Setting nets or seines near weirs.** It is unlawful for
12 any person, other than the weir owner or his the weir owner's
14 crew members, to set or assist in setting any net or seine within
16 2,000 feet of the mouth of a weir in operating condition whose
operator is validly licensed under section ~~6501~~ 6501-A and when
the weir is licensed under Title 38, chapter 9.

18 **Sec. 38. 12 MRSA §6601,** as amended by PL 1993, c. 281, §1, is
repealed.

20 **Sec. 39. 12 MRSA §6602** is enacted to read:

22 **§6602. Shellfish handfishing and raking license**

24 **1. Boat requirements.** It is unlawful for any person to
26 engage in the activities authorized under this section without a
current shellfish handfishing and raking license or other license
28 issued under this Part authorizing the activities.

30 **2. Licensed activities.** The holder of a shellfish
32 handfishing and raking license may fish for or take shellfish by
hand or rake or possess, ship or transport within the state
34 limits or sell shellstock the holder has taken. The holder may
also shuck, in the holder's home, shellfish the holder has taken
36 and sell those shucked shellfish from that home in the retail
trade. This license does not authorize the holder to fish for or
38 take shellfish in violation of a municipal ordinance adopted
pursuant to section 6671.

40 **3. Eligibility.** A shellfish handfishing and raking license
42 may only be issued to an individual who is a resident of the
State.

44 **4. Personal use exception.** A person may take or possess no
46 more than a 1/2 bushel of shellfish or 3 bushels of hen or surf
clams for personal use in one day without a license unless
municipal ordinances further limit the taking of shellfish.

48 **5. Fee.** The fee for a shellfish handfishing and raking
50 license is \$63.

2 6. Definition. For the purposes of this subchapter,
4 "shellfish" means clams, quahogs other than mahogany quahogs and
 oysters and includes shellstock and shucked shellfish.

6 7. Penalty. Notwithstanding the provisions of Title 17-A,
8 section 4-B, a person who violates this section commits a crime
 punishable by:

10 A. For the first offense, a fine of not less than \$300 and
 not more than \$1,500; and

12 B. For subsequent offenses, a fine of not less than \$500
14 and not more than \$1,500.

16 The court may not suspend a fine imposed under this subsection.

18 Sec. 40. 12 MRSA §6603 is enacted to read:

20 §6603. Shellfish boat license

22 1. Boat requirements. It is unlawful for a person to use a
24 boat to fish for or take shellfish unless:

26 A. That boat carries a shellfish boat license issued by the
 commissioner under this section;

28 B. The license for that boat is purchased by and in the
30 name of the person who owns the boat; and

32 C. Except as provided under section 6312, the boat owner or
34 a family member of the boat owner is on board that boat when
 the boat is used to harvest shellfish.

36 2. Permitted activities. A person on board a boat that
38 complies with subsection 1 may fish for or take shellfish or
40 possess, ship or transport shellfish within the state limits or
42 sell shellstock the person on board a boat has taken. The person
 may also shuck, in the person's home, shellfish the person has
 taken and sell those shucked shellfish from that home in the
 retail trade. This license does not authorize the person on board
 a boat to fish for or take shellfish in violation of a municipal
 ordinance adopted pursuant to section 6671.

44 3. Eligibility. A shellfish boat license may only be
46 issued to an individual who is a resident of the State or to a
48 commercial entity that is headquartered or incorporated in the
 State.

2 4. Fee. The fee for a shellfish boat license is
established under section 6311.

4 5. Owner liability. A boat owner on board a boat licensed
under this section is liable for the activities authorized under
6 this section of all persons on board that boat.

8 6. Penalty. Notwithstanding the provisions of Title 17-A,
section 4-B, a person who violates this section commits a crime
10 punishable by:

12 A. For the first offense, a fine of not less than \$300 and
not more than \$1,500; and

14 B. For subsequent offenses, a fine of not less than \$500
16 and not more than \$1,500.

18 The court may not suspend a fine imposed under this subsection.

20 **Sec. 41. 12 MRSA §6625**, as enacted by PL 1993, c. 497, §3, is
amended to read:

22 **§6625. Identification and tagging of shellfish**

24 1. Tagging required. The---holder---of---a---commercial
26 ~~shellfishing--license--issued--under--section--6601~~ A person who
harvests shellfish pursuant to section 6602 or 6603 shall
28 identify shellfish the ~~license-holder~~ person has taken by means
of a harvester's tag. The tag must be consistent with the format
30 required by the department under rules adopted under this
section. Each container, hod or bag of shellstock must be tagged
32 prior to landing the shellstock. The tag must accompany the
harvested product while the product is in wholesale or retail
34 commerce within the State.

36 2. Exception. A commercial-shellfish-license-holder person
who is certified under section 6856 is not required to tag
38 shellfish at the time of harvest.

40 3. Rules. The commissioner may adopt or amend rules that
establish requirements for shellfish harvesters' tags.

42 **Sec. 42. 12 MRSA §6671, sub-§3-A, ¶A**, as amended by PL 1993,
44 c. 456, §1, is further amended to read:

46 A. A person is not required to hold a shellfish license
issued by the commissioner under section 6601 6602 or 6603
48 in order to obtain a municipal commercial license. A
municipality may issue licenses under this section
50 regardless of whether or not the area has been closed by the

2 commissioner. A person taking shellfish from a closed area
3 for depuration under a depuration certificate issued by the
4 commissioner is not required to hold a municipal shellfish
license.

6 **Sec. 43. 12 MRSA §6702**, as amended by PL 1997, c. 572, §2, is
7 repealed.

8 **Sec. 44. 12 MRSA §6702-A** is enacted to read:

10 **§6702-A. Scallop boat license**

12 **1. Boat requirements.** It is unlawful for a person to use a
14 boat to fish for or take scallops unless:

16 A. That boat carries a scallop boat license issued by the
18 commissioner;

20 B. The license for that boat is purchased by and in the
name of the person who owns the boat; and

22 C. Except as provided under section 6312, the boat owner or
24 a family member of the boat owner is on board that boat when
the boat is used to harvest scallops.

26 **2. Permitted activities.** A person on board a boat that
28 complies with subsection 1 may fish for or take scallops or
possess, ship or transport within the state limits scallops and
30 sell scallops the person has taken.

32 **3. Handfishing and tender requirement.** It is unlawful for
34 a person to operate a boat as a platform for the harvesting of
scallops by hand, to act as a diving tender on a boat engaged as
36 a platform for the harvesting of scallops by hand or to possess,
ship, transport or sell scallops unless that person is licensed
under section 6535, 6536 or 6701.

38 **4. Eligibility.** A scallop boat license may only be issued
40 to an individual who is a resident of the State or to a
commercial entity that is headquartered or incorporated in the
42 State.

44 **5. Exception.** In any one day, any person licensed pursuant
46 to section 6703 may take or possess not more than 2 bushels of
shell scallops or 4 quarts of shucked scallops for personal use
without a scallop boat license under this section.

48 **6. Fee.** The fee for a scallop boat license is established
50 under section 6311.

2 7. Owner liability. A boat owner on board a boat licensed
3 under this section is liable for the activities authorized under
4 this section of all persons on board that boat.

6 **Sec. 45. 12 MRSA §6731**, as amended by PL 1991, c. 591, Pt. T,
7 §9, is repealed.

8 **Sec. 46. 12 MRSA §§6731-B and 6731-C** are enacted to read:

10 **§6731-B. Mahogany quahog handfishing and raking license**

12 1. Requirements. It is unlawful for any person to engage
13 in the activities authorized by this section without a current
14 mahogany quahog handfishing and raking license or other license
15 issued under this Part authorizing the activities.

16 2. Licensed activities. The holder of a mahogany quahog
17 handfishing and raking license may:

19 A. Fish for or take mahogany quahogs by hand or with a rake
20 in any harvesting area indicated on the license;

21 B. Possess, ship or transport mahogany quahogs within the
22 State; or

23 C. Sell mahogany quahogs that the holder has taken.

24 3. Personal use exception. A person may take or possess no
25 more than 3 bushels of mahogany quahogs for personal use in one
26 day without a license.

27 4. Fee. The fee for a mahogany quahog handfishing and
28 raking license is \$89. Fees collected pursuant to this
29 subsection must be deposited in the General Fund.

30 5. Conditions. Each licensee may participate in the
31 monitoring program established in section 6731-A within the
32 harvesting area indicated on the license. The holder of a
33 mahogany quahog license shall comply with all other conditions of
34 licensing established by the commissioner.

35 **§6731-C. Mahogany quahog boat license**

36 1. Boat requirements. It is unlawful for any person to use
37 a boat to fish for or take mahogany quahogs unless:

38 A. That boat carries a mahogany quahog boat license issued
39 by the commissioner;

2 B. The license for that boat is purchased by and in the
3 name of the person who owns the boat; and

4 C. Except as provided under section 6312, the boat owner or
5 a family member of the boat owner is on board that boat when
6 the boat is used to harvest mahogany quahogs.

8 2. Permitted activities. A person on board a boat that
9 complies with subsection 1 may:

10 A. Fish for or take mahogany quahogs in any harvesting area
11 indicated on the license;

12 B. Possess, ship or transport mahogany quahogs within the
13 state limits; or

14 C. Sell mahogany quahogs that the person has taken.

15 3. Fee. The fee for a mahogany quahog boat license is
16 established under section 6311.

17 4. Conditions. A person who holds a mahogany quahog boat
18 license may participate in the monitoring program established in
19 section 6731-A within the harvesting area indicated on the
20 license. That person shall comply with all other conditions of
21 licensing established by the commissioner.

22 5. Owner liability. A boat owner on board a boat licensed
23 under this section is liable for the activities authorized under
24 this section of all persons on board that boat.

25 **Sec. 47. 12 MRSA §6746**, as amended by PL 1991, c. 591, Pt. T,
26 **§11**, is repealed.

27 **Sec. 48. 12 MRSA §6746-A** is enacted to read:

28 **§6746-A. Mussel boat license**

29 1. Boat requirements. It is unlawful for any person to use
30 a boat to fish for or take mussels unless:

31 A. That boat carries a mussel boat license issued by the
32 commissioner;

33 B. The license for that boat is purchased by and in the
34 name of the person who owns the boat; and

35 C. Except as provided under section 6312, the boat owner or
36 a family member of the boat owner is on board that boat when
37 the boat is used to harvest mussels.

2 2. Permitted activities. A person on board a boat that
4 complies with subsection 1 may fish for or take mussels or
 possess, ship or transport within the state limits mussels and
 sell mussels the license holder has taken.

6
8 3. Eligibility. A mussel boat license may only be issued
10 to an individual who is a resident of this State or to a
 commercial entity that is headquartered or incorporated in the
 State.

12 4. Exception. In any one day, a person may take or possess
14 not more than 2 bushels of shell mussels for personal use without
 a mussel boat license.

16 5. Fee. The fee for a mussel boat license is established
 under section 6311.

18
20 6. Owner liability. A boat owner on board a boat licensed
 under this section is liable for the activities authorized under
 this section of all persons on board that boat.

22 Sec. 49. 12 MRSA §6748-A, as amended by PL 1993, c. 740, §1,
24 is repealed.

26 Sec. 50. 12 MRSA §6748-E is enacted to read:

28 §6748-E. Sea urchin boat license

30 1. Boat requirements. It is unlawful for a person to use a
32 boat to fish for or take sea urchins unless:

34 A. That boat carries a sea urchin boat license issued by
 the commissioner;

36 B. The license for that boat is purchased by and in the
 name of the person who owns the boat; and

38 C. Except as provided under section 6312, the boat owner or
40 a family member of the boat owner is on board that boat when
 the boat is used to harvest sea urchins.

42 2. Permitted activities. A person on board a boat that
44 complies with subsection 1 may fish for or take sea urchins and
 possess, ship or transport within the state limits sea urchins
46 that person has taken.

48 3. Handfishing and tender requirement. It is unlawful for
50 a person to operate a boat as a platform for the harvesting of
 sea urchins by hand, to act as a diving tender on a boat engaged

2 as a platform for the harvesting of sea urchins by hand or to
3 possess, ship, transport or sell sea urchins unless that person
4 is licensed under section 6535 or 6748.

5 4. Eligibility. A sea urchin boat license may only be
6 issued to an individual who is a resident of the State or to a
7 commercial entity that is headquartered or incorporated in the
8 State.

9 5. Fee. The fee for a sea urchin boat license is
10 established under section 6311.

11 6. Owner liability. A boat owner on board a boat licensed
12 under this section is liable for the activities authorized under
13 this section of all persons on board that boat.

14 **Sec. 51. 12 MRSA §6749**, as repealed and replaced by PL 1995,
15 c. 392, §5, is amended to read:

16 **§6749. Sea urchin harvesting season**

17 It is unlawful for a person to fish for or take sea urchins
18 from May 1st to ~~August~~ July 31st.

19 **Sec. 52. 12 MRSA §6749-O**, as amended by PL 1999, c. 643, §8,
20 is repealed.

21 **Sec. 53. 12 MRSA §6749-P**, as amended by PL 1997, c. 685, §4,
22 is further amended to read:

23 **§6749-P. Licenses by zone**

24 ~~A person eligible to purchase a license under section 6749-O~~
25 ~~who purchases a license under section 6748 or 6748-E may purchase~~
26 ~~these licenses that license only for Zone 1 or Zone 2. All of~~
27 ~~these sea urchin licenses issued to any one person in any one~~
28 ~~year must be for the same zone. A person may not change from the~~
29 ~~zone in which the person harvested sea urchins in the previous~~
30 ~~calendar year unless the change is authorized in accordance with~~
31 ~~section 6749-Z. A handfishing sea urchin license, a sea urchin~~
32 ~~hand-raking and trapping license or a sea urchin dragging boat~~
33 ~~license authorizes the licensed activity only in the zone for~~
34 ~~which it is issued. A sea urchin dragging boat license must list~~
35 ~~the documentation or registration number of the vessel to be used~~
36 ~~by that licensee when dragging. A vessel documentation number or~~
37 ~~registration number may not be listed on more than one sea urchin~~
38 ~~boat license boat.~~

39 **Sec. 54. 12 MRSA §6749-Q, sub-§2**, as enacted by PL 1993, c.
40 740, §3, is repealed.

2 **Sec. 55. 12 MRSA §6749-Q, sub-§2-A**, is enacted to read:

4 **2-A. Sea urchin boat license.** Five percent of the license
6 fee for a sea urchin boat license;

8 **Sec. 56. 12 MRSA §6749-X, sub-§1, ¶¶C and D**, as enacted by PL
10 1995, c. 595, §5, are further amended to read:

12 C. Three sea urchin harvesters who ~~held-a-current~~ fish by
14 dragging for sea urchin urchins in draggers-license-for Zone
16 1;

18 D. Three sea urchin harvesters who ~~held-a-current~~ fish by
20 dragging for sea urchin urchins in draggers-license-for Zone
22 2;

24 **Sec. 57. 12 MRSA §6749-Z, sub-§§1 and 2**, as enacted by PL 1995,
26 c. 595, §5, are amended to read:

28 **1. Authorization of changes.** Beginning in calendar year
30 1997, a person ~~eligible-to-purchase-a-license-under-section~~
32 6749-Q who wishes to change the zone in which the person harvests
34 sea urchins or the designation for a boat licensed under section
36 6748-E may not change zones or change the designation of the boat
38 unless the change is authorized by the commissioner in accordance
40 with this section.

42 **2. Zone change request on application.** A person eligible
44 ~~to-purchase-a-license-under-section-6749-Q~~ who wishes to change
46 the zone in which ~~that-person-was-licensed-to-harvest~~ the person
48 harvests sea urchins or the designation for a boat licensed under
 section 6748-E used to harvest sea urchins in the previous
 calendar year must indicate on a sea urchin harvesting license
 application a preference to change the zone in which the person
 harvests sea urchins or the designation for a boat licensed under
 section 6748-E. The commissioner shall stamp each sea urchin
 harvesting license application with the time and date of
 submission.

Sec. 58. Revisor's review; cross-references. The Revisor of
 Statutes shall review the Maine Revised Statutes and include in
 the errors and inconsistencies bill submitted to the Second
 Regular Session of the 120th Legislature pursuant to Title 1,
 section 94, any sections necessary to correct and update any
 cross-references in the statutes to provisions of law repealed in
 this Act.

Sec. 59. Effective date. This Act takes effect January 1, 2002.

2

SUMMARY

4

6 This bill requires that boats, instead of individuals, be
8 licensed for harvesting marine organisms. It allows any person
10 to fish for a marine organism from a boat that is licensed for
12 the harvesting of that marine organism. It requires the owner of
the boat to be on board the boat when it is used for fishing. It
provides exemptions to that requirement under certain
circumstances. The owner is liable for the activities of any
person who fishes from the owner's boat.

14

The bill also repeals limited-entry provisions in the
lobster and sea urchin fisheries.

16

18

The bill also makes a variety of technical changes to the
marine resources laws to reflect the changing of certain license
requirements from licensing individuals to licensing boats.

20