

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 703

H.P. 520

House of Representatives, February 14, 2003

**An Act To Change the Options for a Lobster Management Zone and  
To Change Entry Criteria for Noncommercial Licensees**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HONEY of Boothbay.  
Cosponsored by Senator HALL of Lincoln and  
Representatives: EARLE of Damariscotta, RINES of Wiscasset.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 12 MRSA §6421, sub-§2-A**, as enacted by PL 1995, c.  
5 568, §1, is amended to read:

6 **2-A. Licensed activity and number of licenses issued;**  
7 **noncommercial license.** The holder of a noncommercial lobster and  
8 crab fishing license may fish for, take, possess, ship or  
9 transport within the State lobsters or crabs the license holder  
10 has taken. The license does not authorize the license holder to  
11 sell lobsters or to remove lobster meat from the shell or to  
12 take, possess, transport or ship lobster parts or meat. The  
13 number of noncommercial lobster and crab licenses issued during a  
14 license year may not exceed the number of noncommercial lobster  
15 and crab licenses issued during the 2002 license year.

16 **Sec. 2. 12 MRSA §6421, sub-§3-A, ¶F**, as enacted by PL 1995, c.  
17 568, §1, is amended to read:

18 F. A noncommercial lobster and crab fishing license  
19 authorizes the license holder to engage in the licensed  
20 activities under subsection 2-A. A person issued a  
21 noncommercial lobster and crab fishing license may not  
22 submerge at any one time more than 5 10 lobster traps per  
23 vessel in the coastal waters of the State.

24 **Sec. 3. 12 MRSA §6421, sub-§5**, as corrected by RR 2001, c. 2,  
25 Pt. A, §§14 and 15, is amended to read:

26 **5. Eligibility.** A Class I, Class II, Class III,  
27 apprentice, noncommercial or student lobster and crab fishing  
28 license may only be issued to an individual who is a resident. A  
29 Class I, Class II ~~or~~ Class III or noncommercial license may be  
30 issued to a person only if the person:

31 A. Possessed a Class I, Class II ~~or~~ Class III or  
32 noncommercial lobster and crab fishing license in the  
33 previous calendar year;

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

36 D. Did not possess a Class I, Class II ~~or~~ Class III or  
37 noncommercial lobster and crab fishing license in the  
38 previous calendar year because the commissioner had  
39 suspended the person's license privileges for a length of  
40 time that included the previous calendar year.

41 **Sec. 4. 12 MRSA §6421, sub-§5-B**, as enacted by PL 2001, c.  
42 581, §1, is repealed.

2           **Sec. 5. 12 MRSA §6423**, as enacted by PL 2001, c. 581, §2, is  
repealed.

4           **Sec. 6. 12 MRSA §6431-C, sub-§2**, as amended by PL 2001, c.  
6 581, §3, is further amended to read:

8           **2. Purpose.** All money credited to the Lobster Management  
Fund must be used to cover the costs of trap tags and the  
10 administration and enforcement of a lobster trap tag system under  
section 6431-B, the costs associated with lobster management  
12 policy councils and referenda pursuant to section 6447, costs  
associated with the Lobster Advisory Council not supported by the  
14 General Fund, and the costs associated with determining  
eligibility for lobster and crab fishing licenses and eligibility  
16 to fish for or take lobsters from a vessel ~~and--the--costs~~  
~~associated with the provision of educational programs,--for--which~~  
18 ~~a surcharge is collected from the enrollee,--pursuant to section~~  
6423.

20           **Sec. 7. 12 MRSA §6446, sub-§1-A**, as enacted by PL 1999, c.  
22 508, §1, is amended to read:

24           **1-A. Declared lobster zone.** A person shall declare on an  
application for a Class I, Class II ~~or~~, Class III or  
26 noncommercial lobster and crab fishing license the lobster  
management zone in which that person proposes to fish a majority  
28 of that person's lobster traps. A license must identify the zone  
in which the person is authorized to fish a majority of that  
30 person's lobster traps.

32           **Sec. 8. 12 MRSA §6447, sub-§5-B** is enacted to read:

34           **5-B. Zone E council authority.** Notwithstanding any other  
provision in this subchapter, upon approval in a referendum under  
36 subsection 6, a lobster management policy council for Zone E as  
defined in rules adopted by the department may propose to the  
38 commissioner rules for Zone E that do any or all of the following:

40           A. Increase the length of time an apprentice must be  
enrolled in the apprentice program up to a maximum of 5  
42 years. A proposal to increase the length of enrollment must  
allow apprentices enrolled in the program to be  
44 grandfathered;

46           B. Require a sponsor of an apprentice to have held a Class  
I, Class II or Class III lobster and crab fishing license  
48 for at least 5 years;

50           C. Require an apprentice training program, before receipt  
of any new lobster and crab fishing license for fishing in

2 Zone E, that consists of course work on current laws and  
4 rules and principles of fishing. A proposal to require  
6 course work in the apprentice training program must provide  
8 for transferees into the zone to be grandfathered:

10 D. Require that an apprentice may enter Zone E only if the  
12 apprentice apprenticed in Zone E;

14 E. Require that all transferees into Zone E go to the end  
16 of the waiting list;

18 F. Require that all student licensees who fulfill the Zone  
20 E apprentice entry criteria go to the end of the apprentice  
22 waiting list; and

24 G. Provide a family commercial transfer option.

26 **Sec. 9. 12 MRSA §6448, sub-§1, ¶C,** as enacted by PL 1999, c.  
28 508, §3, is amended to read:

30 C. "New zone entrant" means a person who declares a  
32 limited-entry zone as that person's declared lobster zone  
34 but who did not hold in the previous licensing year a Class  
36 I, Class II ~~or~~, Class III or noncommercial lobster and crab  
38 fishing license that identified that zone as the person's  
40 declared lobster zone.

42 **Sec. 10. 12 MRSA §6448, sub-2, ¶¶A and C,** as amended by PL  
44 1999, c. 693, §1, are further amended to read:

46 A. After conducting a written survey in the zone, a lobster  
48 management policy council may propose to the commissioner an  
50 exit ratio to limit new zone entrants to the zone. The  
lobster management policy council may also propose to the  
commissioner a provision to exempt from the requirements of  
this section an individual who became eligible for but had  
not been issued a Class I, Class II ~~or~~, Class III or  
noncommercial license pursuant to section 6421, subsection  
5, paragraph C or H prior to January 1, 2000 and to allow  
that individual to declare the zone as that individual's  
declared lobster zone. The lobster management policy  
council is not required to submit the proposal to referendum  
and the proposed exit ratio does not need to receive  
approval through the survey in order to be forwarded to the  
commissioner.

C. Rules adopted under this subsection must establish an  
exit ratio between the number of individuals who declared  
that zone as their declared lobster zone in the year prior  
to the previous calendar year, but who did not declare that

2 zone as their declared lobster zone in the previous calendar  
year, and the number of new zone entrants authorized under  
4 subsection 7. An exit ratio established by rule under this  
subsection is not required to be the same as the exit ratio  
6 proposed by the lobster management policy council. Rules  
adopted under this subsection may exempt from the  
8 requirements of this section an individual who became  
eligible for but who had not been issued a Class I, Class II  
10 ~~or~~ Class III or noncommercial license pursuant to section  
2000 and allow such an individual to declare the zone as  
12 that individual's declared lobster zone.

14 **Sec. 11. 12 MRSA §6448, sub-§§3 and 4,** as enacted by PL 1999,  
c. 508, §3, are amended to read:

16  
18 **3. Fishing in limited-entry zones.** A person who holds a  
Class I, Class II ~~or~~ Class III or noncommercial lobster and crab  
20 fishing license may not fish a majority of that person's lobster  
traps in a limited-entry zone unless that person's license  
22 identifies that zone as the declared lobster zone.

24 **4. Limited-entry zone as declared lobster zone.** A person may  
not be issued a Class I, Class II ~~or~~ Class III or noncommercial  
26 lobster and crab fishing license that identifies a limited-entry  
zone as the declared lobster zone unless that person:

28 A. Held in the previous licensing year a Class I, Class II  
~~or~~ Class III or noncommercial lobster and crab fishing  
30 license that identified that zone as the person's declared  
lobster zone; or

32 B. Is authorized as a new zone entrant by the commissioner  
34 pursuant to subsection 7 to declare that zone as the  
person's declared lobster zone.

36 **Sec. 12. 12 MRSA §6448, sub-§5, ¶¶A and B,** as enacted by PL  
38 1999, c. 693, §2, are amended to read:

40 A. A person who held a Class I, Class II ~~or~~ Class III or  
noncommercial lobster and crab fishing license in the  
42 previous licensing year and wishes to be a new zone entrant  
shall indicate to the commissioner in writing a request to  
44 declare a limited-entry zone as the person's declared  
lobster zone. The person must be put on a waiting list  
46 maintained under subsection 6 according to the time and date  
the commissioner receives the request.

48 B. A person who did not hold a Class I, Class II ~~or~~ Class  
50 III or noncommercial lobster and crab fishing license in the

2 previous licensing year and wishes to be a new zone entrant  
3 shall indicate to the commissioner in writing which zone the  
4 person requests to declare as the person's declared lobster  
5 zone. The person must be put on a waiting list maintained  
6 under subsection 6 according to the date the commissioner  
7 determines that the person is eligible for a Class I, Class  
8 II ~~or~~ Class III or noncommercial lobster and crab fishing  
9 license pursuant to section 6421, subsection 5, except that  
10 if the person does not indicate to the commissioner in  
11 writing which zone the person requests to declare as the  
12 person's declared lobster zone within 30 days of the date  
13 the commissioner determines that the person is eligible, the  
14 person must be put on the waiting list according to the time  
and date the commissioner receives such a written request.

16 **Sec. 13. 12 MRSA §6448, sub-§7**, as amended by PL 1999, c. 693,  
17 §2, is further amended to read:

18 **7. Authorization of new zone entrants.** The commissioner  
19 shall determine by February 1st of each licensing year the number  
20 of new zone entrants that may be authorized for each  
21 limited-entry zone. The number of new zone entrants authorized  
22 in a licensing year must be in accordance with the exit ratio  
23 established under subsection 2 for that zone. The commissioner  
24 shall authorize new zone entrants in chronological order of  
25 requests received under subsection 5. The commissioner shall  
26 notify the authorized new zone entrants by certified mail. If a  
27 person does not declare a zone within 30 days after receiving the  
28 notification by certified mail, that person must be taken off the  
29 waiting list and the next person on the list must be authorized  
30 as a new zone entrant. If a person has indicated a request for  
31 more than one zone pursuant to subsection 5, that person must be  
32 taken off the waiting list for the 2nd zone when the person  
33 declares one of the zones as that person's declared lobster zone  
34 after being authorized to do so. If a person who holds a current  
35 Class I, Class II ~~or~~ Class III or noncommercial license is  
36 authorized as a new zone entrant and declares the zone as that  
37 person's declared lobster zone, the commissioner shall change the  
38 zone identified on that person's license to the limited-entry  
39 zone for which the person is authorized.  
40

41 **Sec. 14. 12 MRSA §6448, sub-§8**, as repealed and replaced by PL  
42 1999, c. 643, §7, is amended to read:

43 **8. Exceptions.** Notwithstanding subsection 4, the following  
44 persons may be issued a Class I, Class II ~~or~~ Class III or  
45 noncommercial lobster and crab fishing license that identifies a  
46 limited-entry zone as the declared lobster zone without meeting  
47 the requirements in subsection 4.  
48  
49  
50

2 A. A person who is issued a Class I lobster and crab  
4 fishing license and who is under 18 years of age or is 70  
years of age or older may declare any zone as that person's  
declared lobster zone.

6 B. A person who is issued a Class I, Class II ~~or~~, Class III  
8 or noncommercial lobster and crab fishing license on appeal  
pursuant to section 6310, subsection 2, paragraph A,  
10 subparagraph (1) or (2) may declare as that person's  
declared lobster zone the zone in which the person was  
12 authorized to fish a majority of that person's lobster traps  
in the most recent year in which the person held a license.

14 C. A person who is issued a Class I, Class II ~~or~~, Class III  
16 or noncommercial lobster and crab fishing license pursuant  
to section 6421, subsection 5, paragraph D may declare as  
18 that person's declared lobster zone the zone in which the  
person was authorized to fish a majority of that person's  
20 lobster traps in the most recent year in which the person  
held a license.

22 A person who declares a limited-entry zone as that person's  
24 declared lobster zone pursuant to this subsection may not be  
counted for the purposes of the exit ratio or the number of new  
26 zone entrants that may be authorized for that zone.

## 28 SUMMARY

30 This bill expands the authority of the Zone E council  
authority and requires that noncommercial lobster and crab  
32 license entry criteria be the same as commercial license entry  
criteria. The bill also sets the number of noncommercial traps  
34 at 10 per vessel and caps the number of noncommercial lobster and  
crab licenses that can be issued at 2002 license year levels.