

MAINE STATE LEGISLATURE

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MS

L.D. 1510

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MARINE RESOURCES

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT 'A' to S.P. 526, L.D. 1510, Bill, "An Act To Amend the Lobster Fishing Laws of Maine"

Amend the bill by striking out all of sections 1, 2 and 3 and inserting in their place the following:

Sec. 1. 12 MRSA §6421, sub-§5-A, as amended by PL 2003, c. 468, §2, is further amended to read:

5-A. Student license eligibility. A student license may only be issued only to a person who, at the time of application, is a full-time student 8 years of age or older and under 23 years of age. For the purposes of this subsection, "full-time student" means "student"-as-defined-in-Title-39-A, section-102, subsection 8, paragraph-C:

A. A person attending a public day school in accordance with the attendance requirement of Title 20-A, section 5001-A, subsection 1;

B. A person meeting the requirements of an alternative to attendance at public day school in accordance with Title 20-A, section 5001-A, subsection 3; or

C. A person enrolled in a full-time course of study at a college or university accredited by a state-recognized accrediting agency or body.

COMMITTEE AMENDMENT

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2 A person may not be considered to have ceased to be a student
4 during any interim between school years if the interim does not
6 exceed 5 months and if it is shown that the person has a bona
8 fide intention of continuing to pursue a full-time course of
10 study during the semester or other enrollment period immediately
12 following the interim period. For purposes of this subsection,
14 "full-time course of study" means at least 60% of the usual
16 course load for the program in which the person is enrolled.

12 **Sec. 2. 12 MRSA §6431-F**, as amended by PL 2003, c. 510, Pt.
14 **A, §6**, is further amended to read:

14 **§6431-F. Trap tags**

16 **1. Trap tag limits.** ~~Beginning with the 2000 license year,~~
18 ~~the following provisions govern trap tag limits apply to~~
20 ~~holders of Class I, Class II or Class III lobster and crab~~
22 ~~fishing licenses.~~

22 ~~A. If the license holder purchased as of November 20, 1998~~
24 ~~for the 1998 license year between zero and 200 trap tags,~~
26 ~~the license holder may not purchase more than 300 trap tags~~
28 ~~for the initial license year. For each following year, the~~
30 ~~license holder may purchase up to an increase of 100 trap~~
32 ~~tags each year as long as the total number does not exceed~~
34 ~~the trap limit established by rule for the zone in which the~~
36 ~~person fishes a majority of that person's traps.~~

30 ~~B. If the license holder purchased as of November 20, 1998~~
32 ~~for the 1998 license year 201 or more trap tags, for the~~
34 ~~initial license year, the license holder may purchase a~~
36 ~~number of trap tags not greater than 100 more than the~~
38 ~~number the license holder purchased as of November 20, 1998~~
40 ~~for the 1998 license year as long as that number does not~~
42 ~~exceed the trap limit established by rule for the zone in~~
44 ~~which the person fishes a majority of that person's traps.~~
46 ~~For each following year, the~~ Each year, a Class I, Class II
48 or Class III lobster and crab fishing license holder may
50 purchase a number of trap tags that is not greater than 100
more than the number the license holder purchased for the
previous license year as long as the total number purchased
does not exceed the number of traps allowed under the lowest
trap limit established by rule for the zone in which the
person fishes a majority of that person's traps zones
identified on that person's license pursuant to section
6446, subsection 1-A.

48 **2. Exceptions.** Notwithstanding subsection 1, the following
50 trap tag limits apply:

R.O.S.

2 A. If the license holder was issued a Class I, Class II or
4 Class III lobster and crab fishing license for the first
6 time after meeting the requirements of the apprentice
8 program under section 6422, the license holder may not
10 purchase more than 300 trap tags for the initial license
12 year. For each following year, the license holder may
14 purchase up to an increase of 100 trap tags each year as
long as the total number purchased does not exceed the
number of traps allowed under the lowest trap limit
established by rule for the ~~zone in which the person fishes~~
~~a majority of that person's traps~~ zones identified on that
person's license pursuant to section 6446, subsection 1-A;
and

16 ~~B. If the license holder was issued a Class I, Class II or~~
~~Class III lobster and crab fishing license pursuant to~~
~~former section 6421, subsection 5, paragraph H or former~~
~~section 6421-A, subsection 1, paragraph D, the license~~
~~holder may not purchase more than 300 trap tags for the~~
~~initial license year. For each following year, the license~~
~~holder may purchase up to an increase of 100 trap tags each~~
~~year as long as the total number does not exceed the trap~~
~~limit established by rule for the zone in which the person~~
~~fishes a majority of that person's traps, and~~

26 C. If the license holder was issued a Class I, Class II or
28 Class III lobster and crab fishing license on appeal, the
license holder may purchase for the initial license year a
30 number of trap tags up to the number of trap tags purchased
by the person for the most recent year in which the person
32 held a license ~~if the person held a license in 1996 or later~~
~~or 300 trap tags if the person did not hold a license in~~
~~1996 or later.~~ For each following year, the license holder
34 may purchase up to an increase of 100 trap tags each year.
36 The number of trap tags may as long as the total number
purchased does not exceed the number of traps allowed under
38 the lowest trap limit established by rule for the ~~zone in~~
~~which the person fishes a majority of that person's traps~~
40 zones identified on that person's license pursuant to
section 6446, subsection 1-A.

42 ~~3. Appeal of trap tag denial. A lobster and crab fishing~~
44 ~~license holder who was issued 300 or fewer trap tags under~~
~~subsection 1 for the 2000 license year because that person had~~
46 ~~purchased no trap tags as of November 20, 1998 may appeal to the~~
~~commissioner for additional trap tags. The appeals process is as~~
48 ~~follows.~~

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A. ~~The commissioner may issue trap tags on appeal only if the following criteria are met:~~

(1) ~~The person documents that the person harvested lobsters in 1996 or 1997; and~~

(2) ~~The person documents that the person did not purchase trap tags in 1998 because of a substantial illness or other medical condition on the part of the person or a family member or the person documents that service in the Armed Forces of the United States or the United States Coast Guard precluded participation in the lobster fishery and the purchase of trap tags in 1998. For the purposes of this subparagraph, "family member" means a spouse, 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.~~

B. ~~A person appealing the denial of trap tags under this subsection shall request the review in writing. The commissioner shall hold a hearing on the appeal if it is requested in writing within 10 days of the initial request. If a hearing is requested, it must be held within 10 days of the request, unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.~~

~~A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in paragraph A that might justify issuing trap tags to the person, and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record as defined in Title 17, section 402, subsection 3, paragraph A.~~

C. ~~A license holder whose appeal is approved under this subsection may purchase a number of trap tags up to the number of trap tags purchased in 1996 or 1997, whichever is greater. For each following year, the license holder may purchase up to an increase of 100 trap tags each year. The number of trap tags may not exceed the trap limit established by rule for the zone in which the person fishes a majority of that person's traps.~~

~~Issuance of trap tags on appeal is at the discretion of the commissioner, except that trap tags may not be issued unless the criteria in paragraph A are met. Decisions of the commissioner must be in writing.~~

COMMITTEE AMENDMENT

R.O.S.

2 **4. Trap limit.** A person may not purchase submerge a number
of ~~trap-tags~~ traps greater than the number of traps allowed under
4 the lowest trap limit established by rule for ~~--a-~~ the lobster
management ~~zone-in-which-that-person-fishes~~ zones identified on
6 that person's license pursuant to section 6446, subsection 1-A.

8 **5.--Repeal.--**~~This section is repealed December 31, 2005.~~

10 **Sec. 3. 12 MRSA §6446, sub-§1-A,** as amended by PL 2003, c.
466, §2 and affected by §5, is further amended to read:

12 **1-A. Declared lobster zone; authorized zones.** ~~A--person~~
14 ~~shall declare on~~ On an application for a Class I, Class II, Class
III or noncommercial lobster and crab fishing license, a person
16 shall declare the lobster management zone in which that person
proposes to fish a majority of that person's lobster traps and
18 shall list all other zones in which that person proposes to fish
any of that person's lobster traps. A Class I, Class II, Class
20 III or noncommercial lobster and crab fishing license must
identify the declared lobster zone in which the person is
22 authorized to fish a majority of that person's lobster traps and
must identify all other zones in which a person is authorized to
24 fish that person's traps. A person may not place any lobster
traps in a zone that is not identified on that person's license.
26 For the purposes of this subsection, the majority of a person's
lobster traps must be determined from the number of trap tags
28 issued to that person.'

30 Further amend the bill in section 4 in subsection 2 in
paragraph E by striking out all of the first 6 lines (page 5,
32 lines 43 to 48 in L.D.) and inserting in their place the
following:

34 'E. When a lobster management policy council proposes to
36 the commissioner a change in the exit ratio established
under paragraph C and a new exit ratio is adopted by rule
38 under this subsection, the commissioner shall allow
individuals who meet the following conditions to enter the
40 zone in accordance with the previously existing exit ratio:'

42 Further amend the bill in section 4 in subsection 2 by
inserting after paragraph E the following:

44 'F. When a lobster management policy council proposes to
46 the commissioner to establish an exit ratio for the first
time to limit new zone entrants under paragraph A, it may
48 also propose to the commissioner a provision to exempt from
the exit ratio, upon completion of the apprentice program,
50 an individual who has completed at least 92% of the hours

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2 required and at least 92% of the days required by the
3 apprentice program established under section 6422 by the
4 date the commissioner receives written notification from the
5 lobster management policy council pursuant to paragraph D.'

6 Further amend the bill by inserting after section 4 the
7 following:

8 'Sec. 5. 12 MRSA §6462-A, sub-§1, ¶D, as enacted by PL 1997,
9 c. 208, §3, is amended to read:

10
11 D. Three persons who hold lobster and crab fishing licenses
12 and who are not members of lobster management policy
13 councils established under section 6447, appointed by the
14 commissioner. Each person appointed under this paragraph
15 must reside in a different county. One person appointed
16 under this paragraph must hold a noncommercial lobster and
17 crab fishing license.'

18
19 Further amend the bill by inserting after section 9 the
20 following:

21
22 'Sec. 10. Retroactivity. That portion of this Act that enacts
23 the Maine Revised Statutes, Title 12, section 6448, subsection 2,
24 paragraph E applies retroactively to April 1, 2005. That portion
25 of this Act that enacts Title 12, section 6448, subsection 2,
26 paragraph F applies retroactively to October 1, 2004.'

27
28 Further amend the bill by relettering or renumbering any
29 nonconsecutive Part letter or section number to read
30 consecutively.

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SUMMARY

35 This amendment does the following.

36
37 1. It clarifies the provision of the bill regarding
38 eligibility for a student license.

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40 2. It amends the language in the bill regarding trap tag
41 limits to clarify that a license holder is limited to the number
42 of traps allowed under the lowest trap limit for the zones
43 identified on the person's license.

44
45 3. It clarifies the language in the bill regarding the
46 lobster management zones that must be identified on a lobster
47 license.
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2 4. It amends the provision of the bill regarding changes in
3 exit ratios in lobster management zones to provide that for any
4 zone that proposes a change in an existing exit ratio, the
5 commissioner shall allow a person who has completed the
6 apprentice program and is on the waiting list by the date the
7 commissioner is notified of the proposed change to enter the
8 zone. The bill made this an option of the lobster management
9 policy council. The amendment also makes this provision of the
10 bill apply retroactively to April 1, 2005.

11 5. It adds a provision to the bill to provide that when a
12 zone proposes an exit ratio for the first time, the zone may
13 propose a provision to exempt from the ratio, upon completion of
14 the apprentice program, a person who has completed at least 92%
15 of the requirements of the program by the date the commissioner
16 is notified of the proposed ratio. The amendment also makes this
17 provision apply retroactively to October 1, 2004.

18 6. It adds a provision to the bill to require that one of
19 the 3 lobster and crab fishing license holders on the Lobster
20 Advisory Council be a noncommercial license holder.
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24 **FISCAL NOTE REQUIRED**
25 **(See attached)**
26

COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 1510

LR 0627(02)

An Act to Amend the Lobster Fishing Laws of Maine

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Appropriations/Allocations				
Other Special Revenue Funds	\$2,000	\$2,000	\$2,000	\$2,000

Fiscal Detail and Notes

Beginning in fiscal year 2005-06, the Department of Marine Resources will require additional annual Other Special Revenue Funds allocations of \$2,000 for the costs of reimbursing certain travel expenses.