

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1870

H.P. 1302

House of Representatives, April 24, 2007

**An Act To Provide Flexibility within the Monhegan Island Lobster
Conservation Area To Ensure the Viability of the Island
Community**

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERCY of Phippsburg.
Cosponsored by Senator DAMON of Hancock and
Representative: McKANE of Newcastle, Senator: DOW of Lincoln.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this measure proposes to change the open season for lobstering in the
4 Monhegan Lobster Conservation Area; and

5 **Whereas,** unless this legislation is enacted as an emergency measure, the new
6 season will begin before the expiration of the 90-day period; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

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

12 **Sec. 1. 12 MRSA §6472,** as enacted by PL 1997, c. 574, §4, is amended to read:

13 **§6472. Closed and open seasons; trap limit**

14 **1. Closed season.** It is unlawful for a person to fish for or take lobsters in the
15 Monhegan Lobster Conservation Area from June 26th to ~~November 30th~~ August 31st,
16 both days inclusive, and on any day not included in the open season established by the
17 commissioner under subsection 2.

18 **2. Open season.** The commissioner shall ~~annually by November 1st~~ establish by
19 rule an open season ~~of 180~~ not to exceed 270 consecutive days between ~~December~~
20 September 1st and the following June 25th during which a person may fish for or take
21 lobsters in the Monhegan Lobster Conservation Area.

22 A. Before establishing or amending the open season under this section, the
23 commissioner shall determine the open season preferred by 2/3 of the individuals
24 registered to obtain Monhegan Lobster Conservation Area trap tags under section
25 6474.

26 B. In adopting rules under this subsection, the commissioner is not required to hold
27 a public hearing on the rules pursuant to Title 5, section 8052.

28 C. A person may not petition the commissioner pursuant to Title 5, section 8055 for
29 the adoption or modification of a rule establishing the open lobster season in the
30 Monhegan Lobster Conservation Area.

31 D. Notwithstanding any provisions to the contrary, the commissioner may adopt
32 rules under this subsection without the advice and consent of the Marine Resources
33 Advisory Council. Rules adopted pursuant to this subsection are routine technical
34 rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

35 **3. Trap limit.** The commissioner shall establish by rule a trap limit for the open
36 season established pursuant to subsection 2. The trap limit may not exceed 475 traps per
37 individual registered to obtain Monhegan Lobster Conservation Area trap tags under
38 section 6474.

1 A. Before establishing or amending the trap limit under this subsection, the
2 commissioner shall determine the trap limit preferred by 2/3 of the individuals
3 registered to obtain Monhegan Lobster Conservation Area trap tags under section
4 6474.

5 B. In adopting rules under this subsection, the commissioner is not required to hold a
6 public hearing on the rules pursuant to Title 5, section 8052.

7 C. A person may not petition the commissioner pursuant to Title 5, section 8055 for
8 the adoption or modification of a rule establishing the trap limit in the Monhegan
9 Lobster Conservation Area.

10 D. Notwithstanding any provisions to the contrary, the commissioner may adopt
11 rules under this subsection without the advice and consent of the Marine Resources
12 Advisory Council. Rules adopted pursuant to this subsection are routine technical
13 rules pursuant to Title 5, chapter 375, subchapter 2-A.

14 **Emergency clause.** In view of the emergency cited in the preamble, this
15 legislation takes effect when approved.

16 **SUMMARY**

17 This bill makes several changes to the laws governing lobstering in the Monhegan
18 Lobster Conservation Area. Specifically, the bill accomplishes the following.

19 1. It changes the parameters of the open season that the Commissioner of Marine
20 Resources establishes by rule from a period of 180 days between December 1st and June
21 25th to a period of not more than 270 days between September 1st and June 25th.

22 2. It charges the commissioner with establishing by rule a trap limit for the area not to
23 exceed 475 traps per individual. The same procedural guidelines in place for establishing
24 the open and closed seasons will also apply to setting the trap limit:

25 A. Two thirds of the individuals registered to obtain area trap tags must agree with
26 the limit;

27 B. A public hearing is not required;

28 C. No one may petition for adoption or modification of a rule establishing the trap
29 limit; and

30 D. The commissioner need not have the advice and consent of the Marine Resources
31 Advisory Council to adopt the limit.