

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1128

S.P. 419

In Senate, March 25, 2009

**An Act To Allow Family Members of an Island Community to Share
a Lobster and Crab Fishing License**

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 DAMON of Hancock.

Cosponsored by Representatives: EATON of Sullivan, McKANE of Newcastle, PERCY of Phippsburg, Speaker PINGREE of North Haven.

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

2 **Sec. 1. 12 MRSA §6421, sub-§1**, as amended by PL 2007, c. 201, §§4 and 5, is
3 further amended to read:

4 **1. License required.** ~~A~~ Except as provided in section 6424, a person may not
5 engage in the activities authorized under this section without a current:

- 6 A. Class I lobster and crab fishing license;
- 7 B. Class II lobster and crab fishing license;
- 8 C. Class III lobster and crab fishing license;
- 9 D. Apprentice lobster and crab fishing license;
- 10 E. Student lobster and crab fishing license;
- 11 F. Noncommercial lobster and crab fishing license;
- 12 F-1. Nonresident lobster and crab landing permit; or
- 13 G. Other license issued under this Part authorizing the activities.

14 **Sec. 2. 12 MRSA §6421, sub-§2**, as amended by PL 1995, c. 568, §1, is further
15 amended to read:

16 **2. Licensed activity.** The holder of a Class I, Class II, Class III, apprentice or
17 student lobster and crab fishing license or the family member of a license holder as
18 provided in section 6424 may fish for, take, possess, ship or transport within the State
19 lobsters or crabs and sell lobsters or crabs the license holder has taken. The license does
20 not authorize the license holder to remove lobster meat from the shell or to take, possess,
21 transport or ship lobster parts or meat. The holder of a Class II or Class III license is
22 liable for the licensed activities under this subsection of all unlicensed crew members
23 assisting that licensee.

24 **Sec. 3. 12 MRSA §6421, sub-§5**, as amended by PL 2007, c. 204, §1, is further
25 amended to read:

26 **5. Eligibility.** A noncommercial or student lobster and crab fishing license may only
27 be issued to an individual who is a resident. A Class I, Class II or Class III license may
28 be issued to a person 17 years of age or older only if the person:

- 29 A. Possessed a Class I, Class II or Class III lobster and crab fishing license in the
30 previous calendar year;
- 31 C. Meets the requirements of the apprentice program under section 6422 or section
32 6475; or
- 33 D. Did not possess a Class I, Class II or Class III lobster and crab fishing license in
34 the previous calendar year because the commissioner had suspended the person's
35 license privileges for a length of time that included the previous calendar year.

1 Notwithstanding the age requirements of this subsection, a person who holds a Class I,
2 Class II or Class III license on December 31, 2007 may continue to be issued a Class I,
3 Class II or Class III license provided that person continues to meet the requirements of
4 paragraph A. A person sharing a Class I, Class II or Class III commercial lobster and
5 crab fishing license under section 6424 is not required to meet the requirements of this
6 section to fish under that license.

7 **Sec. 4. 12 MRSA §6424** is enacted to read:

8 **§6424. Island resident; sharing lobster and crab license with family members**

9 **1. Definitions.** For purposes of this section the following terms have the following
10 meanings.

11 A. "Family member" means a spouse, brother, sister, nephew, niece, son-in-law,
12 daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law,
13 child by blood, child by adoption, stepchild, stepparent, grandchild, grandparent or
14 first cousin.

15 B. "Nonbridged island" means an island that is not connected to the mainland by a
16 natural or artificial bridge that can reasonably be used for ground transportation
17 between the mainland and the island.

18 C. "Permanent residence" means that place where an individual has a true, fixed and
19 permanent home and principal establishment to which the individual, whenever
20 absent, has the intention of returning. An individual may have only one permanent
21 residence at a time and, once a permanent residence is established, that residence is
22 presumed to continue until circumstances indicate otherwise.

23 D. "Permanent resident" means a person who has established a permanent residence
24 on an island and resides at that residence for a majority of the year.

25 E. "Primary license holder" means a person who holds a Class I, Class II or Class III
26 lobster and crab fishing license issued pursuant to section 6421.

27 **2. Sharing a commercial lobster and crab fishing license.** The holder of a current
28 Class I, Class II or Class III lobster and crab fishing license issued pursuant to section
29 6421 who is a permanent resident on a nonbridged island may share that license with
30 family members who are permanent residents of the same island or another nonbridged
31 island within the same municipality. Except as otherwise provided, family members
32 sharing a license are subject to the same privileges, restrictions and requirements as the
33 primary license holder. Family members may fish under the shared license without
34 completing the licensing requirements under section 6421, subsection 5, section 6422 and
35 section 6475 and, notwithstanding section 6448, may fish in the same zone or zones in
36 which the primary license holder is authorized to fish. Notwithstanding section 6431-E,
37 subsection 2, the primary license holder is not required to be present on the boat of a
38 family member fishing under that license.

39 **3. Family member list.** The primary license holder shall provide a list of family
40 members who share that license to the department. A family member may not share that

1 license unless that person's name appears on the family member list provided to the
2 department by the primary license holder.

3 **4. Eligibility.** If the primary license holder no longer meets the requirements of
4 subsection 2, family members may not continue to fish for lobster or crab under that
5 license. A family member who is not a permanent resident on the nonbridged island or
6 another nonbridged island within the same municipality on which the primary license
7 holder is a permanent resident may not fish under that license.

8 **5. Trap tag reduction.** The maximum number of trap tags allowable under the
9 primary license holder's license pursuant to section 6431-F is reduced by 20% for each
10 family member fishing pursuant to that license. A family member may not be issued trap
11 tags in addition to those available to the primary license holder. If the number of family
12 members fishing under a primary license holder's license decreases, the maximum
13 number of trap tags permitted under that license may not increase until 3 years after the
14 primary license holder notifies the department of the reduction in family members using
15 that license. In that event, the number of trap tags may only increase by 40 trap tags per
16 year until the maximum number of trap tags allowable pursuant to section 6431-F is
17 reached for the primary license holder's license.

18 **6. Successor primary license holder.** If the primary license holder is deceased or
19 retires from commercially fishing for lobster and crab, a family member sharing that
20 license must be named as the primary license holder within a reasonable amount of time
21 or the license must be returned to the State.

22 **Sec. 5. 12 MRSA §6431-E, sub-§2,** as enacted by PL 1997, c. 693, §1 and
23 affected by §3, is amended to read:

24 **2. Owner or family member on board.** Except as provided in subsection 3 and
25 section 6424, beginning January 1, 2000 a person who holds a Class I, Class II or Class
26 III lobster and crab fishing license may not fish for or take lobsters from a vessel unless:

27 A. The owner of that vessel is present on that vessel and holds a Class I, Class II or
28 Class III lobster and crab fishing license; or

29 B. A family member of the vessel owner under paragraph A is present on that vessel
30 and holds a Class I, Class II or Class III lobster and crab fishing license.

31 SUMMARY

32 This bill allows the holder of a current Class I, Class II or Class III lobster and crab
33 fishing license who is a permanent resident on an island not connected to the mainland by
34 a bridge to share that license with family members who are permanent residents of the
35 same island or another nonbridged island within the same municipality. A family
36 member sharing the Class I, Class II or Class III lobster and crab fishing license is subject
37 to the same privileges and restrictions as the primary license holder. It provides that for
38 each family member sharing a Class I, Class II or Class III lobster and crab fishing
39 license, the number of trap tags the primary license holder is eligible to receive under that
40 license is reduced by 20%. This bill also provides that, if the primary license holder is

1 deceased or retires from commercially fishing for lobster and crab, a family member
2 sharing the license must be named as the primary license holder or the license lapses back
3 to the State.