

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1709

H.P. 1261

House of Representatives, December 23, 2011

An Act To Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

Received by the Clerk of the House on December 21, 2011. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative WEAVER of York.

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

2 **Sec. 1. 12 MRSA §6421, sub-§5, ¶C**, as corrected by RR 2001, c. 2, Pt. A, §14,
3 is amended to read:

4 C. Meets the requirements of the apprentice program under section 6422 ~~or section~~
5 ~~6475~~; or

6 **Sec. 2. 12 MRSA §6422, sub-§4**, as amended by PL 1999, c. 281, §1 and c. 490,
7 §3, is repealed.

8 **Sec. 3. 12 MRSA §6448, sub-§8, ¶A**, as amended by PL 2007, c. 204, §8, is
9 further amended to read:

10 A. A person who is under 18 years of age who successfully completed the
11 requirements of the apprentice program under section 6422 ~~or 6475~~ and who
12 submitted documentation of completion of the apprentice program to the department
13 before attaining 18 years of age may declare any zone as that person's declared
14 lobster zone as long as the individual has met all apprentice program rules that may
15 have been adopted in that zone.

16 **Sec. 4. 12 MRSA §6448, sub-§8, ¶E**, as enacted by PL 2009, c. 294, §1, is
17 amended to read:

18 E. A person who has either successfully completed the requirements of the
19 apprentice program under section 6422 ~~or 6475~~ or held a Class I, Class II or Class III
20 lobster and crab fishing license in the previous calendar year and who has registered
21 to enter an established island limited-entry program as described under section 6449
22 may declare as that person's declared lobster zone the zone in which that island
23 limited-entry program is located when the person becomes eligible to enter the island
24 limited-entry program.

25 **Sec. 5. 12 MRSA §6472, sub-§3**, as enacted by PL 2007, c. 219, §2, is amended
26 to read:

27 **3. Trap limit.** ~~The commissioner shall establish by rule a trap limit for the open~~
28 ~~season established pursuant to subsection 2. The trap limit may not exceed 475 for the~~
29 open season established pursuant to subsection 2 is 400 traps per individual registered to
30 obtain Monhegan Lobster Conservation Area trap tags under section 6474.

31 ~~A. Before establishing or amending the trap limit under this subsection, the~~
32 ~~commissioner shall determine the trap limit preferred by 2/3 of the individuals~~
33 ~~registered to obtain Monhegan Lobster Conservation Area trap tags under section~~
34 ~~6474. The commissioner may accept the preferences proposed by 2/3 of the~~
35 ~~registrants as reasonable and adopt those preferences or reject the preferences as~~
36 ~~unreasonable. The commissioner shall consult with the lobster management policy~~
37 ~~council for Zone D before making this decision.~~

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

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

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

8 **Sec. 6. 12 MRSA §6473, sub-§2**, as enacted by PL 2005, c. 239, §7, is repealed
9 and the following enacted in its place:

10 **2. Exceptions.** The following exceptions apply to a person registered for Monhegan
11 Lobster Conservation Area trap tags under section 6474.

12 A. Notwithstanding subsection 1, a person registered for Monhegan Lobster
13 Conservation Area trap tags may serve as a crew member to assist in the licensed
14 activities under the direct supervision of a Class I, Class II or Class III lobster and
15 crab fishing license holder outside the Monhegan Lobster Conservation Area.

16 B. Notwithstanding subsection 1, a person registered for Monhegan Lobster
17 Conservation Area trap tags who holds a federal lobster permit with a Lobster
18 Management Area 3 designation may fish for or take lobsters from Lobster
19 Management Area 3, as identified in the Atlantic States Marine Fisheries
20 Commission Interstate Fishery Management Plan for American Lobster.

21 **Sec. 7. 12 MRSA §6474, sub-§3**, as enacted by PL 1997, c. 574, §4, is repealed.

22 **Sec. 8. 12 MRSA §6474, sub-§4**, as enacted by PL 1997, c. 574, §4, is amended
23 to read:

24 **4. Trap tag eligibility.** Except as provided under subsection 5, the commissioner
25 may not issue Monhegan Lobster Conservation Area trap tags to a person ~~after July 31,~~
26 ~~1999~~ unless that person:

27 A. Registered with the commissioner to purchase Monhegan Lobster Conservation
28 Area trap tags for the prior open season, documents to the commissioner that the
29 person harvested lobsters from the Monhegan Lobster Conservation Area in the prior
30 open season and registers with the commissioner during the period between June 26th
31 and August 1st immediately following the prior open season for Monhegan Lobster
32 Conservation Area trap tags for the subsequent open season;

33 B. Registered with the commissioner to purchase Monhegan Lobster Conservation
34 Area trap tags for the prior open season, documents to the commissioner that that
35 person did not harvest lobsters from the Monhegan Lobster Conservation Area in the
36 prior open season because of an illness or medical condition and registers with the
37 commissioner during the period between June 26th and August 1st immediately
38 following the prior open season for Monhegan Lobster Conservation Area trap tags
39 for the subsequent open season; or

40 C. ~~Becomes registered for trap tag registration pursuant to section 6475~~ Meets the
41 requirements of section 6448, subsection 8, paragraph E to enter a limited-entry

1 program established for Monhegan Island pursuant to section 6449 and registers for
2 Monhegan Lobster Conservation Area trap tags.

3 **Sec. 9. 12 MRSA §6474, sub-§6**, as enacted by PL 1997, c. 574, §4, is amended
4 to read:

5 **6. Limit on number of registrants.** The total number of individuals registered to
6 obtain Monhegan Lobster Conservation Area trap tags may not exceed ~~the number of~~
7 ~~individuals initially eligible pursuant to subsection 3, paragraphs A, B and C~~ 17.

8 **Sec. 10. 12 MRSA §6474, sub-§7, ¶A**, as enacted by PL 1997, c. 574, §4, is
9 repealed.

10 **Sec. 11. 12 MRSA §6474, sub-§9** is enacted to read:

11 **9. Exception.** Notwithstanding subsection 1, a person may submerge a lobster trap
12 in the Monhegan Lobster Conservation Area that does not have a trap tag designated for
13 use in the Monhegan Lobster Conservation Area if that person holds a noncommercial
14 lobster and crab fishing license issued pursuant to section 6421, subsection 1, paragraph F
15 and does not otherwise hold a lobster and crab fishing license.

16 **Sec. 12. 12 MRSA §6475**, as amended by PL 2007, c. 219, §§3 and 4, is further
17 amended to read:

18 **§6475. New participants**

19 **1. New participants.** A person who is not registered to obtain Monhegan Lobster
20 Conservation Area trap tags may obtain trap tags if that person becomes registered for
21 Monhegan Lobster Conservation Area trap tags pursuant to this section.

22 A. ~~The~~ If a Monhegan Island limited-entry program is established pursuant to section
23 6449, the commissioner shall maintain a registry of persons who have completed the
24 Monhegan Lobster Conservation Area apprenticeship under paragraph B waiting list
25 of persons who have requested a Monhegan Island limited-entry lobster and crab
26 fishing license. Each person included in the registry must be listed chronologically
27 according to the time and date the commissioner received a validated log book under
28 paragraph B.

29 B. ~~A person fulfills the time requirements of a Monhegan Lobster Conservation Area~~
30 ~~apprenticeship if, after November 30, 1998, that person serves for 200 fishing days~~
31 ~~during a minimum period of 24 months in the Monhegan Lobster Conservation Area~~
32 ~~on a vessel operated by a Monhegan Lobster Conservation Area trap tag registrant~~
33 ~~who agrees to sponsor that person as an apprentice. For the purposes of this~~
34 ~~subsection, a "fishing day" means 5 hours or more in a calendar day of lobster-~~
35 ~~fishing related activity. The commissioner shall administer the apprenticeship~~
36 ~~pursuant to rules adopted under section 6422 regarding an apprentice log book and~~
37 ~~educational courses. A person completes a Monhegan Lobster Conservation Area~~
38 ~~apprenticeship upon presentation to the commissioner of a validated log book that~~
39 ~~documents that person meets the requirements of this paragraph.~~

1 C. A person listed ~~in the registry~~ on the waiting list under paragraph A may register
2 for Monhegan Lobster Conservation Area trap tags if:

3 (1) That person possesses a Class I, Class II or Class III lobster and crab fishing
4 license;

5 (2) That person has been listed ~~in the registry~~ longer than all other persons listed;
6 and

7 (3) ~~A person registered for trap tags in an open season does not register to obtain~~
8 ~~trap tags for the subsequent open season under section 6474, subsection 4,~~
9 ~~paragraph A or B. The commissioner has established that the number of~~
10 individuals registered to fish in the Monhegan Lobster Conservation Area for the
11 upcoming season is less than the allowable number of registrants established
12 pursuant to section 6474, subsection 6.

13 The commissioner shall by August 15th notify a person who becomes eligible for
14 registration under this paragraph. If that person does not register with the
15 commissioner within 30 days, that person becomes ineligible for registration and the
16 commissioner shall immediately notify the next individual who has been listed for the
17 longest period of time ~~in the registry~~ on the waiting list. That individual must register
18 within 30 days.

19 **2. Registration in later years.** A person who registers for Monhegan Lobster
20 Conservation Area trap tags under subsection 1 must follow the provisions of section
21 6474, subsection 4, paragraph A or B to register for trap tags for each subsequent open
22 season.

23 ~~**3. License requirements; apprenticeship.** License requirements for an~~
24 ~~apprenticeship in the Monhegan Lobster Conservation Area are as follows.~~

25 ~~A. A person who does not possess a Class I, Class II or Class III lobster and crab~~
26 ~~fishing license must possess an apprentice license issued under section 6421 to be an~~
27 ~~apprentice in the Monhegan Lobster Conservation Area. The waiver provisions of~~
28 ~~the apprentice program under section 6422, subsection 4 do not apply to an~~
29 ~~apprentice in the Monhegan Lobster Conservation Area.~~

30 ~~B. A person who possesses a Class I, Class II or Class III lobster and crab fishing~~
31 ~~license is not required to possess an apprentice license issued under section 6421 to~~
32 ~~be an apprentice in the Monhegan Lobster Conservation Area.~~

33 ~~**4. Issuance of commercial lobster license.** A person who does not possess a Class~~
34 ~~I, Class II or Class III lobster and crab fishing license may be issued a Class I, Class II or~~
35 ~~Class III lobster and crab fishing license upon completion of the apprenticeship under~~
36 ~~subsection 1, paragraph B.~~

37 ~~**5. Registrants exiting the Monhegan Lobster Conservation Area.** A person who~~
38 ~~is registered to fish within the Monhegan Lobster Conservation Area and who no longer~~
39 ~~wishes to fish there may exit the area at the end of the registration period established in~~
40 ~~this section in the following manner:~~

1 ~~A. A person who has been registered for a period of not less than 5 open seasons and~~
2 ~~who can document to the commissioner that that person has harvested lobsters in~~
3 ~~each of 5 open seasons may exit the Monhegan Lobster Conservation Area and fish~~
4 ~~elsewhere in Zone D without going on a waiting list as established in section 6448.~~

5 ~~B. A person who has been registered for a period of less than 5 open seasons or who~~
6 ~~cannot document to the commissioner that that person harvested lobsters in at least 5~~
7 ~~open seasons may exit the Monhegan Lobster Conservation Area and become eligible~~
8 ~~to fish elsewhere in Zone D if that person complies with the waiting list requirement~~
9 ~~established in accordance with section 6448.~~

10 **Sec. 13. 12 MRSA §6476**, as enacted by PL 1997, c. 574, §4, is amended to read:

11 **§6476. Former registrants**

12 A person whose registration to obtain Monhegan Lobster Conservation Area trap tags
13 has lapsed may be listed ~~in the registry~~ on the waiting list under section 6475, subsection
14 1, paragraph A and may purchase trap tags if the person becomes registered pursuant to
15 section 6475, subsection 1, paragraph C. A person included ~~in the registry~~ on the waiting
16 list pursuant to this subsection must be listed chronologically according to the time and
17 date the commissioner received written notification from that person requesting that
18 person be listed ~~in the registry~~ on the waiting list.

19 **SUMMARY**

20 This bill changes the limited-entry program for taking lobsters in the Monhegan
21 Lobster Conservation Area, including by:

22 1. Limiting the number of traps per registered individual to 400;

23 2. Allowing a person who holds a federal lobster permit and Monhegan Lobster
24 Conservation Area trap tags to take lobsters from Lobster Management Area 3, as
25 identified by the Atlantic States Marine Fisheries Commission;

26 3. Limiting the number of individuals that may be registered to obtain Monhegan
27 Lobster Conservation Area trap tags to 17;

28 4. Allowing a person who does not hold a Monhegan Lobster Conservation Area trap
29 tag to fish for lobster in the Monhegan Lobster Conservation Area as long as that person
30 holds a noncommercial lobster and crab fishing license but does not hold a commercial
31 lobster and crab fishing license;

32 5. Requiring the Commissioner of Marine Resources to maintain a waiting list of
33 persons who have requested but not obtained a Monhegan Island limited-entry lobster and
34 crab fishing license, instead of a registry of persons who have completed the Monhegan
35 Lobster Conservation Area apprenticeship program as in current law. Persons on the
36 waiting list may obtain Monhegan Lobster Conservation Area trap tags as they become
37 available; and

38 6. Eliminating the Monhegan Lobster Conservation Area apprenticeship program.