

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 643

S.P. 233

In Senate, February 21, 2013

An Act To Create a Tax Incentive Program To Improve the Maine Lobster Industry

(EMERGENCY)

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.

Cosponsored by Representative KUMIEGA of Deer Isle and

Senators: President ALFOND of Cumberland, BOYLE of Cumberland, DUTREMBLE of York, GERZOFSKY of Cumberland, GOODALL of Sagadahoc, HASKELL of Cumberland, HILL of York, JACKSON of Aroostook, MAZUREK of Knox, PATRICK of Oxford, SAVIELLO of Franklin, Representatives: BLACK of Wilton, COOPER of Yarmouth, DICKERSON of Rockland, HICKMAN of Winthrop, HUBBELL of Bar Harbor, MASON of Topsham, PEOPLES of Westbrook, SAXTON of Harpswell, VILLA of Harrison.

1 **2. Refund authorized.** A person that purchases electricity, or that purchases or
2 leases depreciable machinery or equipment, for use in commercial lobster processing
3 must be refunded the amount of sales tax paid upon presenting to the assessor evidence
4 that the purchase is eligible for refund under this section. Evidence required by the
5 assessor may include a copy or copies of that portion of the purchaser's or lessee's most
6 recent filing under the Code that indicates that the purchaser or lessee is engaged in
7 commercial lobster processing and that the purchased machinery or equipment is
8 depreciable for those purposes or would be depreciable for those purposes if owned by
9 the lessee.

10 In the event that any piece of machinery or equipment is only partially depreciable under
11 the Code, any reimbursement of the sales tax must be prorated accordingly. In the event
12 that electricity is used in qualifying and nonqualifying activities, any reimbursement of
13 the sales tax must be prorated accordingly.

14 Application for refunds must be filed with the assessor within 36 months of the date of
15 purchase or execution of the lease.

16 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the
17 purchase of machinery or equipment if the purchaser has obtained a certificate from the
18 assessor stating that the purchaser is engaged in commercial lobster processing and
19 authorizing the purchaser to purchase depreciable machinery and equipment without
20 paying Maine sales tax. The seller is required to obtain a copy of the certificate together
21 with an affidavit as prescribed by the assessor, to be maintained in the seller's records,
22 attesting to the qualification of the purchase for exemption pursuant to this section. In
23 order to qualify for this exemption, the depreciable machinery or equipment must be used
24 directly in commercial lobster processing.

25 **4. Information on processes for refunds and appeals.** The assessor shall post
26 information describing the process for requesting a refund under this section on the
27 bureau's publicly accessible website along with a description of the process to appeal a
28 denial of refund request.

29 **5. Reporting required.** Beginning in 2014, a person that purchases or leases
30 depreciable machinery or equipment for use in commercial lobster processing and
31 receives a refund of sales tax pursuant to subsection 2 or makes a purchase free of tax
32 pursuant to subsection 3 shall file a report, no later than January 1st and annually
33 thereafter, with the assessor. The report must be in a form prescribed by the assessor and,
34 for the tax year in which the sales tax is refunded or exempt, contain the following
35 information:

- 36 A. The number of employees the person employs in commercial lobster processing;
- 37 B. The average salary or wages of the employees under paragraph A;
- 38 C. A description of the benefits provided to the employees under paragraph A and
39 the value of those benefits;
- 40 D. The number of pounds of lobster processed; and
- 41 E. The market share of the commercial lobster processing company.

1 4. The Chief Executive Officer of the Finance Authority of Maine or the chief
2 executive officer's designee;

3 5. The president of the Maine International Trade Center or the president's designee;

4 6. A representative of the Lobster Promotion Council established by Title 5, section
5 12004-H, subsection 14;

6 7. A representative of the Lobster Advisory Council established by Title 5, section
7 12004-I, subsection 58; and

8 8. Representatives from the following organizations invited by the commissioners:

9 A. A statewide association representing the interests of persons who harvest lobster
10 commercially;

11 B. An association representing the interests of persons who harvest lobster
12 commercially in Washington and Hancock counties;

13 C. An association in southern Maine representing the interests of persons who harvest
14 lobster commercially;

15 D. A statewide import-export lobster dealers' association;

16 E. A statewide lobster pound owners' association;

17 F. A statewide lobster processors' association; and

18 G. An international lobster institute. This member must be a resident of the State.

19 **Sec. B-3. Duties.** The working group shall:

20 1. Examine factors that undermine the competitiveness of commercial lobster
21 processing companies in the State;

22 2. Examine the extent to which the Canadian lobster industry is subsidized by the
23 Canadian government, including but not limited to tax incentives, health benefits
24 provided to employees and direct subsidies;

25 3. Examine state, national and international data for commercial lobster processing
26 companies regarding employment, wages, benefits, pounds of lobster processed and
27 market share;

28 4. Identify benchmarks for employment, wages, benefits, pounds of lobster processed
29 and market share for commercial lobster processing companies that may be used to
30 determine eligibility for the sales tax refund and exemption established in the Maine
31 Revised Statutes, Title 36, section 2013-A; and

32 5. Develop recommendations for increasing commercial lobster processing in the
33 State, including but not limited to regulatory reform, tax incentives and potential sources
34 of funding in grants and low-interest loans to support Maine commercial lobster
35 processing companies, and strategies for strengthening the Maine lobster brand and the
36 relationships within the industry to better promote Maine lobster and increase sales.

1 eligibility for the sales tax refund and exemption. It requires the working group to make
2 recommendations for increasing commercial lobster processing in the State and identify
3 strategies for strengthening the Maine lobster brand and the relationships within the
4 industry to better promote Maine lobster and increase sales. It requires the working
5 group to report, no later than January 15, 2014, findings and recommendations to the
6 Joint Standing Committee on Taxation and the Joint Standing Committee on Marine
7 Resources. It authorizes the Joint Standing Committee on Taxation and the Joint
8 Standing Committee on Marine Resources to introduce a bill related to the subject matter
9 of the report to the Second Regular Session of the 126th Legislature upon receipt of the
10 report.