

MAINE STATE LEGISLATURE

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Date: 5/22/13

L.D. 953

(Filing No. H-225)

MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 666, L.D. 953, Bill, "An Act To Provide for and Recognize the Right of the Houlton Band of Maliseet Indians To Fish for Marine Organisms"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 12 MRSA §6302-A, sub-§1, as amended by PL 2013, c. 8, §1, is further amended to read:

1. Tribal exemption; commercial harvesting licenses. A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs or Houlton Band of Maliseet Indians who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6502-A, 6505-A, 6505-C, 6535, 6601, 6602, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803, 6804 or 6808 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe, nation or band or the agent of the band to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs or Houlton Band of Maliseet Indians issued a tribal license pursuant to this subsection to conduct activities is subject to all laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe, nation or band:

A. May utilize lobster traps tagged with trap tags issued by the tribe, nation or band or the agent of the band in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe, nation or band is not required to pay trap tag fees under section 6431-B if the tribe, nation or band or the agent of the band issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe, nation or band or the agent of the band in a manner consistent with tags issued pursuant to section 6505-B. A member of the tribe, nation or band is not required to

1 pay elver fishing gear fees under section 6505-B if the tribe, nation or band or the
2 agent of the band issues that member elver fishing gear tags; and

3 C. Is not required to hold a state shellfish license issued under section 6601 to obtain
4 a municipal shellfish license pursuant to section 6671.

5 ~~A member of the Houlton Band of Maliseet Indians who is a resident of the State is not~~
6 ~~required to hold an elver fishing license under section 6505-A to conduct activities~~
7 ~~authorized under that license if that member holds a valid license issued by the band or~~
8 ~~the agent of the band to conduct the activities authorized under that license. A member of~~
9 ~~the Houlton Band of Maliseet Indians issued a tribal license pursuant to this subsection is~~
10 ~~subject to all laws and rules applicable to a person who holds an elver fishing license~~
11 ~~issued under section 6505-A and to all the provisions of chapter 625, except that the~~
12 ~~member of the band may utilize elver fishing gear tagged with elver fishing gear tags~~
13 ~~issued by the band or the agent of the band in a manner consistent with tags issued~~
14 ~~pursuant to section 6505-B. A member of the Houlton Band of Maliseet Indians is not~~
15 ~~required to pay elver fishing gear fees under section 6505-B if the band or the agent of~~
16 ~~the band issues that member elver fishing gear tags.~~

17 **Sec. 2. 12 MRSA §6302-A, sub-§2**, as amended by PL 2011, c. 598, §17, is
18 further amended to read:

19 **2. Tribal exemption; sustenance or ceremonial tribal use.** Notwithstanding any
20 other provision of law, a member of the Passamaquoddy Tribe, Penobscot Nation ~~or~~,
21 Aroostook Band of Micmacs or Houlton Band of Maliseet Indians who is a resident of
22 the State may at any time take, possess, transport and distribute:

23 A. Any marine organism, except lobster, for sustenance use if the tribal member
24 holds a valid sustenance fishing license issued by the tribe, nation or band or the
25 agent of the band. A sustenance fishing license holder who fishes for sea urchins
26 may not harvest sea urchins out of season;

27 B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster
28 license issued by the tribe, nation or band or the agent of the band. The sustenance
29 lobster license holder's traps must be tagged with sustenance use trap tags issued by
30 the tribe, nation or band or the agent of the band in a manner consistent with trap tags
31 issued pursuant to section 6431-B; however, a sustenance lobster license holder may
32 not harvest lobsters for sustenance use with more than 25 traps; and

33 C. Any marine organism for noncommercial use in a tribal ceremony within the
34 State, if the member holds a valid ceremonial tribal permit issued to the tribal
35 member by the Joint Tribal Council of the Passamaquoddy Tribe or the governor and
36 council at either Passamaquoddy reservation, by the Penobscot Reservation Tribal
37 Council ~~or~~, by the Aroostook Band of Micmacs Tribal Council or its agent or by the
38 Houlton Band of Maliseet Indians Tribal Council or its agent.

39 For purposes of this subsection, "sustenance use" means all noncommercial consumption
40 or noncommercial use by any person within Passamaquoddy Indian territory, as defined
41 in Title 30, section 6205, subsection 1, Penobscot Indian territory, as defined in Title 30,
42 section 6205, subsection 2, ~~or~~ Aroostook Band Trust Land, as defined in Title 30, section
43 7202, subsection 2, or Houlton Band Trust Land, as defined in Title 30, section 6203,
44 subsection 2-A, or at any location within the State by a tribal member, by a tribal

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1 member's immediate family or within a tribal member's household. The term "sustenance
2 use" does not include the sale of marine organisms.

3 A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of
4 Micmacs or Houlton Band of Maliseet Indians who takes a marine organism under a
5 license or permit issued pursuant to this subsection must comply with all laws and rules
6 applicable to a person who holds a state license or permit that authorizes the taking of that
7 organism, except that a state law or rule that sets a season for the harvesting of a marine
8 organism does not apply to a member of the Passamaquoddy Tribe, Penobscot Nation or
9 Aroostook Band of Micmacs or Houlton Band of Maliseet Indians who takes a marine
10 organism for sustenance use or for noncommercial use in a tribal ceremony. A member
11 of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs or
12 Houlton Band of Maliseet Indians issued a license or permit under this subsection is
13 exempt from paying elver gear fees under section 6505-B or trap tag fees under section
14 6431-B and is not required to hold a state shellfish license issued under section 6601 to
15 obtain a municipal shellfish license pursuant to section 6671. A member of the
16 Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs or Houlton
17 Band of Maliseet Indians who fishes for or takes lobster under a license or permit issued
18 pursuant to this subsection must comply with the closed periods under section 6440.

19 **Sec. 3. 12 MRSA §6302-A, sub-§3, ¶¶A-2, C-2 and D-3** are enacted to read:

20 A-2. The Houlton Band of Maliseet Indians or its agent may issue to members of the
21 band up to 10 commercial lobster and crab fishing licenses in any calendar year,
22 including all licenses equivalent to Class I, Class II or Class III licenses and student
23 licenses, but not including apprentice licenses. Licenses issued under this paragraph
24 are subject to the eligibility requirements of section 6421, subsection 5;

25 C-2. The commissioner shall adopt rules authorizing the Houlton Band of Maliseet
26 Indians or its agent to issue to members of the band commercial sea urchin licenses if
27 the commissioner determines that sea urchin resources are sufficient to permit the
28 issuance of new licenses. The commissioner may not authorize the Houlton Band of
29 Maliseet Indians or its agent to issue more than 24 commercial sea urchin licenses to
30 members of the band in any calendar year;

31 D-3. The Houlton Band of Maliseet Indians or its agent may not issue to members of
32 the band more than 10 commercial licenses for the taking of scallops in any calendar
33 year, except that the commissioner shall by rule allow the Houlton Band of Maliseet
34 Indians or its agent to issue additional commercial licenses to members of the band
35 for the taking of scallops if the commissioner determines that scallop resources are
36 sufficient to permit the issuance of new licenses;

37 **Sec. 4. 12 MRSA §6302-A, sub-§4**, as amended by PL 2011, c. 598, §17, is
38 further amended to read:

39 **4. Sea urchin and scallop handfishing and tender licenses; limitations.** The
40 Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs or its agent or
41 Houlton Band of Maliseet Indians or its agent may not issue a license or permit pursuant
42 to subsection 1 or 2:

43 A. For the harvesting of sea urchins or scallops by hand unless the license or permit
44 applicant meets the diver competency requirements of section 6531; and

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1 B. For the tending of a person who fishes for or takes scallops or sea urchins by
2 diving unless the applicant meets the safety training requirements of section 6533.'

3 **SUMMARY**

4 This amendment replaces the bill and provides the Houlton Band of Maliseet Indians
5 the same rights regarding the taking of marine organisms as are provided to the other,
6 federally recognized, Indian tribes in this State, including the right to issue certain
7 commercial licenses and permits for the taking of marine organisms and the right of
8 members of the band to take, possess, transport and distribute marine organisms for
9 sustenance and ceremonial uses. The amendment limits the number of lobster and crab
10 fishing licenses issued by the band to 10, the number of sea urchin licenses to 24 and the
11 number of scallop licenses to 10.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**



126th MAINE LEGISLATURE

LD 953

LR 1965(02)

An Act To Provide for and Recognize the Right of the Houlton Band of Maliseet Indians To Fish for Marine Organisms

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-225)

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

Minor revenue decrease - General Fund

Minor revenue decrease - Other Special Revenue Funds

Fiscal Detail and Notes

This bill allows the Houlton Band of Maliseet Indians to issue certain marine resources licenses to its members and would result in a minor reduction of General Fund and Other Special Revenue Funds revenue to the Department of Marine Resources not requiring any change to the budget.