

# MAINE STATE LEGISLATURE

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L.D. 1503

Date: 3/22/16

(Filing No. H-588)

**MARINE RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1026, L.D. 1503, Bill, "An Act To Create a Class II Limited Lobster and Crab Fishing License and Improve the Limited-entry System"

Amend the bill by striking out the title and substituting the following:

**'An Act To Amend Lobster and Crab Fishing License Laws'**

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

**Sec. 1. 12 MRSA §6421, sub-§5-A**, as amended by PL 2007, c. 219, §1, is repealed and the following enacted in its place:

**5-A. Student lobster and crab fishing license eligibility.** A student lobster and crab fishing license may be issued to a person who, at the time of application, is 8 years of age or older and under 23 years of age and who is:

A. Attending a public day school in accordance with the attendance requirement of Title 20-A, section 5001-A, subsection 1;

B. Meeting the requirements of an alternative to attendance at a public day school in accordance with Title 20-A, section 5001-A, subsection 3; or

C. Enrolled in and meeting the requirements of a half-time course of study at a postsecondary institution accredited by a state-recognized accrediting agency or body.

A person may not be considered to have ceased to be a student during any interim between school years if the interim does not exceed 6 months and if it is shown that the person has a bona fide intention of continuing to pursue a half-time course of study during the semester or other enrollment period immediately following the interim period. For purposes of this subsection, "half-time course of study" means at least 50% of the usual course load for the program in which the person is enrolled.

**COMMITTEE AMENDMENT**

1 The commissioner may revoke a student lobster and crab fishing license of an individual  
2 who has ceased to meet the requirements of this subsection.

3 **Sec. 2. 12 MRSA §6422, sub-§5** is enacted to read:

4 **5. Prohibition.** Rules adopted under this section may not require a person who has  
5 registered to enter an established island limited-entry zone program as described under  
6 section 6449 to apprentice in the zone in which the island limited-entry zone program is  
7 located.

8 **Sec. 3. 12 MRSA §6447, sub-§9** is enacted to read:

9 **9. Notice.** When a meeting of a lobster management policy council includes as an  
10 agenda item a proposal that, if adopted, would affect the ability of a person who does not  
11 hold a lobster and crab fishing license to participate in the lobster and crab fishing  
12 industry, including but not limited to a proposal regarding exit ratios under section 6448,  
13 the agenda must be posted publicly at least 7 days in advance of the meeting.

14 **Sec. 4. 12 MRSA §6448, sub-§2, ¶A-1,** as enacted by PL 2013, c. 239, §2, is  
15 amended to read:

16 A-1. A lobster management policy council may recommend to the commissioner  
17 whether the exit ratio adopted for a lobster management zone should be applied to the  
18 number of licenses that are not renewed or to the number of trap tags associated with  
19 the licenses that are not renewed. A lobster management policy council may  
20 recommend that an exit ratio applied to the number of trap tags associated with  
21 licenses that are not renewed that meets the requirements of paragraph C be applied  
22 retroactively to a licensing year in which the exit ratio in that zone was based upon  
23 the number of trap tags retired. The lobster management policy council is not  
24 required to submit the recommendation to referendum.

25 **Sec. 5. 12 MRSA §6448, sub-§2, ¶C,** as amended by PL 2013, c. 239, §2, is  
26 further amended to read:

27 C. In accordance with subsection 7-A, the commissioner shall adopt rules that  
28 establish an exit ratio between either:

29 (1) The number of trap tags retired by individuals who declared that zone as their  
30 declared lobster zone in the year prior to the previous calendar year, but who did  
31 not declare that zone as their declared lobster zone in the previous calendar year,  
32 and the number of trap tags issued to new zone entrants authorized under  
33 subsection 7-A; or

34 (2) The number of individuals who declared that zone as their declared lobster  
35 zone in the year prior to the previous calendar year, but who did not declare that  
36 zone as their declared lobster zone in the previous calendar year, and the number  
37 of new zone entrants authorized under subsection 7-A.

38 The number of trap tags retired under subparagraph (1) must be considered to be the  
39 total of the greatest number of trap tags purchased in any prior year under each  
40 license that is not renewed, up to the current zone maximum.

# COMMITTEE AMENDMENT

1 An exit ratio established by rule under this subsection is not required to be the same  
2 as the exit ratio proposed by the lobster management policy council.

3 **Sec. 6. 12 MRSA §6448, sub-§6**, as amended by PL 1999, c. 693, §2, is repealed  
4 and the following enacted in its place:

5 **6. Waiting lists.** The commissioner shall maintain and make available waiting lists  
6 as follows:

7 A. A waiting list of persons who did not hold a lobster and crab fishing license in the  
8 previous licensing year who have requested to declare a limited-entry zone as their  
9 declared lobster zone. The list must be arranged in chronological order in accordance  
10 with subsection 5; and

11 B. A waiting list of persons who held a lobster and crab fishing license in the  
12 previous licensing year who have requested to declare a limited-entry zone as their  
13 declared lobster zone. The commissioner shall adopt rules to administer entry of  
14 persons on the list established under this paragraph into limited-entry zones.

15 The commissioner shall create a waiting list for a zone at the time the commissioner  
16 closes the zone pursuant to subsection 2, paragraph D.

17 **Sec. 7. 12 MRSA §6448, sub-§6-A** is enacted to read:

18 **6-A. Periodic verification of waiting list.** The commissioner shall verify at least  
19 once every 3 years that each person who is listed on a waiting list established under  
20 subsection 6 wishes to remain on the waiting list. To verify that a person wishes to  
21 remain on a waiting list, the commissioner must attempt to contact the person by regular  
22 mail, telephone or e-mail. If a person does not respond within 60 days of the initial  
23 attempt to contact, a notice must be sent by certified mail informing the person that a  
24 response is required within 30 days from the date of mailing. The commissioner shall  
25 remove a person from a waiting list who does not respond to the notice sent by certified  
26 mail within 30 days after the date of mailing. The commissioner may place a person who  
27 has been removed from a waiting list pursuant to this subsection back on a waiting list in  
28 the position where the person would otherwise have been when the person shows that the  
29 reason for not responding was that the person was on active duty with the Armed Forces  
30 of the United States or the National Guard.

31 **Sec. 8. 12 MRSA §6448, sub-§7-A**, as enacted by PL 2013, c. 239, §5, is  
32 amended to read:

33 **7-A. Authorization of new zone entrants.** The commissioner shall determine by  
34 ~~February~~ April 1st of each licensing year the number of new zone entrants that may be  
35 authorized for each limited-entry zone. The number of new zone entrants authorized in a  
36 licensing year must be in accordance with the exit ratio established under subsection 2 for  
37 that zone. The commissioner may adopt rules consistent with subsection 2, paragraph B  
38 to implement this subsection. Upon adoption of rules, the exit ratio must be used to  
39 establish the number of new zone entrants in accordance with subsection 2, paragraph C  
40 by:

41 A. Dividing the number of trap tags that may be issued to new zone entrants by the  
42 zone trap limit under section 6431-A. The number of new zone entrants must be

1 rounded down to the nearest whole number and the remaining trap tags carried over  
2 to the following year's allocation; or

3 B. Applying the exit ratio to the number of individuals who declared that zone as  
4 their declared lobster zone in the year prior to the previous calendar year, but who did  
5 not declare that zone as their declared lobster zone in the previous calendar year.

6 The commissioner shall authorize new zone entrants in chronological order of requests  
7 received under subsection 5. The commissioner shall notify the authorized new zone  
8 entrants by certified mail. If a person does not declare a zone within 30 days after  
9 receiving the notification by certified mail, that person must be taken off the waiting list  
10 and the next person on the list must be authorized as a new zone entrant. If a person has  
11 indicated a request for more than one zone pursuant to subsection 5, that person must be  
12 taken off the waiting list for the 2nd zone when the person declares one of the zones as  
13 that person's declared lobster zone after being authorized to do so. If a person who holds a  
14 current Class I, Class II or Class III lobster and crab fishing license is authorized as a new  
15 zone entrant and declares the zone as that person's declared lobster zone, the  
16 commissioner shall change the zone identified on that person's license to the limited-entry  
17 zone for which the person is authorized.

18 **Sec. 9. 12 MRSA §6448, sub-§8, ¶¶A-2 and A-3 are enacted to read:**

19 A-2. A person under 20 years of age may declare any zone as that person's declared  
20 lobster zone if the person:

21 (1) Successfully completed the requirements of the apprentice program under  
22 section 6422;

23 (2) Submitted documentation of completion of the apprentice program to the  
24 department before attaining 20 years of age;

25 (3) Received a high school diploma or a high school equivalency diploma; and

26 (4) Has met all apprentice program rules that may have been adopted in that  
27 zone.

28 A-3. A person under 23 years of age may declare any zone as that person's declared  
29 lobster zone if the person:

30 (1) Has logged time fishing in the apprentice program in accordance with section  
31 6422;

32 (2) Successfully completed the requirements of the apprentice program under  
33 section 6422;

34 (3) Submitted documentation of completion of the apprentice program to the  
35 department before attaining 23 years of age;

36 (4) Is enrolled in and meeting the requirements of a half-time course of study as  
37 defined in section 6421, subsection 5-A at a postsecondary institution accredited  
38 by a state-recognized accrediting agency or body;

39 (5) Has met all apprentice program rules that may have been adopted in that  
40 zone; and

1                   (6) Has been eligible for a student lobster and crab fishing license since before  
2                   that person attained 18 years of age and has been eligible for that license in each  
3                   licensing year thereafter.

4           **Sec. 10. 12 MRSA §6449, sub-§1**, as amended by PL 2013, c. 239, §8, is further  
5 amended to read:

6           **1. Proposal to the commissioner.** Notwithstanding section 6448, subsection 7-A, a  
7 year-round island community may petition the commissioner for the establishment of an  
8 island limited-entry zone program if a minimum of 5 island residents that are holders of a  
9 Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents  
10 that are holders of a Class I, Class II or Class III lobster and crab fishing license,  
11 whichever is greater, signs the petition submitted to the commissioner. ~~If~~ 2/3 a majority  
12 of the Class I, Class II or Class III lobster and crab fishing license holders that are  
13 residents on the island voting in a referendum held pursuant to section 6447, subsection 6  
14 support the establishment of an island limited-entry zone program, the commissioner may  
15 adopt rules to establish such a program, including a waiting list. Before establishing or  
16 amending the number of licenses available to island residents, the commissioner shall  
17 determine the number of licenses preferred by 2/3 a majority of the Class I, Class II or  
18 Class III lobster and crab fishing license holders resident on the island. The commissioner  
19 may accept the preferences proposed by 2/3 a majority of the license holders as  
20 reasonable and adopt those preferences or reject the preferences as unreasonable. The  
21 commissioner shall consult with the lobster management policy council for the lobster  
22 management zone in which the island is located before making the decision.'

23   **SUMMARY**

24           This amendment replaces the bill.

25           This amendment provides that a person who is under 23 years of age is eligible for a  
26 student lobster and crab fishing license if the person is attending school in accordance  
27 with compulsory attendance requirements or is enrolled in and meeting the requirements  
28 of at least a half-time course of study at an accredited postsecondary institution.

29           This amendment provides that a person who is under 20 years of age, has completed  
30 the apprentice program and has received a high school diploma or general equivalency  
31 diploma may be issued a lobster and crab fishing license that identifies a limited-entry  
32 zone as the declared lobster zone. This amendment provides that a person who is under  
33 23 years of age, has completed the apprentice program, is enrolled in and meeting the  
34 requirements of at least a half-time course of study at an accredited postsecondary  
35 institution and has been eligible for a student lobster and crab fishing license  
36 continuously since before the person attained 18 years of age may be issued a lobster and  
37 crab fishing license that identifies a limited-entry zone as the declared lobster zone.

38           This amendment, like the bill, provides that an apprentice program may not require a  
39 person registered to enter an established island limited-entry zone program to apprentice  
40 in the zone in which the island limited-entry zone program is located. This amendment,  
41 like the bill, reduces the support required in a referendum of island residents to establish  
42 an island limited-entry zone program from 2/3 of lobster and crab fishing license holders  
43 to a majority of license holders.

1 This amendment requires that, when calculating the number of trap tags retired for  
2 purposes of applying an exit ratio, the number of trap tags retired is considered to be the  
3 total of the greatest number of trap tags purchased in any prior year under each license  
4 that is not renewed, up to the zone maximum. This amendment allows a lobster  
5 management policy council to recommend that an exit ratio be based upon licenses that  
6 are not renewed or upon retired trap tags and, if the ratio is based upon retired trap tags,  
7 whether the exit ratio should be applied retroactively to a specific date.

8 This amendment provides that a lobster management policy council must post an  
9 agenda publicly at least 7 days prior to the council meeting if the agenda includes items  
10 that would affect the ability of people who do not hold lobster and crab fishing licenses to  
11 participate in the lobster and crab fishing industry.

12 This amendment requires the Commissioner of Marine Resources to maintain, for  
13 persons who have requested to declare a limited-entry zone as their declared lobster zone,  
14 a waiting list of persons who did not hold a lobster and crab fishing license in the prior  
15 year and a separate waiting list of persons who did hold a lobster and crab fishing license  
16 in the prior year. The commissioner must adopt rules to administer entry of persons who  
17 held a license in the prior year into limited-entry zones.

18 This amendment requires the Commissioner of Marine Resources to verify at least  
19 every 3 years the waiting lists of persons wishing to enter a limited-entry zone. A person  
20 who does not respond to a verification request within 90 days is removed from the  
21 waiting list. This amendment provides the commissioner with the authority to place a  
22 person who does not respond back on a waiting list in the position where the person  
23 would have otherwise been when the person shows that the lack of response was due to  
24 being on active duty with the Armed Forces of the United States or the National Guard.

25 This amendment changes the date by which the Commissioner of Marine Resources  
26 must determine the number of new zone entrants in each limited-entry zone from  
27 February 1st to April 1st.

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**



# 127th MAINE LEGISLATURE

LD 1503

LR 2423(02)

**An Act To Create a Class II Limited Lobster and Crab Fishing License and Improve the Limited-entry System**

**Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-588)**  
**Committee: Marine Resources**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Any additional costs to the Department of Marine Resources to make various changes to certain lobster and crab fishing licenses are expected to be minor and can be absorbed within existing budgeted resources.