

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

~~or certificate is issued on the basis of a detailed application form, a simplified application form or an enrollment form may not deny a claim for any covered loss that begins after the policy or certificate has been in force for at least 6 months, unless that loss results from a preexisting condition that was diagnosed by a physician before the date of application for coverage or that first manifested itself within the 6 months immediately preceding the application date. Except for rescission for misrepresentation, Other defenses based upon preexisting conditions are not permitted except for rescission for misrepresentation. This subsection applies regardless of whether the policy or certificate is issued on the basis of a detailed application form, a simplified application form or an enrollment form.~~

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 31, 2007.

CHAPTER 200

H.P. 133 - L.D. 151

An Act To Include Student Representation on the State Board of Education

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

Sec. 1. 20-A MRSA §401, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Appointment. ~~The state board shall consist~~ consists of 9 members who shall be and, beginning in the 2007-2008 school year, 2 nonvoting student members, one junior and one senior in high school. All members are appointed by the Governor. One of the student members must reside in the State's First Congressional District at the time of appointment and one must reside in the State's Second Congressional District at the time of appointment. Each appointment shall be is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature.

Sec. 2. 20-A MRSA §401, sub-§1-A is enacted to read:

1-A. Nomination of student members. Each student member of the state board serves for a term of 2 years, except that the senior appointed in the 2007-2008 school year serves for one year. A junior in high school must be added each year to the state board to serve a term of 2 years.

A. The state board shall notify every public high school principal by March 15th of the year in

which applications are being accepted for the student member's position.

B. Applications for the student member's position must be submitted to the state board no later than April 15th of the year in which applications are being accepted.

C. A screening committee of the state board shall select 6 semifinalists for the student member's position.

D. The state board shall, by May 1st of the year in which applications are being accepted, select 3 finalists for the Governor's consideration and shall rank the finalists according to its preference.

Sec. 3. 20-A MRSA §401, sub-§1-B is enacted to read:

1-B. Term of student member. Notwithstanding subsection 4, the term of office of the student member of the state board is 2 years.

Sec. 4. 20-A MRSA §401, sub-§1-C is enacted to read:

1-C. Qualifications for service as student member. At the time a student member of the state board's term commences, the student must:

A. Be enrolled in good standing in a public high school in the State;

B. Have completed 10th grade prior to the commencement of the term;

C. Provide at least 3 references from teachers in the school that the student attends; and

D. Meet other criteria established by the state board in consultation with students in the State.

See title page for effective date.

CHAPTER 201

H.P. 255 - L.D. 311

An Act To Create a Nonresident Lobster and Crab Landing Permit

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

Sec. 1. 12 MRSA §6402, first ¶, as amended by PL 1993, c. 543, §1, is further amended to read:

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder convicted in court of violating section 6434. This suspension is for 3 years from the date of conviction.

Sec. 2. 12 MRSA §6402-B, first ¶, as amended by PL 1995, c. 315, §1, is further amended to read:

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted of a 2nd or subsequent offense of possessing a lobster smaller than the minimum size established in section 6431, subsection 1 if the conviction of the 2nd or subsequent offense involved possession of 3 or more lobsters smaller than that minimum size.

Sec. 3. 12 MRSA §6404, as amended by PL 1995, c. 468, §2, is further amended to read:

§6404. Suspension based on conviction of scrubbing lobsters

The commissioner shall suspend the lobster and crab fishing license, wholesale seafood license and the commercial fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted in court of violating section 6438-A. The suspension must be for one year from the date of conviction.

Sec. 4. 12 MRSA §6421, sub-§1, ¶F, as enacted by PL 2003, c. 452, Pt. F, §8 and affected by Pt. X, §2, is amended to read:

F. Noncommercial lobster and crab fishing license; ~~or~~

Sec. 5. 12 MRSA §6421, sub-§1, ¶F-1 is enacted to read:

F-1. Nonresident lobster and crab landing permit;
or

Sec. 6. 12 MRSA §6421, sub-§2-B is enacted to read:

2-B. Licensed activity; nonresident lobster and crab landing permit. The holder of a nonresident lobster and crab landing permit may possess, transport and sell within the State lobsters or crabs the license holder has taken from outside Maine's territorial waters. The permit does not authorize the permit holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat.

Sec. 7. 12 MRSA §6421, sub-§5-D is enacted to read:

5-D. Nonresident lobster and crab landing permit eligibility. A nonresident lobster and crab landing permit may be issued only to an individual who:

A. Does not meet the resident provisions under section 6301, subsection 1;

B. Possesses a valid federal lobster permit or a valid lobster fishing license from a state other than this State;

C. Except as authorized under subsection 5-E, does not operate a lobster and crab fishing vessel with an established base of operations in this State; and

D. Documents to the commissioner that that person has not been issued trap tags from a state other than Maine or federally issued trap tags that allow the individual to exceed a trap limit established under section 6431-A.

Sec. 8. 12 MRSA §6421, sub-§5-E is enacted to read:

5-E. Exception; nonresident lobster and crab landing permit with an established base of operations in State. An individual may be excepted from subsection 5-D, paragraph C as long as the individual submits documentation to the commissioner by December 31, 2007 that the individual operated a lobster and crab fishing vessel with an established base of operations in the State as a nonresident in calendar years 2006 and 2007. Documentation must include at a minimum proof of lobster landings at a Maine dealer, proof of utilization of a mooring or dock in a Maine harbor for a sufficient time to meet the requirements to be an established base of operations in this State pursuant to Title 12, section 6001, subsection 13-I, proof that the individual possessed a valid federal lobster permit or a valid lobster fishing license from a state other than this State and proof that the individual did not meet the resident provisions under section 6301, subsection 1.

Sec. 9. 12 MRSA §6421, sub-§7-A, ¶G, as repealed and replaced by PL 2005, c. 354, §2, is amended to read:

G. Fifty-six dollars for a student lobster and crab fishing license; ~~and~~

Sec. 10. 12 MRSA §6421, sub-§7-A, ¶H, as repealed and replaced by PL 2005, c. 354, §2, is amended to read:

H. Fifty-six dollars for a noncommercial lobster and crab fishing license; ~~and~~

Sec. 11. 12 MRSA §6421, sub-§7-A, ¶I is enacted to read:

I. Two thousand forty-seven dollars and twenty-five cents for a nonresident lobster and crab landing permit.

Sec. 12. 12 MRSA §6431-A, sub-§1, as repealed and replaced by PL 1999, c. 187, §1, is amended to read:

1. Limit. Before March 1, 2000, the holder of a Class I, Class II or Class III license issued under sec-

tion 6421 may not submerge more than 1,000 traps. After February 29, 2000, the holder of a Class I, Class II or Class III license or a nonresident lobster and crab landing permit issued under section 6421 may not submerge more than 800 traps. If a lower trap limit is adopted by rule for a zone pursuant to section 6446, a license holder who fishes in that zone may not submerge a number of traps that exceeds the lower limit.

The number of traps fished from a vessel may not exceed the applicable trap limit established in this subsection, regardless of the number of license holders fishing from that vessel.

Sec. 13. 12 MRSA §6431-B, as amended by PL 2003, c. 20, Pt. WW, §3, is further amended to read:

§6431-B. Tag system

~~By March 1, 1996, the~~ The commissioner shall establish by rule a lobster trap tag system under which lobster and crab fishing license holders and nonresident lobster and crab landing permit holders must purchase tags for the purpose of identifying and tracking traps. The rules must contain provisions for replacing lost tags. The commissioner may impose a per-tag fee to cover the cost of trap tags, the costs of administering and enforcing a lobster trap tag system, the costs of management of the lobster fishery and the costs associated with lobster management policy councils and referenda pursuant to section 6447. Trap tag fees must be deposited in the Lobster Management Fund established under section 6431-C.

Sec. 14. 12 MRSA §6432, sub-§2, as enacted by PL 1977, c. 661, §5, is amended to read:

2. Marking. ~~It shall be~~ is unlawful to set, raise, lift or transfer any lobster trap or buoy unless it is clearly marked with the owner's lobster and crab fishing license number or the owner's nonresident lobster and crab landing permit number.

Sec. 15. 12 MRSA §6434, sub-§4, as amended by PL 2003, c. 520, §5, is further amended to read:

4. Additional penalty. If the holder of a lobster and crab fishing license or a nonresident lobster and crab landing permit violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the commissioner as required by section 6402, subsection 1.

A penalty imposed under this subsection is in addition to any penalty imposed under section 6204.

Sec. 16. 12 MRSA §6446, sub-§1-A, as amended by PL 2005, c. 239, §3, is further amended to read:

1-A. Declared lobster zone; authorized zones.

On an application for a Class I, Class II, Class III or noncommercial lobster and crab fishing license or a nonresident lobster and crab landing permit, a person shall declare the lobster management zone in which that person proposes to fish a majority of that person's lobster traps and shall list all other zones in which that person proposes to fish any of that person's lobster traps. A Class I, Class II, Class III or noncommercial lobster and crab fishing license or a nonresident lobster and crab landing permit must identify the declared lobster zone in which the person is authorized to fish a majority of that person's lobster traps and must identify all other zones in which a person is authorized to fish that person's traps. A person may not place any lobster traps in a zone that is not identified on that person's license. For the purposes of this subsection, the majority of a person's lobster traps must be determined from the number of trap tags issued to that person.

Sec. 17. 12 MRSA §6455, sub-§5, ¶D, as amended by PL 2001, c. 226, §1, is further amended to read:

D. Wholesale seafood licenses with lobster permits, \$250; ~~and~~

Sec. 18. 12 MRSA §6455, sub-§5, ¶E, as amended by PL 2001, c. 226, §1, is further amended to read:

E. Lobster transportation licenses, \$250; and

Sec. 19. 12 MRSA §6455, sub-§5, ¶F is enacted to read:

F. Nonresident lobster and crab landing permits, \$93.75.

Sec. 20. Report. The Department of Marine Resources shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the implementation of the nonresident lobster and crab landing permit, the number of permits sold and the effect of the permit on lobster fishing efforts and Maine businesses by January 3, 2009. The joint standing committee may submit out legislation during the First Regular Session of the 124th Legislature related to that report.

See title page for effective date.