

## STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND THIRTEEN

H.P. 666 - L.D. 953

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

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

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

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

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

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

**2. Tribal exemption; sustenance or ceremonial tribal use.** Notwithstanding any other provision of law, 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 may at any time take, possess, transport and distribute:

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

B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster license issued by the tribe, nation or band or the agent of the band. The sustenance lobster license holder's traps must be tagged with sustenance use 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; however, a sustenance lobster license holder may not harvest lobsters for sustenance use with more than 25 traps; and

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

For purposes of this subsection, "sustenance use" means all noncommercial consumption or noncommercial use by any person within Passamaquoddy Indian territory, as defined in Title 30, section 6205, subsection 1, Penobscot Indian territory, as defined in Title 30, section 6205, subsection 2, ~~or~~ Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2, or Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A, or at any location within the State by a tribal member, by a tribal member's immediate family or within a tribal member's household. The term "sustenance use" does not include the sale of marine organisms.

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

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

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

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

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

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

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

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

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