

## Office of Policy and Legal Analysis

Date: February 19, 2019  
To: Joint Standing Committee on Marine Resources  
From: Deirdre Schneider, Legislative Analyst  
Re: LD 28, An Act Regarding Access to Lobster Licenses

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### Summary

This bill directs the Commissioner of Marine Resources to authorize new zone entrants for a limited-entry lobster zone who have been on a waiting list for 10 or more years and have met certain eligibility requirements regardless of any exit/entry ratio.

A person authorized as a new zone entrant under this bill is required to adhere to trap tag limits established in statute (300 trap tags in the first year, may increase up to 100 per year until reaching the maximum of 800 trap tags).

### Testimony

**Proponents:** Representative McCreight (Sponsor); Honorable Paula Sutton; Jim Anderson; Jack Merrill; William Spaulding; Holly Masterson; Evan Thompson; Joshua Cain; John Holdsworth; and James Hardison

- There are pros and cons to this proposal and it is best to listen to all opinions in order to make a good policy decision;
- Current system favors the children of current license holders;
- Zone councils have too much power to be making policy;
- Latent license holders is a huge problem that needs to be addressed;
- The whole idea of the list was to let people in, not keep them waiting for over a decade;
- It is not right to have all the qualification for a license, but not be able to receive one for over 10 years, in some cases after their own children are licensed;
- To get on the list a licensed captain has already determined a person would be a good steward of the fishery, the state is losing this generation of fishermen;
- Apprentices need the same opportunities as student license holders;
- The current system is a form of age discrimination;
- Allowing zones to determine the exit/entry ratio needs to be reexamined;
- Latent licenses skews the exit/entry ratio calculations;
- There are a lot of latent licenses and people wanting to fish are being lost because they cannot get a license;
- Child will be able to get license before father who has been fishing before the son was born, this is unfair;
- Ratio changes from zone to zone has created a backlog;
- The state is losing the experience of hardworking fishermen because student license holders are getting licenses before these other people who have been in the industry for decades; and
- This bill has more positive impacts than negative impacts.

**Opponents:** Sherman H. Hutchins II; Kristan Porter, MLA; Julie Eaton, MLU; Matthew Gilly; Donald Young; Jim Walthen; Wayne Delano; Ian Lussier; and Dustin Delano

- This issue should be left to the zone councils to resolve;
- DMR should present data to the zone councils showing how using tags for the exit/entry ratio calculations have caused backlogs and encourage the councils to use licenses as their ratio currency;
- This bill comes at a time when the fishery is facing significant challenges due to impending federal whale rules and major cuts in the bait supply – we need to keep the fishery operational and economically viable – moving forward with this proposal will harm Maine’s position in negotiating changes to lobster fishing practices;
- Adding more fishermen will exacerbate competition for a dwindling bait supply;
- This bill does not fix the limited entry program;
- Issuing more licenses will result in the issuance of more tags which be viewed as increased efforts and with looming whale rules this does not bode well for Maine;
- Should establish a wait list for students as well;
- In the late 1990’s that effort needed to be reduced – still have not met goals so it does not make sense to simply let more people into the fishery;
- This is a slippery slope – might as well open the entire fishery up if this bill is passed;
- There is unfairness in the current system, but there is only so much room to fish and areas are already overcrowded;
- May encourage more people to get on the list if they know they only have to wait ten years, thus creating a long-term problem;
- If people have been on a list for extended periods of time, they should approach their zone council and request the exit/entry ratio be changed;
- A pending federal lawsuit could trigger further management action, there is simply too much uncertainty at this time to be making major changes; and
- While licenses have decreased, tags have increased – many believe the fishery is already overcrowded.

**Neither for nor against:** Deirdre Gilbert, DMR; Virginia Olsen; and Richard Howland

- We do need to find a better way to add fairness between students and apprentices;
- It is time to examine the ratios and consider using licenses not tags;
- While the lobster resource is currently considered robust, there are other factors that need to be considered when considering changes to the law (bait shortage, whale rules – caps on endlines, trap reductions, area closures);
- Facing such potential reductions for license holders, it is difficult to defund an influx of entries;
- Bitterness remains, from the reduction of traps (existing license holder were required to give up gear, while new people entered the fishery and others increased traps, which resulted in an increase in traps – the opposite of the intent of the legislation); and
- Hold the bill over to next session- more will be known about what possible limitations the industry will be facing.

### **Stakeholder Input**

At the public hearing and subsequent to the public hearing the committee received extensive input on the issue this bill is attempting to address. Below is a summary of the input received after the public hearing from various stakeholders.

### **Will Clayton**

- The exit to entry ration should be a universal 1:1 ratio – either one license out and one license in or 800 tags out one new license granted with a 300 tag limit. Make this recommendation to the zone councils.
- Look the Limited Island Entry program because it only protects a few that are deemed “year round communities”
- Ask the zone councils to meet (and include those on the wait list in the discussions) not only on the exit to entry ration but also to discuss the latent license issue and to provide recommendations to the committee

### **Ira (Tad) Miller**

- Improvements can be made to the current system, but now is not the time due to challenges the industry faces from the reduced herring quota and pending proposals to address the North Atlantic right whale population.
- If this issue is going to be tackled a comprehensive approach that will not result in unintended consequences must be taken.

### **John Tripp**

- Now is not the time to consider allowing a surge of new licenses because of the reduction in herring quota and potential endline/trap reductions. In fact a reduction in licenses should be considered until all of this is under control.
- If the State were to rework the current system it would be important to figure out a cap on how many licenses each zone should be allowed as a baseline, and have a 1 in-1 out once it reaches that baseline to maintain that baseline.
- It is also important that if someone holds a license that they use that license. Perhaps if that license is not used for 2-3 consecutive years than that license should be given to someone who would use it.

### **Bob Baines**

- Lobstermen are currently facing two very significant obstacles (herring shortage/right whales) that could severely impact current license holders. Any increase in effort, even if small would have a negative impact on those currently vested in the industry. As compelling as the stories from those that remain on the waitlist are, there needs to be support for those vested in the industry as they navigate through current obstacles.
- While the lobster license entry program, and the lobster license system in general, has flaws -in light of the probable vertical line/trap reduction that will be imposed on our industry in 2020, it would make much more sense to not act on this bill.
- Consider a bill that would deal with vertical line/ trap reductions, the entry program, latent licenses, and latent tags in a comprehensive manner. Any one of these issues dealt with separately could have unforeseen and/or detrimental consequences. To construct a comprehensive plan would be a monumental and complex task which would have huge ramifications on the lobster industry if it is not done carefully and thoughtfully. To successfully do this would take significant time to draft and vet. It should not be done piecemeal.
- Please take into consideration the thousands of hard working men and women currently making their living in the lobster industry and task DMR, with the input of the lobster industry, to devise a plan that reflects the imminent changes to Maine's lobster industry and then bring it back to the Marine Resources Committee for deliberation.

### **Tyler Bemis**

- Issuing more licenses at a time when there is an impending bait shortage and further regulations to protect right whales is not good for anyone.

### **Jim Wotton**

- Would like to clarify that zone council members do not decide exit/entry ratios for their zone. This is done through referendum and requires a 2/3 majority of those voting to change the ratio.
- The goal has been to reduce effort and not increase it.

### **Ethan DeBery**

- Although something needs to be done to move the waitlist along, a 10 year maximum is not the way to go. With a 10 year cutoff the fishery essentially becomes open and there is no mechanism to balance the increase effort that is happening in the fishery.
- Instead consider requiring zones to use licenses as currency.
- There also needs to be a way for those on the list who remain active in the fishery to have priority on the list.
- Perhaps charge an annual fee to remain on the list as means to weed out those that are not committed. Those that remain could possibly be offered a refund of their apprentice fee if they wish to be removed (the refund could be funded by the fee required to remain on the list).

### **Brian Fellows**

- I believe at this time we need to keep the current rules in place in order to continue our reductions efforts in the lobster fishing industry. At this time, more than ever we do not need to add more pressure to this industry. Especially, with the Herring quota reduction and the upcoming new whale regulations. Adding new licenses and putting more traps in the water will be detrimental to the fishery. Passing this bill to please a “few” will in turn hurt many.

### **Kevin Glover**

- If LD 28 is passed it will set the industry back. Lobstermen have been working toward regulating effort in the fishery, both with the number of licenses and the number of traps in the water. This bill would increase both of these measures that have been put in place to regulate effort. These regulatory measures were introduced to lobstermen in previous years as something that, as a fishery, had to be done. The need to regulate effort in the lobster fishery is still very much an issue. Any increase in this effort could be detrimental to the industry and to the lobster resource.
- Lobstermen are also being faced with many changes in the near future with both the bait shortage and the whale rules. We should first see what effects these changes are going to have on the fishery before allowing any more effort into the fishery.

### **Julie Eaton**

- Latent licenses are a big issue. Perhaps require that license holders that do not show any lobster landings or less than 1000 pounds of lobster landings lose 100 tags per year after a certain amount of years. A person with less than 1000 pounds of landings does not need 800 tags.
- In this scenario the license holder would retain their license for a period of up to 8 years, this way if they wanted they could build up their tags if they started fishing again. This could be done until the 10+ years backlog has been addresses. Once the backlog is settled, then the latent license issue would be the only left to address.

### **Jim Williams**

- If those who have reached the retirement age and are not actively fishing could be encouraged to give up their license that would open new slots for those on the list. For example, ensure that those 65 and over that give up a license could get a license again if they wanted to fish again (this may be the insurance they needed to give up their license if they are currently not fishing, rather than paying yearly fees to retain a license just in case).

### **Kristofer Koerber**

- This bill, if passed, has the potential to inflict further harm on an already volatile fishery and consequently may be detrimental to those individuals it is meant to help. Reductions in herring quota and an aggressive campaign to pass regulations for protecting the Northern Right Whales will mean substantial changes to the lobster industry. These changes and the ensuing impact on the industry will likely not be fully understood for some years but one could safely predict that there will be a heavy financial toll causing many fishermen to abandon their livelihood because they will be unable to continue operating their business as the means for supporting themselves and their family.
- Entry into the fishery needs to be addressed, but now is not the right time.

### **Sheila Dassatt, Downeast Lobsterman's Association**

- The bill has merit, but needs more work to make it fair for all. This may be more of a zone issue than something impacting the entire industry
- The timing of this is not the best considering the whale rules and other potential impacts the industry may be facing.

### **Jason Ludwig**

- The current system is clearly unfair and biased towards those already holding a license. This legislation is needed to help the underdog break the glass ceiling.

### **Jack Merrill**

- Passage of L.D. 28 will have zero impact on federal or ASMFC decisions. The tags issued would represent much less than one half of one percent of state tags. The impact on the industry is negligible, but the impact on the lives of these individuals who have already waited for at least 12 years would be astronomical.
- For the long term success of the business there needs to be an entry system that allows people into the business in a reasonable time period. Qualifying in your mid-20's and having to wait until your own children get licenses ahead of you is not reasonable.

### **William Spaulding**

- There is a lack of equity and there is unfairness in Maine's Commercial Lobster Licensing system. For example, the Apprentice Program looks like a program to give current license holders all the decision making power over who can get a lobster license and who can't and seems like a program designed by current license holders to allow their children to get into the business while keeping everyone else out.
- Repeat offenders that have their licenses suspended should have to go to the bottom of the list and wait like everyone else instead of being able to go back to fishing after the suspension ends.
- Drug and alcohol abuse should be treated like it is in the commercial transportation industries and the military. A drug free urine test should be a requirement for obtaining any DMR license and

random drug testing on demand of the DMR Commissioner should be an agreed condition of licensing.

### **Sam Merrill**

- In some cases it is difficult for someone at a young age to know if they want to become a lobsterman so in those cases the student license does not necessarily provide that opportunity to get a license and this is especially true for those that were too old to take advantage of the increase in age for a student license that was amended some years ago. The apprenticeship program simply isn't a reliable way into the business. It makes it difficult to plan a future without some sort of guarantee or finality to the program. The process itself is stringent enough since multiple lobstermen must approve of them, and take them under their wing teaching them the nuances of the craft for over 2 years. However, many new license owners don't get selected based on experience or talent like other industries, but simply if you complete a checklist at an early age. This also undermines the entire "overfishing" problem I've heard my entire life, because an unlimited number of students are let in every year.
- It is shocking that someone could enter the fishery as a student with such a lack of knowledge. The numerous challenges that lobstering poses are a lot different than those faced in a small skiff within a mile from shore. One's depth of knowledge, with years of experience as a stern man in the industry is vastly superior to when that same person was 18. Going through this makes someone a better fisherman. Having a shortened waiting time would be a way to legitimize the limited entry process. A possible idea is to make the apprenticeship program itself more rigorous and lengthier. Upon completion, one would automatically qualify, just like a student.