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An Act To Provide Flexibility within the Monhegan Lobster Conservation Area and To Strengthen the Eligibility Requirements for a Student Lobster Fishing License

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this measure proposes to change the open season for lobstering in the Monhegan Lobster Conservation Area; and

Whereas, unless this legislation is enacted as an emergency measure, the new season will begin before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6421, sub-§5-A, as amended by PL 2005, c. 239, §1, is further amended to read:

5-A. Student license eligibility. A student license may be issued only to a person who, at the time of application, is a full-time student 8 years of age or older and under 23 years of age. For the purposes of this subsection, "full-time student" means:

- A. A person attending a public day school in accordance with the attendance requirement of Title 20-A, section 5001-A, subsection 1;
- B. A person meeting the requirements of an alternative to attendance at public day school in accordance with Title 20-A, section 5001-A, subsection 3; or
- C. A person enrolled in and meeting the requirements of a full-time course of study at a college or university 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 5 months and if it is shown that the person has a bona fide intention of continuing to pursue a full-time course of study during the semester or other enrollment period immediately following the interim period. For purposes of this subsection, "full-time course of study" means at least 60% of the usual course load for the program in which the person is enrolled.

The commissioner may revoke a student license of an individual who has ceased to be a full-time student.

Sec. 2. 12 MRSA §6472, as enacted by PL 1997, c. 574, §4, is amended to read:

§ 6472. Closed and open seasons; trap limit

1. Closed season. It is unlawful for a person to fish for or take lobsters in the Monhegan Lobster Conservation Area from June 26th to ~~November 30th~~ August 31st, both days inclusive, and on any day not included in the open season established by the commissioner under subsection 2.

2. Open season. The commissioner shall ~~annually by November 1st~~ establish by rule an open season of ~~180 consecutive~~ not to exceed 250 days between ~~December~~ October 1st and the following June 25th during which a person may fish for or take lobsters in the Monhegan Lobster Conservation Area.

A. Before establishing or amending the open season under this section, the commissioner shall determine the open season preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474. The commissioner may accept the preferences proposed by 2/3 of the registrants as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for Zone D before making this decision.

B. In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052.

C. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule establishing the open lobster season in the Monhegan Lobster Conservation Area.

D. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this subsection without the advice and consent of the Marine Resources Advisory Council. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.

3. Trap limit. The commissioner shall establish by rule a trap limit for the open season established pursuant to subsection 2. The trap limit may not exceed 475 traps per individual registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474.

A. Before establishing or amending the trap limit under this subsection, the commissioner shall determine the trap limit preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474. The commissioner may accept the preferences proposed by 2/3 of the registrants as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for Zone D before making this decision.

B. In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052.

C. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule establishing the trap limit in the Monhegan Lobster Conservation Area.

D. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this subsection without the advice and consent of the Marine Resources Advisory Council. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA §6475, sub-§1, ¶B, as enacted by PL 1997, c. 574, §4, is amended to read:

B. A person fulfills the time requirements of a Monhegan Lobster Conservation Area apprenticeship if, after November 30, 1998, that person serves for ~~150~~200 fishing days during a minimum period of 24 months in the Monhegan Lobster Conservation Area on a vessel operated by a Monhegan Lobster Conservation Area trap tag registrant who agrees to sponsor that person as an apprentice. For the purposes of this subsection, a "fishing day" means 5 hours or more in a calendar day of lobster-fishing-related activity. The commissioner shall administer the apprenticeship pursuant to rules adopted under section 6422 regarding an apprentice log book and educational courses. A person completes a Monhegan Lobster Conservation Area apprenticeship upon presentation to the commissioner of a validated log book that documents that person meets the requirements of this paragraph.

Sec. 4. 12 MRSA §6475, sub-§5 is enacted to read:

5. Registrants exiting the Monhegan Lobster Conservation Area. A person who is registered to fish within the Monhegan Lobster Conservation Area and who no longer wishes to fish there may exit the area at the end of the registration period established in this section in the following manner:

A. A person who has been registered for a period of not less than 5 open seasons and who can document to the commissioner that that person has harvested lobsters in each of 5 open seasons may exit the Monhegan Lobster Conservation Area and fish elsewhere in Zone D without going on a waiting list as established in section 6448.

B. A person who has been registered for a period of less than 5 open seasons or who cannot document to the commissioner that that person harvested lobsters in at least 5 open seasons may exit the Monhegan Lobster Conservation Area and become eligible to fish elsewhere in Zone D if that person complies with the waiting list requirement established in accordance with section 6448.

Sec. 5. Report. The Commissioner of Marine Resources shall report on the implementation, enforcement and results from the changes to the lobster and crab fishing season and trap limits for Monhegan Lobster Conservation Area under this Act to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15, 2011. The joint standing committee of the Legislature having jurisdiction over marine resources matters may submit legislation related to that report.

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

Effective June 4, 2007.