



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 392

H.P. 283

House of Representatives, February 7, 2017

An Act Regarding Legal Lobster Haul Times outside of the 3-mile Line

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TUELL of East Machias. (BY REQUEST)

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

2 **Sec. 1. 12 MRSA §6302-A, sub-§2,** as amended by PL 2013, c. 254, §2, is
3 further amended to read:

4 **2. Tribal exemption; sustenance or ceremonial tribal use.** Notwithstanding any
5 other provision of law, a member of the Passamaquoddy Tribe, Penobscot Nation,
6 Aroostook Band of Micmacs or Houlton Band of Maliseet Indians who is a resident of
7 the State may at any time take, possess, transport and distribute:

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

12 B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster
13 license issued by the tribe, nation or band or the agent of the band. The sustenance
14 lobster license holder's traps must be tagged with sustenance use trap tags issued by
15 the tribe, nation or band or the agent of the band in a manner consistent with trap tags
16 issued pursuant to section 6431-B; however, a sustenance lobster license holder may
17 not harvest lobsters for sustenance use with more than 25 traps; and

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

24 For purposes of this subsection, "sustenance use" means all noncommercial consumption
25 or noncommercial use by any person within Passamaquoddy Indian territory, as defined
26 in Title 30, section 6205, subsection 1, Penobscot Indian territory, as defined in Title 30,
27 section 6205, subsection 2, Aroostook Band Trust Land, as defined in Title 30, section
28 7202, subsection 2, or Houlton Band Trust Land, as defined in Title 30, section 6203,
29 subsection 2-A, or at any location within the State by a tribal member, by a tribal
30 member's immediate family or within a tribal member's household. The term "sustenance
31 use" does not include the sale of marine organisms.

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

1 municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy
2 Tribe, Penobscot Nation, Aroostook Band of Micmacs or Houlton Band of Maliseet
3 Indians who fishes for or takes lobster under a license or permit issued pursuant to this
4 subsection must comply with the closed periods under section ~~6440~~ 6440-A.

5 **Sec. 2. 12 MRSA §6440**, as amended by PL 2001, c. 123, §1, is repealed.

6 **Sec. 3. 12 MRSA §6440-A** is enacted to read:

7 **§6440-A. Closed periods**

8 **1. Summer and weekends.** Except as provided in subsection 2, a person may not
9 raise or haul a lobster trap:

10 A. During the period 1/2 hour after sunset until 1/2 hour before sunrise from June 1st
11 to October 31st; and

12 B. During the period from 4 p.m., Eastern Daylight Saving Time, Saturday, to 1/2
13 hour before sunrise the following Monday morning from June 1st to August 31st,
14 except that it is lawful to raise or haul traps during this period if a hurricane warning
15 issued by the National Weather Service is in effect for any coastal waters of the State.

16 **2. Exception.** Notwithstanding subsection 1, a person may raise or haul a lobster
17 trap during any time of day and on any day of the year in waters seaward of the territorial
18 waters if the person:

19 A. Holds a lobster and crab fishing license issued under section 6421 that identifies
20 the lobster management zone that terminates at its easternmost point at the
21 international boundary line of Canada and the United States as the license holder's
22 declared lobster zone; and

23 B. Holds a federal permit to fish for lobsters beyond the State's territorial waters.

24 **Sec. 4. 12 MRSA §6447, sub-§5**, as amended by PL 2015, c. 68, §6, is further
25 amended to read:

26 **5. Council authority.** Upon approval in a referendum under subsection 6, a lobster
27 management policy council may propose to the commissioner rules for a zone to place
28 the following limitations on lobster and crab fishing license holders that fish in that zone,
29 as long as the proposed limitations are equal to or stricter than the limitations under
30 section 6431-A or ~~6440~~ 6440-A:

31 A. The number of lobster traps fished and the time periods allowed for complying
32 with that number;

33 B. The number of lobster traps allowed on a trawl; and

34 C. The time of day when lobster fishing may occur.

SUMMARY

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This bill allows a person who holds a State-issued lobster and crab fishing license who has declared the easternmost lobster management zone as that person's declared lobster zone and who holds a federal permit to fish for lobster to raise or haul a lobster trap during any time of day and on any day of the year seaward of the State's territorial waters.