

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

—
H.P. 1026 - L.D. 1503

An Act To Amend Lobster and Crab Fishing License Laws

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 legislation amends the laws governing lobster and crab fishing licenses; and

Whereas, this legislation needs to take effect before the upcoming fishing season starts; 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Sec. 1. 12 MRSA §6421, sub-§5-A, as amended by PL 2007, c. 219, §1, is repealed and the following enacted in its place:

5-A. Student lobster and crab fishing license eligibility. A student lobster and crab fishing license may be issued to a person who, at the time of application, is 8 years of age or older and under 23 years of age and who is:

A. Attending a public day school in accordance with the attendance requirement of Title 20-A, section 5001-A, subsection 1;

B. Meeting the requirements of an alternative to attendance at a public day school in accordance with Title 20-A, section 5001-A, subsection 3; or

C. Enrolled in and meeting the requirements of a half-time course of study at a postsecondary institution 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 6 months and if it is shown that the person has a bona fide intention of continuing to pursue a half-time course of study during the semester or other enrollment period immediately following the interim period. For purposes of this subsection, "half-time course of study" means at least 50% of the usual course load for the program in which the person is enrolled.

The commissioner may revoke a student lobster and crab fishing license of an individual who has ceased to meet the requirements of this subsection.

Sec. 2. 12 MRSA §6422, sub-§5 is enacted to read:

5. Prohibition. Rules adopted under this section may not require a person who has registered to enter an established island limited-entry zone program as described under section 6449 to apprentice in the zone in which the island limited-entry zone program is located.

Sec. 3. 12 MRSA §6447, sub-§9 is enacted to read:

9. Notice. When a meeting of a lobster management policy council includes as an agenda item a proposal that, if adopted, would affect the ability of a person who does not hold a lobster and crab fishing license to participate in the lobster and crab fishing industry, including but not limited to a proposal regarding exit ratios under section 6448, the agenda must be posted publicly at least 7 days in advance of the meeting.

Sec. 4. 12 MRSA §6448, sub-§2, ¶A-1, as enacted by PL 2013, c. 239, §2, is amended to read:

A-1. A lobster management policy council may recommend to the commissioner whether the exit ratio adopted for a lobster management zone should be applied to the number of licenses that are not renewed or to the number of trap tags associated with the licenses that are not renewed. A lobster management policy council may recommend that an exit ratio applied to the number of trap tags associated with licenses that are not renewed that meets the requirements of paragraph C be applied retroactively to a licensing year in which the exit ratio in that zone was based upon the number of trap tags retired. The lobster management policy council is not required to submit the recommendation to referendum.

Sec. 5. 12 MRSA §6448, sub-§2, ¶C, as amended by PL 2013, c. 239, §2, is further amended to read:

C. In accordance with subsection 7-A, the commissioner shall adopt rules that establish an exit ratio between either:

- (1) The number of trap tags retired by individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of trap tags issued to new zone entrants authorized under subsection 7-A; or

(2) The number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of new zone entrants authorized under subsection 7-A.

The number of trap tags retired under subparagraph (1) must be considered to be the total of the greatest number of trap tags purchased in any prior year under each license that is not renewed, up to the current zone maximum.

An exit ratio established by rule under this subsection is not required to be the same as the exit ratio proposed by the lobster management policy council.

Sec. 6. 12 MRSA §6448, sub-§6, as amended by PL 1999, c. 693, §2, is repealed and the following enacted in its place:

6. Waiting lists. The commissioner shall maintain and make available waiting lists as follows:

A. A waiting list of persons who did not hold a lobster and crab fishing license in the previous licensing year who have requested to declare a limited-entry zone as their declared lobster zone. The list must be arranged in chronological order in accordance with subsection 5; and

B. A waiting list of persons who held a lobster and crab fishing license in the previous licensing year who have requested to declare a limited-entry zone as their declared lobster zone. The commissioner shall adopt rules to administer entry of persons on the list established under this paragraph into limited-entry zones.

The commissioner shall create a waiting list for a zone at the time the commissioner closes the zone pursuant to subsection 2, paragraph D.

Sec. 7. 12 MRSA §6448, sub-§6-A is enacted to read:

6-A. Periodic verification of waiting list. The commissioner shall verify at least once every 3 years that each person who is listed on a waiting list established under subsection 6 wishes to remain on the waiting list. To verify that a person wishes to remain on a waiting list, the commissioner must attempt to contact the person by regular mail, telephone or e-mail. If a person does not respond within 60 days of the initial attempt to contact, a notice must be sent by certified mail informing the person that a response is required within 30 days from the date of mailing. The commissioner shall remove a person from a waiting list who does not respond to the notice sent by certified mail within 30 days after the date of mailing. The commissioner may place a person who has been removed from a waiting list pursuant to this subsection back on a waiting list in the position where the person would otherwise have been when the person shows that the reason for not responding was that the person was on active duty with the Armed Forces of the United States or the National Guard.

Sec. 8. 12 MRSA §6448, sub-§7-A, as enacted by PL 2013, c. 239, §5, is amended to read:

7-A. Authorization of new zone entrants. The commissioner shall determine by ~~February~~ April 1st of each licensing year the number of new zone entrants that may be authorized for each limited-entry zone. The number of new zone entrants authorized in a licensing year must be in accordance with the exit ratio established under subsection 2 for that zone. The commissioner may adopt rules consistent with subsection 2, paragraph B to implement this subsection. Upon adoption of rules, the exit ratio must be used to establish the number of new zone entrants in accordance with subsection 2, paragraph C by:

A. Dividing the number of trap tags that may be issued to new zone entrants by the zone trap limit under section 6431-A. The number of new zone entrants must be rounded down to the nearest whole number and the remaining trap tags carried over to the following year's allocation; or

B. Applying the exit ratio to the number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year.

The commissioner shall authorize new zone entrants in chronological order of requests received under subsection 5. The commissioner shall notify the authorized new zone entrants by certified mail. If a person does not declare a zone within 30 days after receiving the notification by certified mail, that person must be taken off the waiting list and the next person on the list must be authorized as a new zone entrant. If a person has indicated a request for more than one zone pursuant to subsection 5, that person must be taken off the waiting list for the 2nd zone when the person declares one of the zones as that person's declared lobster zone after being authorized to do so. If a person who holds a current Class I, Class II or Class III lobster and crab fishing license is authorized as a new zone entrant and declares the zone as that person's declared lobster zone, the commissioner shall change the zone identified on that person's license to the limited-entry zone for which the person is authorized.

Sec. 9. 12 MRSA §6448, sub-§8, ¶¶A-2 and A-3 are enacted to read:

A-2. A person under 20 years of age may declare any zone as that person's declared lobster zone if the person:

- (1) Successfully completed the requirements of the apprentice program under section 6422;
- (2) Submitted documentation of completion of the apprentice program to the department before attaining 20 years of age;
- (3) Received a high school diploma or a high school equivalency diploma; and
- (4) Has met all apprentice program rules that may have been adopted in that zone.

A-3. A person under 23 years of age may declare any zone as that person's declared lobster zone if the person:

- (1) Has logged time fishing in the apprentice program in accordance with section 6422 before attaining 18 years of age;

(2) Successfully completed the requirements of the apprentice program under section 6422;

(3) Submitted documentation of completion of the apprentice program to the department before attaining 23 years of age;

(4) Is enrolled in and meeting the requirements of a half-time course of study as defined in section 6421, subsection 5-A at a postsecondary institution accredited by a state-recognized accrediting agency or body;

(5) Has met all apprentice program rules that may have been adopted in that zone; and

(6) Has been eligible for a student lobster and crab fishing license since before that person attained 18 years of age and has been eligible for that license in each licensing year thereafter.

Sec. 10. 12 MRSA §6449, sub-§1, as amended by PL 2013, c. 239, §8, is further amended to read:

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7-A, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If ~~2/3~~ a majority of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by ~~2/3~~ a majority of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by ~~2/3~~ a majority of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

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