

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Provide Flexibility within the Monhegan Island Lobster Conservation Area To Ensure the Viability of the Island Community

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 §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~~not to exceed 270 consecutive days between ~~December~~September 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.

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.

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.

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

SUMMARY

This bill makes several changes to the laws governing lobstering in the Monhegan Lobster Conservation Area. Specifically, the bill accomplishes the following.

1. It changes the parameters of the open season that the Commissioner of Marine Resources establishes by rule from a period of 180 days between December 1st and June 25th to a period of not more than 270 days between September 1st and June 25th.

2. It charges the commissioner with establishing by rule a trap limit for the area not to exceed 475 traps per individual. The same procedural guidelines in place for establishing the open and closed seasons will also apply to setting the trap limit:

A. Two thirds of the individuals registered to obtain area trap tags must agree with the limit;

B. A public hearing is not required;

C. No one may petition for adoption or modification of a rule establishing the trap limit; and

D. The commissioner need not have the advice and consent of the Marine Resources Advisory Council to adopt the limit.