

PLEASE NOTE: The Office of the Revisor of Statutes **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
123rd Legislature
First Regular Session

Chapter 204
H.P. 392 - L.D. 509

An Act To Amend Laws Pertaining to Entry into the Lobster Fishery

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

Sec. 1. 12 MRSA §6421, sub-§5, as amended by PL 2005, c. 354, §1, is further amended to read:

5. Eligibility. A noncommercial or student lobster and crab fishing license may only be issued to an individual who is a resident. A Class I, Class II or Class III license may be issued to a person 17 years of age or older only if the person:

- A. Possessed a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year;
- C. Meets the requirements of the apprentice program under section 6422 or section 6475; or
- D. Did not possess a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year because the commissioner had suspended the person's license privileges for a length of time that included the previous calendar year.

Notwithstanding the age requirements of this subsection, a person who holds a Class I, Class II or Class III license on December 31, 2007 may continue to be issued a Class I, Class II or Class III license provided that person continues to meet the requirements of paragraph A.

Sec. 2. 12 MRSA §6446, sub-§2, as amended by PL 2005, c. 202, §1, is further amended to read:

2. Rules for zones. The commissioner may adopt rules for a zone established under subsection 1 that are proposed pursuant to section 6447, subsection 5 ~~or~~, section 6447, subsection 5-C or section 6447, subsection 5-D only when the rules were proposed by the lobster management policy council established for that zone pursuant to section 6447, subsection 1 and the proposed rules were approved in a referendum pursuant to section 6447, subsection 6. The commissioner may accept the rules proposed by a lobster management policy council as reasonable and adopt those rules or reject the council's proposed rules as unreasonable. The rules adopted under this subsection by the commissioner must accurately reflect the intent of the rules proposed by a lobster management policy council but are not required to be a verbatim rendition of the proposed rules.

Sec. 3. 12 MRSA §6447, sub-§5-D is enacted to read:

5-D. Council authority; under 18 waiting list. Notwithstanding any other provision in this subchapter and upon approval in a referendum under subsection 6, a lobster management policy council in a limited-entry zone may propose to the commissioner that the limitation described in this subsection be placed on entry by individuals into that zone in accordance with rules adopted by the department.

This limitation would require that the number of individuals who are authorized to be issued a lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements of section 6448, subsection 4, in accordance with section 6448, subsection 8, paragraph A, be limited to the number of new zone entrants who enter that zone in accordance with section 6448, subsection 7.

The commissioner shall maintain a waiting list of individuals who have identified the limited-entry zone as their declared lobster zone in accordance with section 6448, subsection 8, paragraph A. For the purposes of this subsection, an individual on a waiting list maintained by the commissioner does not need to meet the eligibility requirements of section 6421, subsection 5-A in order to purchase a student license.

The commissioner may establish by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 12 MRSA §6448, sub-§2, ¶C, as amended by PL 2005, c. 239, §4, is further amended to read:

C. Rules adopted under this subsection mustIn accordance with subsection 7, the commissioner shall adopt rules that establish an exit ratio between 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. 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. 5. 12 MRSA §6448, sub-§2, ¶D, as enacted by PL 1999, c. 508, §3, is amended to read:

D. Upon written notification from the lobster management policy council that a majority of the council has voted to conduct a survey in a zone regarding a proposal for an exit ratio to limit new zone entrants to the zone, the commissioner shall close the zone to new zone entrants until the commissioner either adopts rules under this subsection or declares that the commissioner will not initiate rulemaking under this subsection. In no event may the zone remain closed for longer than one year unless the commissioner has adopted rules establishing limits on new zone entrants to the zone. This paragraph does not apply to surveys conducted in accordance with subsection 10.

Sec. 6. 12 MRSA §6448, sub-§2, ¶E, as enacted by PL 2005, c. 239, §4 and as affected by §11, is amended to read:

E. When a lobster management policy council proposes to the commissioner a change in the exit ratio established under paragraph C and a new exit ratio is adopted by rule under this subsection, the commissioner shall allow individuals who meet the following conditions to enter the zone in accordance with the previously existing exit ratio:

(1) The individual has completed the requirements of the apprenticeship program established under section 6422 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D; and

(2) The individual's name is listed on the waiting list maintained under subsection 6 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D.

This paragraph does not apply when an exit ratio based on the number of trap tags retired is adopted, in accordance with paragraph C, for the first time in a lobster management zone.

Sec. 7. 12 MRSA §6448, sub-§7, as amended by PL 1999, c. 693, §2, is further amended to read:

7. Authorization of new zone entrants. The commissioner shall determine by February 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. Upon completion of the survey required under subsection 10, the commissioner may adopt rules in accordance with subsection 2, paragraph C. Upon adoption of these rules, the exit ratio must be used to establish the number of trap tags that may be issued to new zone entrants. The number of new zone entrants must be determined by dividing the number of trap tags that may be issued to new zone entrants by the zone trap limit as described 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. 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 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. 8. 12 MRSA §6448, sub-§8, as repealed and replaced by PL 1999, c. 643, §7, is amended to read:

8. Exceptions. Notwithstanding subsection 4, the following persons may be issued a Class I, Class II or Class III lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements in subsection 4.

~~A. A person who is issued a Class I lobster and crab fishing license and who is under 18 years of age or is 70 years of age or older~~A person who is under 18 years of age who successfully completed the requirements of the apprentice program under section 6422 or 6475 and who submitted documentation of completion of the apprentice program to the department before attaining 18 years of age may declare any zone as that person's declared lobster zone as long as the individual has met all apprentice program rules that may have been adopted in that zone.

A-1. A person who is issued a Class I lobster and crab fishing license and is under 18 years of age may declare any zone as that person's declared lobster zone if that person lives on a year-round basis on an island within the coastal waters that is not connected to the mainland by any man-made structure.

B. A person who is issued a Class I, Class II or Class III lobster and crab fishing license on appeal pursuant to section 6310, subsection 2, paragraph A, subparagraph (1) or (2) may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license.

C. A person who is issued a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, paragraph D may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license.

D. A person who is issued a Class I, Class II or Class III lobster and crab fishing license and is 70 years of age or older may declare any zone as that person's declared lobster zone.

~~A~~The trap tags issued to a person who declares a limited-entry zone as that person's declared lobster zone pursuant to this subsection may not be counted for the purposes of the exit ratio or the number of new zone entrants that may be authorized for that zone.

Sec. 9. 12 MRSA §6448, sub-§10 is enacted to read:

10. Survey required. A lobster management policy council in a limited-entry zone as of September 1, 2007 must conduct a written survey in its zone pursuant to subsection 2 prior to September 1, 2008 in order to allow the council to recommend to the commissioner an exit ratio based on trap tags. Failure of a lobster management-policy council in a limited-entry zone to conduct this survey and submit its recommendation to the commissioner by September 15, 2008 will result in the commissioner's adopting an exit-to-entry ratio of trap tags retired to trap tags issued of 1:1 for that zone until such a survey is conducted.

Effective September 20, 2007