

APPROVED
MARCH 22, 2014
BY GOVERNOR

CHAPTER
492
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

H.P. 1176 - L.D. 1604

An Act To Make Technical Changes to Marine Resources 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, the 2014 elver fishing season begins at noon on March 22, 2014, and this legislation makes changes to the elver fishing licensing laws that need to take effect in time for the 2014 season; 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 §6301, sub-§2, ¶U, as corrected by RR 2009, c. 2, §24, is amended to read:

U. A limited wholesale shellfish harvester's license issued under section 6851-A expires on March 31st of each year; ~~and~~

Sec. 2. 12 MRSA §6301, sub-§2, ¶V, as reallocated by RR 2009, c. 2, §22, is amended to read:

V. A lobster processor license issued under section 6851-B expires on March 31st of each year; ~~and~~

Sec. 3. 12 MRSA §6301, sub-§2, ¶W is enacted to read:

W. A commercial green crab only license issued under section 6808 expires on April 30th of each year.

Sec. 4. 12 MRSA §6407, as enacted by PL 1977, c. 661, §5, is amended to read:

§6407. Conviction or adjudication; juvenile offense; failure to appear

Under this chapter:

1. Conviction or adjudication. ~~A judgment of guilt shall be considered a~~ A conviction of a crime is considered a conviction and an adjudication of a civil violation is considered an adjudication during the pendency of appeal;

2. Juvenile offense. A conviction as of a juvenile offense ~~shall be~~ is considered a conviction; and

3. Failure to appear. Failure to appear in court when properly summoned ~~shall be~~ is considered a conviction.

Sec. 5. 12 MRSA §6455, sub-§5-A, ¶¶B, C and D, as enacted by PL 2013, c. 309, §2, are amended to read:

B. For the year 2014 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$55.25;
- (2) Class II lobster and crab fishing licenses, \$110.50, except that for license holders 70 years of age or older the surcharge is \$55;
- (3) Class III lobster and crab fishing licenses, \$160.75, except that for license holders 70 years of age or older the surcharge is \$80;
- (4) Nonresident lobster and crab landing permits, ~~\$425~~ \$160.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$400;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:
 - (a) Six hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) Eight hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) One thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$333 if less than 1,000,000 pounds of raw product is processed, and \$1,333 if 1,000,000 pounds or more of raw product is processed.

C. For the year 2015 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$110.25;
- (2) Class II lobster and crab fishing licenses, \$220.50, except that for license holders 70 years of age or older the surcharge is \$110;
- (3) Class III lobster and crab fishing licenses, \$320.75, except that for license holders 70 years of age or older the surcharge is \$160;
- (4) Nonresident lobster and crab landing permits, ~~\$850~~ \$320.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$800;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:
 - (a) One thousand two hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) One thousand six hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) Two thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$666 if less than 1,000,000 pounds of raw product is processed, and \$2,666 if 1,000,000 pounds or more of raw product is processed.

D. For the years 2016 to 2018 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$165.25;
- (2) Class II lobster and crab fishing licenses, \$330.50, except that for license holders 70 years of age or older the surcharge is \$165;
- (3) Class III lobster and crab fishing licenses, \$480.75, except that for license holders 70 years of age or older the surcharge is \$240;
- (4) Nonresident lobster and crab landing permits, ~~\$1,275~~ \$480.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$1,200;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:

- (a) One thousand eight hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) Two thousand four hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) Three thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$1,000 if less than 1,000,000 pounds of raw product is processed, and \$4,000 if 1,000,000 pounds or more of raw product is processed.

Sec. 6. 12 MRSA §6535, sub-§2, ¶¶A and B, as enacted by PL 2013, c. 282, §5, are amended to read:

A. A diving tender licensed under this section may not sell sea urchins or scallops unless the person:

- (1) Sells sea urchins ~~or scallops~~ to a purchaser who holds a valid wholesale seafood license with a sea urchin buyer's permit or a valid wholesale seafood license with a sea urchin processor's permit or a valid retail seafood license or sells scallops to a purchaser who holds a valid wholesale seafood license or a valid retail seafood license; and
- (2) Provides to the purchaser the name and license number of the license holder with whom the person was engaged when the sea urchins or scallops were harvested.

B. A holder of a wholesale seafood license, a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases scallops or sea urchins from a diving tender licensed under this section may not purchase the sea urchins or scallops except by check or cashier's check unless there is a written receipt associated with the transaction, and the holder of a wholesale seafood license, a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases scallops or sea urchins from a licensed diving tender shall report the information provided by the person under paragraph A, subparagraph (2) in accordance with section 6173.

Sec. 7. 12 MRSA §6702, sub-§4, as amended by PL 2013, c. 301, §15, is further amended to read:

4. Personal use exception. In any one day, a person licensed pursuant to section 6703 may take or possess not more than ~~one bushel~~ 1 1/2 bushels of shell scallops or one gallon of shucked scallops for personal use without a scallop dragging license under this section.

Sec. 8. 12 MRSA §6703, sub-§3, as amended by PL 2013, c. 301, §16, is further amended to read:

3. License limitation; quantity. In any one day, the holder of a noncommercial scallop license may not take or possess more than ~~one bushel~~ 1 1/2 bushels of shell scallops or one gallon of shucked scallops.

Sec. 9. 12 MRSA §6808, sub-§4, as amended by PL 2009, c. 229, §19, is further amended to read:

4. Exemptions. Notwithstanding subsection 1, a license is not required to fish for, take, possess or transport green crabs for personal use if the green crabs are taken by a method exempted under section 6501, subsection 3, paragraph A. A municipality or the holder of an aquaculture lease or license that harvests green crabs under authorization from the department is not required to have a commercial green crab only license as long as the harvesting of green crabs occurs under supervision of the municipality or the holder of an aquaculture lease or license. Notwithstanding subsection 1, any individual licensed to fish for lobster and crab pursuant to section 6421, subsection 1, paragraph A, B, C or E may also fish for or take green crabs and possess, ship, transport or sell green crabs that the license holder has taken. In accordance with section 6853, the holder of a marine worm dealer's license is not required to have a commercial green crab only license to buy, possess, ship, transport or sell green crabs for a purpose other than for human consumption. In accordance with section 6851, the holder of a wholesale seafood dealer's license is not required to have a commercial green crab only license to buy, possess, ship, transport or sell green crabs.

Sec. 10. 12 MRSA §6808, sub-§6, as amended by PL 2009, c. 213, Pt. G, §33, is further amended to read:

6. Fees. The fee for a commercial green crab only license is ~~\$38~~ \$10 for a resident license and ~~\$76~~ \$20 for a nonresident license, which authorizes the license holder to engage in the licensed activities under subsection 2.

Sec. 11. 12 MRSA §6808, sub-§7, as amended by PL 2009, c. 213, Pt. G, §34, is further amended to read:

7. Disposition of fees. Fees for commercial green crab only licenses must be deposited in the Green Crab Management Fund established in section 6809 as follows:

- A. ~~Thirty three~~ Eight dollars for a resident commercial green crab only license; and
- B. ~~Sixty six~~ Sixteen dollars for a nonresident commercial green crab only license.

Sec. 12. 12 MRSA §6851, sub-§2, as amended by PL 2011, c. 598, §41, is further amended to read:

2. License activities. The holder of a wholesale seafood license may, in the wholesale or retail trade:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, except lobsters and sea urchins and shrimp purchased directly from harvesters;

B. Within or beyond the state limits, buy, sell, shuck, pack, ship or, within the state limits, transport fresh or frozen shellfish, except lobsters, to the extent these activities are expressly authorized by a shellfish certificate issued under section 6856; ~~or~~

D. Buy, sell, process, ship or, within the state limits, transport crayfish; and

E. Within or beyond the state limits, buy, possess, ship, transport or sell green crabs without a commercial green crab only license issued under section 6808.

A holder of a wholesale seafood license when buying directly from a harvester may buy only from a harvester who possesses the license or permit for that species as required under this Part. The harvester shall make the applicable marine resources license or permit available for inspection upon the wholesale seafood license holder's request.

Sec. 13. 12 MRSA §6852, sub-§2-A, as enacted by PL 2011, c. 598, §44, is amended to read:

2-A. Enhanced retail certificate authorized. The holder of a retail seafood license may obtain an enhanced retail certificate from the department. The holder of an enhanced retail certificate may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock bought from a commercial shellfish license holder licensed under section 6601;

B. Shellstock bought from a surf clam boat license holder licensed under section 6602;

C. Shellstock bought from a mahogany quahog license holder licensed under section 6731; or

D. Shellstock bought from a hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746.

For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access an establishment or part thereof ~~or vehicle~~ in which activities authorized under this certificate are conducted by a person holding a retail seafood license. Denial of access is grounds for suspension or revocation of a retail seafood license under the provisions of section 6372. The holder of an enhanced retail certificate may not designate a vehicle as that person's establishment.

Sec. 14. 12 MRSA §6853, as amended by PL 2009, c. 213, Pt. G, §39 and c. 478, §4, is further amended to read:

§6853. Marine worm dealer's license; green crab authorizations

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Marine worm dealer's license;

- B. Supplemental marine worm dealer's license; or
- C. Other license issued under this Part authorizing the activities.

2. Licensed activity. The holder of a marine worm dealer's license may buy, possess, ship, transport or sell marine worms. The holder of a marine worm dealer's license may also buy, possess, ship, transport or sell green crabs for a purpose other than for human consumption without a commercial green crab only license issued under section 6808.

3. License limited. A license authorizes these activities at only one establishment or with only one vehicle.

4. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle.

5. Eligibility. The marine worm dealer's license is a resident license.

6. Fee. The fee for a marine worm dealer's license is \$64 and the fee for a supplemental license is \$26.

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

A holder of a license required under this section when buying marine worms directly from a harvester may buy only from a harvester who possesses a marine worm digger's license under section 6751, and when buying green crabs from a harvester may buy only from a harvester who possesses a commercial green crab only license issued under section 6808. The harvester shall make the marine worm digger's license or commercial green crab only license available for inspection upon the license holder's request.

Sec. 15. 12 MRSA §6864, sub-§1-A, as enacted by PL 2013, c. 301, §20, is amended to read:

1-A. Limits on issuance. The department may not issue an elver dealer's license or a supplemental license ~~for the following licensing year~~ after February 1st of the current licensing year.

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