§6455-A. Maine Lobster Marketing Collaborative

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/28)

(WHOLE SECTION TEXT REPEALED 12/31/28)

1. Collaborative established; purpose. The Maine Lobster Marketing Collaborative, established in Title 5, section 12004-H, subsection 14-A and referred to in this subchapter as "the collaborative," is created to promote and market actively Maine lobsters in state, regional, national and international markets. The collaborative shall draw upon the expertise of the Maine lobster industry and established private marketing firms to identify market areas that will provide the greatest return on the investments made by lobster license holders and undertake those media or promotional efforts that represent the most cost-effective use of a limited promotional budget. The collaborative shall remain responsive to the Maine lobster industry, conduct its business in a public manner and undertake marketing efforts that promote the quality and full utilization of the product and the unique character of the coastal Maine lobster fishery.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

2. Collaborative is a public instrumentality. The collaborative is established as a public instrumentality serving a public purpose. Accordingly:

A. Employees of the collaborative may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372 and the state retirement system provisions of Title 5, Part 20; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

B. The collaborative may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4; and [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

C. Notwithstanding any provisions of paragraphs A and B:

(1) All meetings and records of the collaborative are subject to the provisions of Title 1, chapter 13, subchapter 1, except as provided in subsection 3. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resources matters have access to all material designated confidential by the collaborative;

(2) Members of the collaborative are governed by the conflict of interest provisions set forth in Title 5, section 18; and

(3) For the purposes of the Maine Tort Claims Act, the collaborative is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

3. Market studies and promotional plans; proprietary information. Information provided to or developed by the collaborative and included in a promotional plan or market study is public unless the collaborative determines that it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the collaborative or the person submitting the information and would make available information not otherwise publicly available.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

4. Collaborative members; appointments; terms. The collaborative consists of 11 voting members, 9 appointed by the commissioner as follows:

A. Four individuals representing the lobster management policy councils established pursuant to section 6447. Each lobster management policy council shall prepare a list of up to 3 nominees from its zone for consideration by the commissioner for the appointments under this paragraph. In making appointments under this paragraph, the commissioner shall select members to ensure a geographic distribution of representation from lobster management zones established pursuant to section 6446; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

B. Three individuals:

(1) At least 2 of whom are owners, managers or officers of business entities operating in the State that hold valid wholesale seafood licenses with lobster permits, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A; and

(2) At least one of whom represents the interests of lobster dealers and processors; and [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

C. Two individuals who are public members with experience in marketing and promotion, retail sales, food service or food science, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

Members are appointed by the commissioner for staggered terms of 3 years. A person may not serve more than 2 consecutive 3-year terms as a member of the collaborative.

The commissioner or the commissioner's designee serves as an ex officio member of the collaborative. The Commissioner of Economic and Community Development or the commissioner's designee serves as an ex officio member of the collaborative.
[PL 2025, c. 612, §2 (AMD).]

5. Officers. By majority vote, the collaborative shall annually elect a chair from among its members and may elect other officers in accordance with its bylaws.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

6. Executive committee. The collaborative shall establish an executive committee of no fewer than 5 members, who are appointed by a majority vote of the collaborative. The collaborative shall specify in its bylaws when the executive committee may act on behalf of the collaborative with regard to oversight of collaborative staff, daily operations of the collaborative and addressing unexpected expenditures to be made by the collaborative. The bylaws must specify what constitutes a quorum of the executive committee and how many votes are necessary for the executive committee to take a valid action. In addition to any other restrictions adopted by the collaborative, the executive committee may not act on behalf of the collaborative to:

A. Adopt or amend an annual budget; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

B. Adopt or amend an annual marketing plan; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

C. Hire or terminate the employment of the executive director of the collaborative; or [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

D. Amend the bylaws of the collaborative. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

7. Meetings. The collaborative shall meet at least quarterly. A quorum of 6 members is required to conduct the business of the collaborative. Additional meetings may be called by the chair. If 3 or more members of the collaborative submit to the chair a written request for a meeting, the chair shall call a meeting to be held no sooner than 14 days after receipt of the written request. The commissioner may remove any member with unexcused absences from 2 or more consecutive meetings of the collaborative.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

8. Employees. The collaborative shall hire an executive director and may hire staff as needed to perform its duties. Employees of the collaborative serve at the pleasure of the collaborative. The salary and benefits for employees of the collaborative are determined by the collaborative.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

9. Powers and duties. The collaborative may:

A. Undertake promotional marketing programs in cooperation with the lobster industry; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

B. Promote national and international markets for lobsters harvested or processed in the State; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

C. Provide material and technical assistance to persons seeking to market lobsters harvested or processed in the State; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

D. Conduct other efforts as determined necessary to increase the sales of lobsters harvested or processed in the State; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

E. Market and sell goods directly related to the functions of the collaborative and deposit all proceeds in the fund; [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

F. Make expenditures from the fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

(1) Promotion, advertising and marketing development. The collaborative may implement programs and activities to promote, advertise and develop markets for lobster and make or enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes; and

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H, subsection 14-A and payment of administrative and overhead costs associated with the business of the collaborative; and [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

G. Accept and deposit in the fund additional funding from any source, public or private. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

10. Lobster Promotion Fund established. The Lobster Promotion Fund, referred to in this subchapter as "the fund," is established to carry out the purposes of this subchapter. The department shall pay to the fund all money appropriated or received by the department for the purposes of this subchapter, except that the department may retain funds necessary to reimburse the department for the actual cost of collecting the license surcharges established in subsection 11. The fund is capitalized from the annual surcharges set out in subsection 11.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

11. License surcharge assessed. The fund is capitalized from annual surcharges assessed on licenses issued by the department as follows.

A. For a Class I lobster and crab fishing license held by a person 18 to 69 years of age, the surcharge is $165.25. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

B. For a Class II lobster and crab fishing license, the surcharge is $330.50, except that for a license holder 70 years of age or older, the surcharge is $165. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

C. For a Class III lobster and crab fishing license, the surcharge is $480.75, except that for a license holder 70 years of age or older, the surcharge is $240. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

D. For a nonresident lobster and crab landing permit, the surcharge is $480.75. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

E. For a wholesale seafood license with a lobster permit if the license holder holds no supplemental wholesale seafood license with a lobster permit or for a lobster transportation license if the license holder holds no supplemental lobster transportation license, the surcharge is $1,200. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

F. Surcharges for supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses are as follows:

(1) For up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses, the surcharge is $1,800;

(2) For 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses, the surcharge is $2,400; and

(3) For 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses, the surcharge is $3,000. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

G. For a lobster processor license, the surcharge is $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. [PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

A person holding more than one of the following licenses is assessed only the highest applicable surcharge for those licenses under this subsection: a wholesale seafood license with a lobster permit, a supplemental wholesale seafood license with a lobster permit, a lobster transportation license or a supplemental lobster transportation license.

The commissioner shall review annually the surcharges established in this subsection and recommend changes to the joint standing committee of the Legislature having jurisdiction over marine resources matters, which after receiving the recommendations may report out a bill to the Legislature to adjust the surcharges.

Except as provided in chapter 619, subchapter 7, the Treasurer of State shall hold all surcharges assessed by this subsection in the fund and invest all money in the fund until disbursed to the collaborative upon request of the collaborative. Interest from investments accrues to the fund.

All money in the fund is subject to allocation by the Legislature. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to be used for the same purposes.

In addition to payment of the regular license fee and the surcharge, a person purchasing a license subject to the surcharges established in this subsection may make voluntary contributions to the fund at the time the license is purchased. Voluntary contributions received by the department from a licensee pursuant to this subsection or any other source must be deposited in the fund by the department and must be used by the collaborative for the purposes of this subchapter.
[PL 2021, c. 755, §1 (AMD).]

12. Reports. The collaborative shall report annually on its activities and expenditures to the joint standing committee of the Legislature having jurisdiction over marine resources matters, to the Lobster Advisory Council established under section 6462-A and, at a statewide meeting of interested license holders, to the lobster industry. The collaborative shall provide notice of the date and location of the statewide meeting of license holders at the time of license issuance or renewal.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

13. Audit. An annual audit of the expenditures of the collaborative must be performed. The collaborative may contract with the Office of the State Auditor or with a private sector accounting firm to conduct the audit. The collaborative shall report the results of that audit to the joint standing committee of the Legislature having jurisdiction over marine resources matters. If the annual audit is performed by the Office of the State Auditor, the collaborative shall reimburse the department for its costs to conduct that audit.
[PL 2021, c. 491, §2 (NEW); PL 2021, c. 491, §7 (AFF).]

14. Repeal. This section is repealed December 31, 2028.
[PL 2025, c. 612, §3 (AMD).]

SECTION HISTORY

PL 2021, c. 491, §2 (NEW). PL 2021, c. 491, §7 (AFF). PL 2021, c. 755, §1 (AMD). PL 2025, c. 612, §§2, 3 (AMD).

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