

AMENDMENT “ . “ to LD 1916. An Act To Create a Legal Defense Fund for the Maine Lobster Industry

Amend this bill by sticking the concept draft text and inserting the following:

Be it enacted by the People of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§20-C. is enacted to read:

20-C.

Marine
Resources

Lobster Legal Defense
Commission

no expenses

12 MRSA c. 619,
subchapter 7

Sec. 2. 12 MRSA §6431-B, sub-§1 is amended to read:

1. Tag system established. The commissioner shall establish by rule a lobster trap tag system under which lobster and crab fishing license holders and nonresident lobster and crab landing permit holders must purchase tags for the purpose of identifying and tracking traps. The rules must contain provisions for replacing lost tags. The commissioner may impose a per tag fee to cover the cost of trap tags, the costs of administering and enforcing a lobster trap tag system, the costs of management of the lobster fishery and the costs associated with lobster management policy councils and referenda pursuant to section 6447. Trap tag fees must be deposited in the Lobster Management Fund established under section 6431-C, except that 20 cents of each tag fee must be deposited into the Lobster Legal Defense Fund established under section 6491 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA 6455-A, subsection 11 is amended to read:

11. License surcharge assessed. Except as provided in section 6494, the ~~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.

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.

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.

D. For a nonresident lobster and crab landing permit, the surcharge is \$480.75.

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.

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.

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.

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 section 6494, the ~~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.

Sec. 4. 12 MRSA c. 619, subchapter 7 is enacted to read:

Subchapter 7. Lobster Legal Defense Commission and Lobster Legal Defense Fund

§6490. Commission established; members. The Lobster Legal Defense Commission, established in Title 5, section 12004-G, subsection 20-C and referred to in this subchapter as “the commission”, is created to support Maine’s lobster industry and has 9 members.

1. Licensed members of lobster industry. Six members of the public who currently hold a lobster license, 2 each appointed by the Governor, the President of the Senate and the Speaker of the House; and

2. Lobster dealers. Three members of the public who are lobster dealers, one each appointed by the Governor, the President of the Senate and the Speaker of the House.

§6491. Lobster legal defense fund established. The Lobster Legal Defense Fund, referred to in this subchapter as “the fund”, is established within the Department of Marine Resources as a nonlapsing fund to provide monies for legal actions involving, but not limited to, matters connected to the regulations of the United States Department of Commerce, National Oceanic and Atmospheric Administration implementing the Atlantic Large Whale Take Reduction Plan referred to herein as “the regulations”.

§6492. Duties. The commission’s duties include:

1. Review current and proposed laws, rules and regulations. The commission shall review current and proposed federal and state laws, rules and regulations affecting the lobster industry to determine whether legal action challenging the law, rule or regulation is appropriate;

2. Develop criteria. The commission shall develop criteria for the receipt of monies from the fund for each of the following category of legal action involving the regulations:

A. Legal action brought by individuals or entities engaged in Maine’s lobster industry;

B. Legal action brought by the Maine Office of the Attorney General; and

C. Defense of legal claims brought against individuals or entities claiming violation the regulations.

3. Accept and review requests. The commission shall accept and review request for distribution from the fund. The commission may decide to distribute funds if a majority of commission members vote in favor of the distribution..

4. Request funds. Upon voting by the commission to distribute monies from the fund, the commission shall submit a written request to the Department of Marine Resources. The request will identify the individual or entity to receive monies from the fund and the amount of distribution.

§6493. Fund administration; rules. The Department of Marine Resources shall distribute monies from the fund upon receipt of a written request for distribution from the commission. The department shall develop rules governing the distribution of monies from the fund. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§6494. Fund assets. The Department of Marine Resources shall deposit into the fund 20 cents from the sale of each trap tag purchased pursuant to Title 12, Maine Revised Statutes, section 6431-B and 20% of the license surcharges assessed by the department pursuant to Title 12 Maine Revised Statutes, section 6455-A, subsection 11.

§6495. Report. The commission shall report to the joint standing committee of the legislature having jurisdiction over marine resources matters by January 15 of every odd-numbered year. The report must provide details on all disbursements made from the fund during the preceding 24-month period. The committee has the authority to report out a bill in response to the contents of the report during the legislative session

§6496. Repeal; distribution of fund assets. This subchapter is repealed November 1, 2032. Any monies in the fund on November 2, 2032 will be distributed as follows:

1. Evenly split. If the Maine Lobster Marketing Collaborative established in Title 5 Maine Revised Statutes, section 12004-H, sub-§14-A and the Lobster Fund established in section 6450 are still in existence as of November 1, 2032, each entity must receive 50% of the monies in the fund;

2. All funds to remaining entity. If either the Maine Lobster Marketing or the Lobster Fund no longer exists on November 1, 2032, all the monies from the fund must be distributed to the remaining entity.

3. All funds to department. If neither the Maine Lobster Marketing nor the Lobster Fund exist as of November 1, 2032, all the monies from the fund must be distributed to the Department of Marine Resources.

SUMMARY

This bill establishes the Lobster Legal Defense Commission and the Lobster Legal Defense Fund. The commission and the fund are established to provide monies for legal actions involving, but not limited to, matters connected to the regulations of the United States Department of Commerce, National Oceanic and Atmospheric Administration implementing the Atlantic Large Whale Take Reduction Plan.

The commission has 9 members, 6 members of the public who currently hold a lobster license and 3 who are lobster dealers. The Governor, the President of the Senate and the Speaker of the House each appoint an equal number from each group.

The commission's duties include:

1. Reviewing current and proposed federal and state laws, rules and regulations affecting the lobster industry to determine whether legal action challenging the law, rule or regulation is appropriate;
2. Developing criteria for the receipt of monies from the fund;
3. Determining whether to distribute funds and requesting such distribution from the Department of Marine Resources; and
4. Reporting to the joint standing committee of the legislature having jurisdiction over marine resources by January 15 of every odd-numbered year

The joint standing committee of the legislature having jurisdiction over marine resources has the authority to report out a bill in response to the contents of the report during the legislative session

The legal actions supported with monies from the fund include:

1. Legal action brought by individuals or entities engaged in Maine's lobster industry;
2. Legal action brought by the Maine Office of the Attorney General; and

3. Defense of legal claims brought against individuals or entities claiming violation the regulations.

The Department of Marine Resources is required to establish and administer the nonlapsing fund and distribute monies in response to requests for distribution from the commission. The department is authorized to adopt routine technical rules to govern the distribution of monies. The department is required to deposit into the fund:

1. Twenty cents from the sale of each trap tag purchased pursuant to Title 12, Maine Revised Statutes, section 6431-B; and
2. Twenty percent of the license surcharges assessed by the department pursuant to Title 12 Maine Revised Statutes, section 6455-A, subsection 11.

The subchapter is repealed November 1, 2032. Any monies in the fund on November 2, 2032 will be distributed as follows:

1. 50% each to the Maine Lobster Marketing Collaborative and the Lobster Fund if both are in existence as November 1, 2032;
2. If either the Maine Lobster Marketing or the Lobster Fund no longer exists on November 1, 2032, all the monies from the fund must be distributed to the remaining entity; or
3. If neither the Maine Lobster Marketing nor the Lobster Fund exist as of November 1, 2032, all the monies from the fund must be distributed to the Department of Marine Resources.