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An Act To Amend the Lobster Meat Laws and Expand Economic Opportunity for Maine's Lobster Industry

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 legislation must take effect in the spring of 2010; 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, ¶Q, as amended by PL 1999, c. 491, §1 and affected by §9, is further amended to read:

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year; ~~and~~

Sec. 2. 12 MRSA §6301, sub-§2, ¶R, as enacted by PL 1999, c. 491, §2 and affected by §9, is amended to read:

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year; ~~and~~

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

S. A lobster processor license issued under section 6851B expires on March 31st of each year.

Sec. 4. 12 MRSA §6302, sub-§2, as amended by PL 1997, c. 544, §1, is further amended to read:

2. Common carrier. Carry any marine organism by a common carrier; ~~or~~

Sec. 5. 12 MRSA §6302, sub-§3, as amended by PL 1997, c. 544, §1, is further amended to read:

3. Hermetically sealed containers. Buy, sell, ship or transport within or beyond the state limits or possess any marine organism that is in a hermetically sealed container; ~~or~~.

Sec. 6. 12 MRSA §6302, sub-§4, as enacted by PL 1997, c. 544, §1, is repealed.

Sec. 7. 12 MRSA §6431, sub-§4, as amended by PL 1985, c. 129, §1, is further amended to read:

4. Mutilation. It shall be unlawful to possess any lobster, or part thereof, which is mutilated in a manner which makes accurate measurement impossible, except that any person, firm or corporation may possess lobster tails removed under section ~~6862~~6851B.

Sec. 8. 12 MRSA §6851, sub-§2-A, as amended by PL 2007, c. 615, §21, is further amended to read:

2-A. Wholesale seafood license with lobster permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a lobster permit. A person holding a wholesale seafood license with a lobster permit may engage in all the activities in subsection 2 and may buy, sell, process or ship lobster or properly ~~permitted~~licensed or lawfully imported lobster meat or parts. A person holding a wholesale seafood license with a lobster permit may transport lobster or properly ~~permitted~~licensed or lawfully imported lobster meat or parts anywhere within the state limits. A license under this subsection does not authorize a person to possess or transport lobster that person has taken unless that person is in possession of a license issued under section 6421, subsection 3A, paragraph A, B, C or E. A license under this subsection does not authorize a person to remove lobster meat from the shell unless a ~~permit~~license under section ~~6857~~6851B is held.

Sec. 9. 12 MRSA §6851-B is enacted to read:

§ 6851-B. Lobster processor license

1. License required. A person may not engage in the activities authorized under this section without a current wholesale seafood license with a lobster permit as required under section 6851 and a current lobster processor license.

2. Licensed activity. A lobster processor license authorizes a person to process lobsters and lobster meat for sale in accordance with rules adopted by the commissioner, including, but not limited to, the appropriate fee for the license, and under the following conditions:

- A. The lobster and lobster meat may be processed only at the fixed place of business named on the license;
- B. The lobster meat or lobster parts may come from only legal-sized lobsters;
- C. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster processor license number of the packer; and
- D. Records must be maintained at the fixed place of business named on the license.

The commissioner may grant waivers for specific lobster products not addressed in rules that are produced by holders of lobster processor licenses. Such a waiver must be in writing and must describe in detail the product that is not specified in rule.

3. Exception. A license is not required to remove lobster meat for serving in hotels and restaurants if the meat is removed from the shell in a hotel or restaurant for serving on the premises.

4. License limited. A lobster processor license authorizes activities under this section at only one fixed place of business.

5. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$2,000 may be adjudged.

Sec. 10. 12 MRSA §6852, sub-§2, ¶C, as amended by PL 2005, c. 434, §11, is further amended to read:

C. Lobster parts or meat, if they are permitted under section 6857, purchased from a wholesale seafood license holder who possesses a lobster processor license under section 6851B or have been lawfully imported;

Sec. 11. 12 MRSA §6852, sub-§3-A is enacted to read:

3-A. Retail sale of certain seafood products. Notwithstanding any provision of law to the contrary, a license or certificate is not required for a person to sell at retail:

A. Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or

B. Lobster parts or meat, if they are purchased from a wholesale seafood license holder who possesses a lobster processor license under section 6851B or if they have been lawfully imported.

Sec. 12. 12 MRSA §6854, sub-§2, as amended by PL 2001, c. 421, Pt. B, §58 and affected by Pt. C, §1, is further amended to read:

2. License activity. The holder of a lobster transportation license may buy from a licensed wholesale seafood dealer and transport beyond the state limits lobsters or their parts or meat. Lobster parts or meat may be transported only if they are properly permitted under section 6851B or 6857 or have been lawfully imported.

Sec. 13. 12 MRSA §6858, as amended by PL 2003, c. 452, Pt. F, §§30 and 31 and affected by Pt. X, §2, is repealed.

Sec. 14. 12 MRSA §6861-A, sub-§1, ¶B, as amended by PL 2003, c. 452, Pt. F, §32 and affected by Pt. X, §2, is further amended to read:

B. It is prima facie evidence that lobster or crayfish meat is illegal lobster meat if the crayfish or lobster meat is outside the shell; is not in its original container and clearly labeled as crayfish, with the country or state of origin clearly disclosed; and:

(1) ~~Does not meet the legal length requirements for lobster established in section 6858; or~~

(2) Is unmixed with any other food and there are no receipts available to prove the product is crayfish.

Sec. 15. 12 MRSA §6862, as amended by PL 2005, c. 239, §10, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect April 1, 2010.

SUMMARY

This bill implements some of the recommendations of the Governor's Task Force on the Economic Sustainability of Maine's Lobster Industry. It changes existing laws governing the handling of lobster parts and tails in order to improve the markets for the lobster industry. It eliminates the lobster tail permit and fee and creates a new lobster processor license to allow for increased market flexibility through the rule-making process.