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An Act Regarding Violations of Lobster Conservation Laws

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

Sec. 1. 12 MRSA §6351, sub-§1, as enacted by PL 2001, c. 421, Pt. B, §15 and affected by Pt. C, §1, is amended to read:

1. Grounds for suspension. Any of the following is grounds for suspension of a license, the right to obtain a license or a certificate issued under this Part:

- A. A conviction for a violation of a marine resources law;
- B. A conviction for a violation of Title 17-A, chapter 31;
- B-1. A conviction for a violation of Title 17-A, chapter 15;
- C. A conviction for a criminal offense against a marine patrol officer while that officer is engaged in the performance of official duty; ~~or~~
- D. A civil adjudication of having violated a marine resources law; or
- E. A suspension authorized under section 6409 or 6410.

Sec. 2. 12 MRSA §6351, sub-§3 is enacted to read:

3. Denial of license. An applicant for any license or certificate as set out in this chapter may be denied a license or certificate in the same manner as provided for in this section.

Sec. 3. 12 MRSA §6402, first ¶, as amended by PL 2007, c. 201, §1, is further amended to read:

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder convicted in court of violating section 6434. This suspension is for 3 years from the date of conviction. For a 3rd or subsequent conviction, the commissioner may permanently revoke the license holder's license.

Sec. 4. 12 MRSA §6402-B, as amended by PL 2007, c. 201, §2, is further amended to read:

§ 6402-B. Suspension based on 2 or more convictions of possessing illegal lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted of a 2nd or subsequent offense of possessing a lobster ~~smaller than the minimum size established in section 6431, subsection 1 in violation of section 6431, 6436, 6438-A or 6952-A~~ if the conviction of the 2nd or subsequent offense involved possession of 35 or more illegal lobsters smaller than that minimum size. If the 2nd offense occurs on the same day as the first offense, the commissioner may waive the mandatory suspension.

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years.

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license.

3. Offenses after July 1, 1994. ~~Subsections 1 and 2 apply only if that person's first conviction for possessing a lobster smaller than the minimum size established in section 6431, subsection 1 was for an offense that occurred after July 1, 1994.~~

Sec. 5. 12 MRSA §6406, sub-§2, as repealed and replaced by PL 1989, c. 455, §1, is amended to read:

2. Penalty. Violation of this section shall be a Class D crime, except that the court shall impose a fine of not less than ~~\$100~~\$500 nor more than ~~\$1,000~~\$2,000.

Sec. 6. 12 MRSA §6431, sub-§7, as amended by PL 1999, c. 82, §1, is further amended to read:

7. Penalty. Possession of lobsters in violation of this section is a Class D crime, except that the court shall impose a fine of ~~\$50~~\$500 for each violation and, in addition, a fine of ~~\$25~~\$100 for each lobster involved, up to and including the first 5, and a fine of ~~\$50~~\$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not more than ~~\$2,000~~\$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 7. 12 MRSA §6431-E, sub-§2, as enacted by PL 1997, c. 693, §1 and affected by §3, is amended to read:

2. Owner or family member on board. Except as provided in subsection 3, ~~beginning January 1, 2000 a person who holds a Class I, Class II or Class III lobster and crab fishing license a vessel may not be used to fish for or take lobsters from a unless that vessel unless is owned by a Class I, Class II or Class III lobster and crab fishing license holder and:~~

A. ~~The owner of that vessel is present on that vessel and holds a and has that vessel named on the owner's Class I, Class II or Class III lobster and crab fishing license; or~~

B. ~~A family member of the vessel owner under paragraph A is present on that vessel and holds a Class I, Class II or Class III lobster and crab fishing license and is present on that vessel.~~

Sec. 8. 12 MRSA §6431-G is enacted to read:

§ 6431-G. Vessel operation

1. Limitation. Except as provided in subsection 2, the holder of a Class I, Class II or Class III lobster and crab fishing license may not operate a vessel for the purposes of fishing for or taking lobster other than the vessel named on the holder's lobster and crab fishing license. For the purposes of

this section, "operate a vessel" means steering the vessel, operating the vessel's engine throttle or gear shift or operating the mechanism used to haul lobster traps from the water. "Operating a vessel" does not include the baiting of traps or the handling of traps once they are on board the vessel.

2. Exemptions. The commissioner may authorize an individual who possesses a Class I, Class II or Class III lobster and crab fishing license to fish for or take lobsters from a vessel other than the vessel named on the holder's lobster and crab fishing license if:

A. A Class I, Class II or Class III license holder is temporarily prevented by illness or disability from fishing for or taking lobsters from the license holder's vessel and requests in writing to the commissioner that the commissioner authorize the individual to operate that vessel to fish for or take lobsters and tend the license holder's traps pursuant to section 6434;

B. The vessel named on the individual's license has become temporarily inoperable because of an accident or a mechanical failure and the individual requests in writing and is granted permission from the commissioner to use another vessel to fish for or take lobsters; or

C. The individual is designated as the sponsor of a student pursuant to section 6421 and is operating the vessel named on the student's license for the purposes of providing practical lobster fishing training to the student while the student is present on the vessel.

Sec. 9. 12 MRSA §6432, sub-§5, as amended by PL 1999, c. 82, §2, is further amended to read:

5. Penalty for possession. Possession of lobsters other than caught by the method specified in subsection 1 is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$50\$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 10. 12 MRSA §6436, sub-§5, as amended by PL 1999, c. 82, §3, is repealed and the following enacted in its place:

5. Penalty for possession of egg-bearing lobsters. Possession of lobsters in violation of subsection 1, paragraph A is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$1,000 for each violation and, in addition, a fine of \$200 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not more than \$10,000. A court may not suspend a fine imposed under this subsection.

Sec. 11. 12 MRSA §6436, sub-§6 is enacted to read:

6. Penalty for possession of v-notched lobsters. Possession of lobsters in violation of subsection 1, paragraph B is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition,

a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 12. 12 MRSA §6438-A, sub-§2, as amended by PL 1999, c. 82, §4, is further amended to read:

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a fine of ~~\$500~~\$1,000 for each violation and, in addition, a fine of ~~\$150~~\$300 for each lobster involved or, if the number of lobsters cannot be determined, a fine of not more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 13. 12 MRSA §6447, sub-§3, as enacted by PL 1995, c. 468, §8, is amended to read:

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote. An individual who has been convicted or adjudicated of a lobster violation within the previous 7 years is not eligible for election as a council member unless a waiver from this limitation has been granted by the commissioner for good cause as determined by the commissioner in the commissioner's discretion.

Sec. 14. 12 MRSA §6952-A, sub-§4 is enacted to read:

4. Penalty for possession. A violation of this section is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not more than \$5,000. A court may not suspend a fine imposed under this subsection.

Sec. 15. 12 MRSA §6953, 2nd ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Violation of this section shall be ~~a~~a Class ~~ED~~E crime, except that the court shall impose a fine of not less than ~~\$100~~\$500. A court may not suspend a fine imposed under this section.

SUMMARY

This bill adds theft to the list of offenses for which a marine resources license may be suspended. It provides that for a 3rd or subsequent offense of lobster trap molesting the Commissioner of Marine Resources may permanently revoke a license holder's license. It expands the types of illegal lobsters for which a 2nd offense will result in a mandatory suspension. It also creates a requirement that a lobster and crab fishing license holder fishing for or taking lobsters may operate only the vessel listed on the license holder's license. This is meant to address an existing loophole in Maine's owner-operator requirements for lobster fishing. This bill increases the monetary fines for conviction of violation of certain lobster conservation laws. Finally, it provides that an individual is not eligible for election as a

lobster management policy council member if that individual has been convicted of a lobster law violation within the past 7 years.