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An Act To Bring Equity to the Sea Urchin License Fees

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

Sec. 1. 12 MRSA §6302-A, sub-§1, as amended by PL 1999, c. 491, §3 and affected by §9, is further amended to read:

1. Tribal exemption; commercial harvesting licenses. A member of the Passamaquoddy Tribe who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6505-A, 6505-C, 6535, 6536, 6601, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or 6804 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe issued a tribal license pursuant to this subsection to conduct activities is subject to all laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe:

A. May utilize lobster traps tagged with trap tags issued by the tribe in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe is not required to pay trap tag fees under section 6431-B if the tribe issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe in a manner consistent with tags issued pursuant to 6505-B. A member of the tribe is not required to pay elver fishing gear fees under section 6505-B if the tribe issues that member elver fishing gear tags; and

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671.

Sec. 2. 12 MRSA §6533, as amended by PL 1997, c. 158, §§1 and 2, is further amended to read:

§ 6533. Training required to act as a scallop or sea urchin tender

~~Except as provided under subsection 3, the~~The commissioner may not issue a sea urchin and scallop diving tender license under section 6535 ~~or a scallop diving tender license under section 6536 to any~~ person ~~or allow a person to act as a tender under a license issued pursuant to section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B unless that person has attended a safety training session offered under this section~~met the diving tender safety requirements established in rule.

1. Tender safety training session. ~~The commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin and scallop diving tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary~~

~~resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins and scallops. For any training session taught by the department, the commissioner shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.~~

~~**2. Allowance for waivers.** The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the session. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.~~

~~**3. Requirement for 30-day license.** The commissioner may issue a 30-day temporary sea urchin and scallop diving tender license under section 6535, subsection 2-A to a person if that person provides a current certificate documenting that the person has received training in cardiopulmonary resuscitation.~~

Sec. 3. 12 MRSA §6535, as amended by PL 2003, c. 20, Pt. WW, §9, is further amended to read:

§ 6535. Sea urchin and scallop diving tender license

1. License required. A person may not operate a boat as a platform for the harvesting of sea urchins and scallops by hand, act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand or possess, ship, transport or sell scallops or sea urchins unless that person is licensed under this section, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops harvested by licensed harvesters the tender has tended. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops. As used in this subsection, "tend" means to assist the diver in any way, to operate a boat as a platform for harvesting or to cull or otherwise handle the harvested product.

~~**2-A. Thirty-day temporary license.** A person may be issued a 30-day temporary sea urchin and scallop diving tender license. A person may be issued a license only one time under this subsection. A license issued under this subsection may not be renewed.~~

3. Eligibility. A sea urchin and scallop diving tender license and a 30-day temporary sea urchin and scallop diving tender license may be issued only to an individual who is a resident.

4. Fee. Fees for licenses issued under this section are: The fee for a sea urchin and scallop diving tender license is \$111.

A. For a sea urchin and scallop diving tender license, \$111; and

B. For a 30-day temporary sea urchin and scallop diving tender license, \$31.

5. ~~Prima facie evidence.~~ ~~The failure of at least one person on board the boat operated as a platform during periods of diving to harvest scallops or sea urchins to have a license issued under section 6701 or 6748 is prima facie evidence of a violation of this section.~~

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

Sec. 4. 12 MRSA §6536, as amended by PL 2003, c. 20, Pt. WW, §10, is repealed.

Sec. 5. 12 MRSA §6701, sub-§1, as amended by PL 2001, c. 421, Pt. B, §40 and affected by Pt. C, §1, is further amended to read:

1. License required. A person may not engage in the activities authorized under this section without a current hand fishing scallop license or other license issued under this Part authorizing the activities. The hand fishing scallop license with tender issued under subsection 5, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of scallops.

Sec. 6. 12 MRSA §6701, sub-§2, as amended by PL 2003, c. 248, §7, is further amended to read:

2. Licensed activity. The holder of a hand fishing scallop license may take scallops by hand or possess, ship, transport or sell shucked scallops the holder has taken. A tender authorized under subsection 5, paragraph B may possess, ship, transport and sell shucked scallops the hand fishing scallop license holder has taken. A person may not act as a tender under subsection 5, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

Sec. 7. 12 MRSA §6701, sub-§5, as amended by PL 2003, c. 20, Pt. WW, §13, is repealed and the following enacted in its place:

5. Fee. Fees for hand fishing scallop licenses are:

A. For an individual hand fishing scallop license, \$111; and

B. For a hand fishing scallop license with tender, \$161.

Sec. 8. 12 MRSA §6748, as amended by PL 2003, c. 20, Pt. WW, §19, is further amended to read:

§ 6748. Handfishing sea urchin license

1. License required. A person may not engage in the activities authorized under this section without a current handfishing sea urchin license or other license issued under this Part authorizing the activities. The handfishing sea urchin license with tender issued under subsection 4, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of sea urchins.

2. Licensed activity. The holder of a handfishing sea urchin license may take sea urchins by hand or possess, ship, transport or sell sea urchins taken by that licensee. A tender authorized under subsection 4, paragraph B may possess, ship, transport and sell sea urchins the handfishing sea urchin license holder has taken. A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

3. Eligibility. A handfishing sea urchin license may be issued only to an individual who is a resident.

4. Fee. The fee for a handfishing sea urchin license is ~~\$111~~. Fees for handfishing sea urchin licenses are:

A. For an individual handfishing sea urchin license, \$111; and

B. For a handfishing sea urchin license with tender, \$161.

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fees for a handfishing sea urchin license and a handfishing sea urchin license with tender issued for calendar year 2010 or 2011 to handfish for sea urchins within the area designated as Zone 1 under section 6749-N are \$25 and \$50 per year, respectively.

This subsection is repealed December 31, 2011.

5. Rebuttable presumption. It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

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

Sec. 9. 12 MRSA §6748-A, sub-§4-A is enacted to read:

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fee for a sea urchin dragging license issued for calendar year 2010 or 2011 to drag for sea urchins within the area designated as Zone 1 under section 6749-N is \$25 per year.

This subsection is repealed December 31, 2011.

Sec. 10. 12 MRSA §6748-D, sub-§4-A is enacted to read:

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fee for a sea urchin hand-raking and trapping license issued for calendar year 2010 or 2011 to hand-rake or trap sea urchins within the area designated as Zone 1 under section 6749-N is \$25 per year.

This subsection is repealed December 31, 2011.

PUBLIC Law, Chapter 396 LD 278, item 1, 124th Maine State Legislature
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Effective September 12, 2009