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An Act To Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine lobster processing season begins on or about May 1st; and

Whereas, that Maine wholesale seafood licensees with lobster permits are currently not allowed to perform certain activities puts them at a competitive disadvantage in relation to Canadian lobster processors and impairs their ability to open new markets for Maine lobster and to create new job opportunities for Maine workers; and

Whereas, this legislation eliminates the restrictions and it is important that this legislation take effect immediately so that business in this State is improved in the upcoming lobster season; 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Sec. 1. 12 MRSA §6431, sub-§6, as repealed and replaced by PL 1987, c. 513, §4, is amended to read:

6. Exception; wholesale seafood dealer with lobster permit; rules. This section ~~shall~~does not apply to live lobsters imported intact in the original crates by a holder of a wholesale seafood license with a lobster permit to another wholesale seafood license holder with a lobster permit if the ~~crates~~containers are sealed in accordance with ~~regulations~~rules adopted by the commissioner; or to imported lobsters being shipped or transported out-of-state if they are in containers sealed in accordance with ~~regulations~~rules adopted by the commissioner. The commissioner may adopt or amend ~~regulations~~rules to prescribe the time, manner and method of sealing ~~crates~~ or containers for the effective operation of this subsection. The ~~regulations~~rules may contain a requirement for a special permit and provisions for inspection of the ~~crates~~, containers, contents and seals. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2#A.

Sec. 2. 12 MRSA §6431, sub-§6-B is enacted to read:

6-B. Exception; lobster processing; rules. A person who holds both a wholesale seafood license with a lobster permit and a lobster processor license and who possesses lobster in accordance with subsection 6 may process those imported lobsters in accordance with rules adopted by the commissioner, as long as the following criteria are met:

A. The lobsters are not harvested or landed in this State;

- B. The lobsters are legal in the waters from which they were harvested; and
- C. The lobsters are not less than the minimum size established in this section.

Lobster tails processed under this subsection may not be offered for sale within this State in the wholesale or retail trade. Lobster meat processed from the claws and knuckles may be sold within this State in the wholesale or retail trade.

This subsection takes effect November 1, 2011 and is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

Sec. 3. 12 MRSA §6851-B, sub-§2, ¶C, as enacted by PL 2009, c. 523, §9, is amended to read:

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

Sec. 4. 12 MRSA §6851-B, sub-§2, ¶D, as enacted by PL 2009, c. 523, §9, is amended to read:

D. Records must be maintained at the fixed place of business named on the license; and

Sec. 5. 12 MRSA §6851-B, sub-§2, ¶E is enacted to read:

E. Notwithstanding paragraph B, the lobster meat or lobster parts may come from lobsters that are not legal-sized as provided in section 6431, subsection 6#B.

This paragraph takes effect November 1, 2011 and is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

Sec. 6. Rules. The Commissioner of Marine Resources shall adopt or amend rules to prescribe the time, manner and method of sealing containers for the effective operation of the Maine Revised Statutes, Title 12, section 6431, subsection 6#B. The rules may include a requirement for a permit and provisions for inspection that establish a chain of custody that ensures that the lobsters were not harvested or landed in this State. The commissioner shall also adopt or amend rules to establish the method by which the department collects from a holder of a lobster processor license landings records of the amount of oversized lobsters harvested outside this State received by that lobster processor. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2#A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective 90 days following adjournment of the 125th
Legislature, First Regular Session, unless otherwise indicated.