

LEGISLATIVE COMMITTEE MINUTES

SB51

Bill as
Introduced

SB 51 - AS INTRODUCED

2021 SESSION

21-0905
04/10

SENATE BILL **51**

AN ACT relative to the sale of lobster meat.

SPONSORS: Sen. Ricciardi, Dist 9; Rep. Lang, Belk. 4

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill amends the packaging requirements for the sale of lobster meat.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 51 - AS INTRODUCED

21-0905
04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the sale of lobster meat.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Lobsters and Crabs; Lobster Meat. Amend RSA 211:38 to read as follows:
- 2 211:38 Lobster Meat. No person shall sell lobster meat which has not been processed and
- 3 ~~[sealed within containers which do not require refrigeration]~~ **packaged** without first procuring a
- 4 license to do so. The executive director shall issue such license for a period of one calendar year
- 5 pursuant to the provisions of RSA 211:39, RSA 211:49-aa, and RSA 211:49-c. The license shall
- 6 expire on December 31 of each year.
- 7 2 Effective Date. This act shall take effect 60 days after its passage.

SB 51 - AS AMENDED BY THE SENATE

03/18/2021 0715s

2021 SESSION

21-0905

04/10

SENATE BILL **51**

AN ACT relative to the sale of lobster meat.

SPONSORS: Sen. Ricciardi, Dist 9; Rep. Lang, Belk. 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adds an exception to the licensing requirement for selling lobster meat.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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3 within containers which do not require refrigeration without first procuring a license to do so. *Such*
4 *license shall not be required for food service establishments licensed under RSA 143-A*
5 *which purchase and sell processed and packaged lobster meat from a licensed wholesaler*
6 *or processor.* The executive director shall issue such license for a period of one calendar year
7 pursuant to the provisions of RSA 211:39, RSA 211:49-aa, and RSA 211:49-c. The license shall
8 expire on December 31 of each year.

9 2 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 116
SB 51 - FINAL VERSION

03/18/2021 0715s

2021 SESSION

21-0905
04/10

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SPONSORS: Sen. Ricciardi, Dist 9; Rep. Lang, Belk. 4

COMMITTEE: Energy and Natural Resources

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 116
SB 51 - FINAL VERSION

03/18/2021 0715s

21-0905
04/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

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7 pursuant to the provisions of RSA 211:39, RSA 211:49-aa, and RSA 211:49-c. The license shall
8 expire on December 31 of each year.

116:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: July 09, 2021

Effective Date: September 07, 2021

Amendments

Sen. Watters, Dist 4
March 8, 2021
2021-0681s
04/10

Amendment to SB 51

1 Amend the bill by replacing section 1 with the following:

2

3 1 Lobsters and Crabs; Lobster Meat. Amend RSA 211:38 to read as follows:

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5 within containers which do not require refrigeration without first procuring a license to do so. ***Such***
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9 pursuant to the provisions of RSA 211:39, RSA 211:49-aa, and RSA 211:49-c. The license shall
10 expire on December 31 of each year.

UNAPPROVED

2021-0681s

AMENDED ANALYSIS

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AMENDED ANALYSIS

Energy and Natural Resources
March 9, 2021
2021-0715s
04/10

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10 expire on December 31 of each year.

Amendment to SB 51
- Page 2 -

2021-0715s

AMENDED ANALYSIS

This bill adds an exception to the licensing requirement for selling lobster meat.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: January 20, 2021

HEARINGS

Tuesday	01/26/2021	
(Day)	(Date)	
Energy and Natural Resources	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m.	SB 78-FN	relative to continually appropriating the renewable energy fund to the public utilities commission.
1:15 p.m.	SB 71	establishing a commission to develop science-based emissions reduction goals for the state of New Hampshire.
1:45 p.m.	SB 51	relative to the sale of lobster meat.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/94035190849>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +19292056099,,94035190849# or +13017158592,,94035190849#
4. Webinar ID: 940 3519 0849
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 78-FN

Sen. Bradley

SB 71

Sen. Sherman

Sen. Soucy

Sen. Cavanaugh

Rep. Knirk

SB 51

Sen. Ricciardi

Sen. Bradley

Sen. Watters

Rep. McGhee

Rep. Lang

Sen. Reagan

Sen. Whitley

Rep. Oxenham

Sen. Rosenwald

Sen. Perkins Kwoka

Rep. Woods

Griffin Roberge 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

SB 51, relative to the sale of lobster meat.

Hearing Date: January 26, 2021.

Time Opened: 2:17 p.m.

Time Closed: 2:48 p.m.

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: None.

Bill Analysis: This bill amends the packaging requirements for the sale of lobster meat.

Sponsors:

Sen. Ricciardi

Rep. Lang

Who supports the bill: Senator Denise Ricciardi, NH Senate District 9; Representative Timothy Lang, Belknap - District 4; Michael Somers, NH Lodging and Restaurant Association.

Who opposes the bill: Paul Sanderson, NH Fish and Game Department.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Senator Denise Ricciardi

NH Senate District 9

- SB 51 was introduced at the request of the NH Lodging and Restaurant Association (NHLRA). Over the summer of 2020, many restaurants discovered that they needed a license from the NH Fish and Game Department (NHFG) if the restaurant was selling lobster that had been processed and packaged. Many restaurants buy frozen lobster meat from food distributors such as Sysco, US Foods, and Performance Food Group.
- Senator Ricciardi took part in a meeting with the NHLRA and NHFG to learn more about why NH requires restaurants to have a license when they purchase processed and packaged lobster. NHFG's explanation was that NH licenses all those who are involved in the process of harvesting, processing, wholesale distributing, and selling lobster to protect the fisheries in the Gulf of Maine. While understanding of this explanation, NHFG can better direct its resources elsewhere instead requiring and enforcing restaurants to carry a license to buy and sell processed and packaged lobster. NH already licenses those involved in the procurement of lobsters - the harvester, the processor, and the resident/nonresident wholesalers - before the lobster enters the restaurant.
- SB 51 excludes restaurants from needing a NHFG license if they purchase processed and packaged lobster from a processor. Restaurants that buy live lobsters to prepare for customers will still need to have a NHFG license in order to do so.
- Senator Perkins Kwoka referenced a letter of opposition to SB 51 from Mr. Geno Marconi, the chair of the NH Advisory Committee on Marine Fisheries (Committee) dated December 8, 2020. The Committee had serious concerns with SB 51's proposal. Senator Perkins Kwoka asked what led to the need for SB 51.
 - Senator Ricciardi said restaurants are facing economic challenges in the midst of the COVID-19 pandemic. She deferred to the NHLRA and the NHFG to better speak as to the need for SB 51.

- Senator Avard asked if the State of Maine requires a similar license for restaurants.
 - Senator Ricciardi said it was her understanding that Maine does.

*Representative Timothy Lang
Belknap - District 4*

- While SB 51 is a common sense bill, the NH Department of Revenue Administration (DRA) has indicated that tax revenue from the State's Meals and Rooms Tax is down roughly 22% due to the COVID-19 pandemic. Restaurants are getting economically hammered. Anything the State can do to alleviate a regulatory burden, even on an interim basis, will help restaurants recover.

Michael Somers

President and CEO, NH Lodging and Restaurant Association (NHLRA)

- Mr. Somers noted his experience in NH's restaurant industry and had never heard of the license required under RSA 211:38.
- During the summer of 2020, NHLRA members said they were contacted by NHFG about the need to have a license to sell lobster items like a lobster roll. Mr. Somers contacted NHFG who informed him that a license was required by restaurants. Mr. Somers contacted several other NHLRA members who have been in the restaurant industry for more than twenty years. Those members never carried a license and were not aware one was required.
- Mr. Somers contacted his counterparts in Maine and Massachusetts. In those states, there is a requirement that if a restaurant sells live lobsters, that restaurant must carry a license. However, if a restaurant is serving lobster that comes processed and packaged from a third party, there is no requirement for a restaurant to carry a license. Mr. Somers noted that if his understanding of these states' regulations is incorrect and a license is required, then it shows little enforcement is happening and the license shows no purpose.
- Senator Avard asked how much the license required under RSA 211:38 costs.
 - Mr. Somers said it is an annual license that costs \$50.
- Senator Avard asked if there had been a survey of how many businesses are in compliance with the license requirement under RSA 211:38.
 - Mr. Somers tried to get this information from NHFG. Mr. Somers estimated about 300 restaurants have the license. These 300 establishments would include retail locations - grocery stores and restaurants. The number of food service locations in NH is above 4,500. This license requirement is clearly not working or serving any purpose if there are only 300 valid licensed establishments out of some 4,500 establishments.
- Senator Giuda asked what the purpose was for the license under RSA 211:38.
 - Mr. Somers deferred to NHFG, but it was his understanding that NH is part of a multi-state compact with other eastern seaboard states. Part of that compact is to protect fisheries, which NHLRA supports. That regulatory structure should be placed on those who harvest, distribute, and process lobster, as well as those establishments like grocery stores and restaurants that sell live lobster. Licensure should not be placed on restaurants that sell lobster items that use processed or packaged lobster meat as it serves no purpose in tracking and controlling lobster harvesting.

Summary of testimony presented in opposition:

Paul Sanderson - provided written testimony

Legal Coordinator, NH Fish and Game Department (NHFG)

- The American lobster fishery is one of the most valuable fisheries along the Atlantic coast. These fisheries are regulated through the Atlantic States Marine Fisheries Commission's Atlantic Lobster Fisheries Management Plan. The Atlantic States Marine Fisheries Commission (ASMFC) is a compact of the Atlantic coastal states and two federal agencies - NOAA Fisheries and the US Fish and Wildlife Service. NH has been a member of the compact since 1941, which is in state statute RSA 213. The ASMFC manages over 27 marine species through fisheries management plans. Rules and regulations for all states in the ASMFC compact are developed based on criteria set forth in the fisheries management plans.
- NH's lobster fishing industry is the most valuable commercial fishery in the state, making it highly regulated with the laws and state administrative rules designated to protect the robust fishery in NH and sustain a healthy lobster resource in the Atlantic. The fishing and wholesale portion of the industry is subject to stringent reporting requirements that track harvest and some portions of sales. However, the

retail sector is not subject to these same reporting requirements, and the relationship with the department is maintained through the existing retail lobster license.

- SB 51 as introduced would create a gap in the regulatory structure that would allow illegal lobster product to be sold at retail and not detected. By allowing a retailer to purchase packaged product from any source, it would be possible for a harvester to sell product directly to a retailer that is noncompliant, such as meat from undersized lobsters. This gap could lead to behavior that may compromise the sustainability of the lobster resource for all the fishery participants. The purchasing retailer may have no way to know where the product originated, and no way to assure that the product was harvested and processed in accordance with all regulations. A license for the retail sale of lobster and crab and lobster meat allows the department to maintain a relationship with the retail sector, provides for the creation records of the utilization of this commodity at the retail level, and assists in enforcement of rules and sustainable practices at the level of harvesters and distributors. Without these retail records, it is made more difficult to assure that regulations are being followed by all components of the lobster industry, whether that be commercial, wholesale, or retail sellers. It continues to be very important to not allow loopholes to be created that may allow illegal harvest or practices to easily go undetected by any sector of lobster harvest or sales.
- Since Massachusetts and Maine also have similar retail lobster licensing in their laws, NHFG believes that New Hampshire should continue to show a commitment to implement shared regulatory measures among the coastal states. NHFG has and will continue to commit to work with individual retailers and their associations to educate the members on the importance of the regulatory scheme, and assist them in compliance with existing law.
- Mr. Sanderson spoke to RSA 211, which deals with the method and manner of taking fish, and the fact that the statute has evolved overtime. For example, RSA 211:29 exempts lobster that is hermetically sealed in cans. There may need to be some revisions to NH's regulatory structure for lobsters, but adopting SB 51 as introduced would disrupt NHFG's regulatory structure. The retail sector should not be entirely exempted from regulation as it would create a gap in NHFG's regulatory structure and make NH an outlier from the other ASMFC states.
- Senator Giuda asked what was the purpose for the license under RSA 211:38 and when the license was last reviewed.
 - Mr. Sanderson said the purpose for the license under RSA 211:38 is to provide a regulatory scheme for lobsters all the way from the harvesting to the point of consumption. If there is a gap anywhere along the scheme like in exempting retailers from licensure under RSA 211:38, the best way to hide a short lobster is in a lobster roll. The statutes in RSA 211 are fairly old. The last time RSA 211:38 was reviewed was in 2000.
- Senator Giuda asked why it would not be more efficient to just license those harvesting the lobsters. If someone is going to bring in short lobster, that short lobster would be brought in by a harvester.
 - Mr. Sanderson said Senator Giuda was correct, but that harvesters are licensed under current statute. They are licensed not only to harvest, but to sell a portion of their harvest directly to retailers.
- Senator Giuda said licensure should be imposed on the harvester, not the retailer. The license on a retailer has no impact on whether or not someone is getting short lobster to make a lobster roll. He asked Mr. Sanderson to help him understand the need for licensing a retailer.
 - Mr. Sanderson reiterated that harvesters are licensed, but that a retailer is not required to purchase lobster from a licensed harvester. A retailer can purchase lobster from other states or from Canada. In order to have a comprehensive regulatory scheme that covers lobsters from harvesting to consumption, it was deemed necessary and has been deemed necessary over decades to have licensure at every level.
- Senator Giuda asked if Canada and other states have similar licensing regulations.
 - Mr. Sanderson said Canadian lobster processors is not part of the ASMFC.
- Senator Giuda asked if other states that are part of the ASMFC have similar licensing regulations.
 - Mr. Sanderson said that ASMFC states do have similar licensing regulations.
- Senator Watters mentioned that he is the NH legislative appointee to the ASMFC and noted that the ASMFC has implemented regulations to ensure the protection and sustainability of Atlantic fisheries. Senator Watters also noted that he is on the American Lobster Board within the ASMFC, which works to sustain the lobster fishery and make sure regulations are followed amongst the different Atlantic states to ensure there are not any "lobster wars." He asked Mr. Sanderson if it was safe to say that a chain of regulation was needed to ensure that people do not cheat the system to harvest and sell illegal lobster.
 - Mr. Sanderson said Senator Watters was correct. NHFG is not insensitive to the issues that retailers are facing in the midst of the COVID-19 pandemic. Over the past three years, NHFG has conducted

340 retail checks that have resulted in only 3 summonses, but 113 warnings. NHFG's primary approach has been to provide education and guidance rather than being punitive upon retailers.

- Senator Watters asked if it was true that the NH General Court and the NHFG have undertaken great efforts to work with the lobster industry and processors when it came to marking lobster tails.
 - Mr. Sanderson said Senator Watters was correct.
- Senator Watters asked if his understanding was correct that Canada allows for the harvesting of shorter lobsters.
 - Mr. Sanderson said he would need to review more thoroughly, but it was understanding that Canada's regulations are different and less stringent than the ASMFC regulations.
- Senator Watters asked if ASMFC's regulations were more stringent because of the possibility for Canada to flood the markets of Atlantic seacoast states with lobster and undercut the region's lucrative export market.
 - Mr. Sanderson said Senator Watters was correct.
- Senator Watters expressed concern about passing SB 51 as introduced as it could be heavily opposed by NH's lobster industry and the potential responses of other ASMFC states. He asked if it made sense to study this area of statute and get the input of the ASMFC.
 - Mr. Sanderson said Senator Watters had a good recommendation. A study would allow the NHFG to work closely with the retailers as well. He noted that Mr. Geno Marconi from the Committee wrote a letter of opposition to SB 51 as introduced.
- Senator Gray referenced RSA 211:29-30. RSA 211:30 has exceptions for hotels, restaurants, and individuals having chopped lobster meat in their possession. He did not think retailers were the ones going out to harvest lobsters. He asked if it made sense to create an exception for retailers under RSA 211:38 as exceptions are allowed elsewhere.
 - Mr. Sanderson said Senator Gray's question addressed NHFG's contention that RSA 211:38 is part of an entire regulatory scheme. It would make sense to review the entire regulatory scheme to allow all sectors within the lobster industry to be in compliance.
- Senator Gray's concern was that a study would take a year to complete and another year to pass any recommended legislation. While not opposed to a study, Senator Gray believed that a retailer is not someone that should not be regulated. He asked if it made sense to exempt retailers.
 - Mr. Sanderson noted Senator Watters's comments and the need to be in compliance with ASMFC regulations. Simply creating an exception for retailers from the license required under RSA 211:38 should be taken after serious consideration. NHFG is not insensitive to the needs of retailers. NHFG has pledged to work with the NHLRA to make compliance as easy as possible.
- Senator Avar said RSA 211:29 has an exemption for the sale of lobsters canned in hermetically sealed cans not requiring refrigeration when the contents of the cans do not weigh over eight ounces net. However, the statute does mention frozen lobster. He asked if this was an issue for NHFG and whether an amendment would be needed.
 - Mr. Sanderson said it was something that could be looked at. Frozen lobster is the primary mode of distribution. However, frozen lobster can come from Canada and other jurisdictions that are not subject to the same set of regulations. NHFG would want to be sure that retailers were using compliant product.
- Senator Avar asked if RSA 211:29 allowed canned lobster from Canada to be sold in New England states.
 - Mr. Sanderson said RSA 211:29 permitted such activity. He noted that was a reason why a review of these statutes would be worthwhile to bring them up to date.
- Senator Avar asked if it would be possible to amend RSA 211:38 and study RSA 211 at the same time.
 - Mr. Sanderson did not think it possible due to the time of the legislative session.
- Senator Watters, in response to Senator Gray's question, asked if RSA 211:29-30 dealt with lobsters in the shell.
 - Mr. Sanderson said Senator Watters was correct. RSA 211:29 also mentions using lobster meat in newbergs and pies. This language is rather outdated, which is why a study may be the best solution.

Neutral Information Presented: None.

GJR
Date Hearing Report completed: January 26, 2021.

Speakers

Name	Title	Representing	Position	Testifying
Ricciardi Denise	An Elected Official	SD9	Support	Yes
Lang Timothy	An Elected Official	Co-sponsor Belknap-4	Support	Yes
Somers Mike	A Member of the Public	New Hampshire Lodging & Restaurant Association	Support	Yes
Sanderson Paul	State Agency Staff	NH Fish and Game Department	Oppose	Yes

Testimony



New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
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www.WildNH.com
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TDD Access: Relay NH 1-800-735-2964

**New Hampshire Fish and Game Department
Senate Energy and Natural Resources Committee
Testimony on SB 51
January 25, 2021**

We write to respectfully express the position of the New Hampshire Fish and Game Commission and the New Hampshire Fish and Game Department to oppose this bill as written. The American lobster fishery is one of the most valuable fisheries along the Atlantic coast. In 2019, approximately 126 million pounds of lobster were landed coastwide, representing \$630 million in ex-vessel value. These valuable fisheries are regulated through the Atlantic States Marine Fisheries Commission's Atlantic Lobster Fisheries Management Plan. The Atlantic States Marine Fisheries Commission (ASMFC) is a compact of the Atlantic coastal states and two federal agencies, NOAA Fisheries and the US Fish and Wildlife Service. New Hampshire has been a member of the compact since 1941, which is in statute at RSA 213. The ASMFC manages over 27 marine species through fisheries management plans. Rules and regulations for all states in the ASMFC compact are developed based on criteria set forth in the fisheries management plans.

The lobster fishing industry in New Hampshire is the most valuable commercial fishery in the State (6,093,615 pounds with an ex-vessel value of \$35,614,869) and therefore is highly regulated with laws and administrative rules designated to protect the robust fishery in New Hampshire and sustain a healthy lobster resource in the Atlantic. The fishing and wholesale portion of the industry is subject to stringent reporting requirements that track harvest and some portions of sales. However, the retail sector is not subject to these same reporting requirements, and the relationship with the department is maintained through the existing retail lobster license.

The bill as proposed would create a gap in the regulatory structure that would allow illegal lobster product to be sold at retail and not detected. By allowing a retailer to purchase packaged product from any source, it would be possible for a harvester to sell product directly to a retailer that is noncompliant, such as meat from undersized lobsters. This gap could lead to behavior that may compromise the sustainability of the lobster resource for all the fishery participants. The purchasing retailer may have no way to know where the product originated, and no way to assure that the product was harvested and processed in accordance with all regulations. A license for the retail sale of lobster and crab and lobster meat allows the department to maintain a relationship with the retail sector, provides for the creation records of the utilization of this commodity at the retail level, and assists in enforcement of rules and sustainable practices at the level of harvesters and distributors. Without these retail records, it is made more difficult

REGION 1

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(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2

PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3

225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4

15 Ash Brook Court
Keene, NH 03431
(603) 352-9669
FAX (603) 352-8798
email: reg4@wildlife.nh.gov

to assure that regulations are being followed by all components of the lobster industry, whether that be commercial, wholesale, or retail sellers. It continues to be very important to not allow loopholes to be created that may allow illegal harvest or practices to easily go undetected by any sector of lobster harvest or sales.

Since Massachusetts and Maine also have similar retail lobster licensing in their laws, we believe that New Hampshire should continue to show a commitment to implement shared regulatory measures among the coastal states, and thus respectfully request that the committee not vote to approve this bill as currently written. We have in the past, and continue to commit to work with individual retailers and their association to educate the members on the importance of the regulatory scheme, and assist them in compliance with existing law.

Respectfully submitted,

Paul G. Sanderson
Legal Coordinator
NH Fish and Game Department

Griffin Roberge

From: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>
Sent: Sunday, February 28, 2021 2:10 PM
To: Griffin Roberge
Cc: Patterson, Cheri; Zobel, Renee; Mason, Scott
Subject: RE: SB 51 Lobster bill update
Attachments: Retail Lobster ME NH MA Comparison Questions.xlsx

Griffin, further to the information I provided on Friday, here is a spreadsheet of comparison questions as compiled by our Marine Division. We have not been able to create an alternative to the current licensing system that meets our interstate compact obligations to ASMFC under RSA 213 that does not have the following impacts. Perhaps the best thing to do is have the Committee determine the status of the bill, and next steps, in an Executive Session:

- A. If the current fee for the license (which is \$50 for residents and \$75 for non residents) were to change to zero, it would have a negative impact on the Fish and Game Fund of about \$28,000.00. The fee could be adjusted to favor residents over nonresidents and keep the fiscal impact neutral.
- B. If the license were to become a multiyear license, the fee would have to increase to avoid the fiscal impact, and the reality is that the program would be less effective due to the annual change in retailers, as locations sell or close. It would also require the retailers to determine for multiple years whether to have this product as part of their menus, which may or may not be in their own interest. In the event of a violation, the current remedy is to lose the license for a year under RSA 211:40. You will note the use of the term "convicted", which means the issue is brought to a court for resolution as a "violation". A violation is not a crime, but a fine of up to \$1,000 may be assessed by a court. We currently do not have an administrative process to hear such cases, and rely completely on the court system.
- C. Some might ask if we could enter a location to check for these issues using an administrative inspection warrant under RSA 595-B, which is how local code enforcement officers are able to check properties for local code and zoning violations. Note that under RSA 595-B:9, this tool is not available to the fish and game department: **"595-B:9 Application Limited.** – This chapter shall not apply to the application for warrants by personnel within the department of fish and game and the division of state police, and shall in no way affect the issuance of warrants at the request of persons within the department or division under other provisions of law." As I noted in (b), we do not operate an administrative hearings system in the department as many other departments do to resolve issues involving licensees.
- D. If we were to require all retailers to use NH licensed wholesalers or harvesters as the sole source of their product, our staff reports that we only license those engaged in wholesale trade, not processors or repackers. We have no lobster processors in our state that aren't also involved in retail trade (grocery stores, fish dealers, harvesters who have certified facilities and personal certifications to cook and break it down. Restaurants would run into significant issues finding processed meat for their businesses if they were restricted to NH businesses due to the lack of processing. Most of the processing is done in Canada. While Maine retailers do not necessarily have to buy locally in Maine, whoever they purchase from has to hold a license with the state of Maine. Those businesses could reside anywhere. Maine and Massachusetts do require live lobster to be purchased from licensed wholesalers. While it's not explicitly stated, we would technically require the same since those selling seafood on a wholesale basis and transacting business in NH are required to be licensed with a NH wholesale marine species license. It is not required for simply transiting NH, but any offloads or pickups (business transacted) in state boundaries would require the license.

From: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>
Sent: Friday, February 26, 2021 12:12 PM
To: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>

Cc: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>

Subject: RE: SB 51 Lobster bill update

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Paul:

I had a conversation with Senator Avard today regarding pending bills in the Senate ENR Committee. We did discuss SB 51.

Has NHFG completed any information on a "compare and contrast" document on the laws/regulations in Maine and Massachusetts?

Thanks,

Griffin Roberge
Legislative Aide to Senator Bob Giuda
Legislative Aide to the Senate Energy & Natural Resources Committee
Phone: (603) 271-3042
E-mail: griffin.roberge@leg.state.nh.us

From: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>
Sent: Tuesday, February 02, 2021 9:18 AM
To: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>
Subject: RE: SB 51 Lobster bill update

Will do. If they wish to speak with me at that time, I will be available to zoom in and answer any questions, just let me know. Thanks.

From: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>
Sent: Tuesday, February 2, 2021 9:16 AM
To: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>
Cc: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>
Subject: RE: SB 51 Lobster bill update

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Paul:

Senator Watters e-mailed the committee last week and said he was talking to NHFG on SB 51. I do not anticipate that Senate ENR will take any action on SB 51 today, but they may enter into executive session to discuss the bill.

Thank you for the update and please keep me in the know!

Very best,

Griffin Roberge
Legislative Aide to Senator Bob Giuda
Legislative Aide to the Senate Energy & Natural Resources Committee
Phone: (603) 271-3042
E-mail: griffin.roberge@leg.state.nh.us

From: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>
Sent: Tuesday, February 02, 2021 9:12 AM
To: Griffin Roberge <Griffin.Roberge@leg.state.nh.us>
Subject: FW: SB 51 Lobster bill update

Griffin, just wanted to be sure you had our update on work for SB 51 from the Fish and Game Department, which I sent to Sen Watters this morning. We should have more information this week in the form of a “compare and contrast” document with laws and regulations from Maine and Massachusetts. Thanks.

From: Sanderson, Paul
Sent: Tuesday, February 2, 2021 8:44 AM
To: 'David Watters' <watterssenate@gmail.com>; Patterson, Cheri <Cheri.A.Patterson@wildlife.nh.gov>; Zobel, Renee <Renee.m.Zobel@wildlife.nh.gov>
Subject: SB 51 Lobster bill update

Senator, I wanted to write and update you with our progress in SB 51. Yesterday we had to staff 6 hearings in House Fish and Game, which is the entire work of that committee for the session. For that reason, we have been delayed in fully answering your questions, and can now move forward with that task.

Right now, it looks like both Maine and Massachusetts have a license requirement for every retail location that sells fresh product. Neither state exempts frozen product. Neither requires a retailer to purchase from a wholesale source that has a state license in their state. Maine actually might require a retailer to deal with two separate license requirements, and they desire to simplify their system. Both states charge more than we charge.

It doesn't look like there is any practical short term way to provide complete relief for retailers in NH. As you know, if the license is repealed, it will cause ASMFC problems. We know our language in the entire scheme could use updating, but no one has yet had the time to draft this up, or vet it with user groups, so it is not ready for any serious consideration.

Renee has touched base with Maine and will be speaking with Massachusetts today and we will put together a “compare and contrast” document for the committee. What is most important is not to create any loopholes that will allow lobster harvesters to harvest short lobsters and process them and sell in the retail arena.

Thank you,
Paul G. Sanderson
Legal Coordinator
NH Fish and Game

	ME	NH	MA
Do you have a retail license for lobster?	Yes	Yes	Yes
What is the cost of the license for residents?	\$100	\$50	\$65
What is the cost of the license for non-residents?	\$100	\$75	\$130
Is it required annually?	Yes	Yes	Yes
Are harvesters required to get an additional license to sell directly to the public/restaurants?	Yes	No	Yes
If yes above, what is the cost of the license for harvesters to sell to the public?	Still pending info	NA	\$65
Is there a separate license to allow a retailer to purchase directly from harvesters?	Yes, but it is a free permit triggers a reporting requirement	No	No, this is handled with additional licenses at the harvester end
Does any license require reporting back to your state, or specific records kept at the business?	Retail dealers must keep records and report(those purchasing directly from harvesters)	No	Primary buyers must keep records and report(those purchasing directly from harvesters)
Is a retailer possessing live lobsters required to have a license?	No	Yes	No
Is a retailer purchasing live lobsters required to have a license?	No, but must be purchased from a Maine licensed wholesaler or processor only	Yes	No, but must be purchased from a MA licensed dealer or harvester
Is a retailer selling live lobsters required to have a license?	Yes	Yes	Yes
Is a retailer possessing whole lobsters (not live) required to have a license?	No	Yes	No
Is a retailer purchasing whole lobsters (not live) required to have a license?	No, but must be purchased from a Maine licensed wholesaler or processor only	Yes	No
Is a retailer selling whole lobster (not live) required to have a license?	No, but must be purchased from a Maine licensed wholesaler or processor only	Yes	No
Is a retailer possessing out of shell processed lobster meat (fresh, canned, or frozen) required to have a license?	No, but must be purchased from a Maine licensed wholesaler or processor only	Yes	No
Is there are requirement for a retailer to purchase any of these lobster products only from a licensed harvester or wholesaler?	Yes, all lobster products	No	Yes, live lobster must be purchased from a MA license holder
If yes above, does that exempt the retailer from any license requirements?	Not if they are selling live lobster		Not if they are selling live lobster

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # *SB 51*

Hearing Date: 01/26/2021

Executive Session Date: 03/08/2021

Motion of: Amendment 06 B1s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Giuda

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, March 8, 2021

THE COMMITTEE ON Energy and Natural Resources

to which was referred **SB 51**

AN ACT relative to the sale of lobster meat.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0715s

Senator Bob Giuda
For the Committee

During the midst of the COVID-19 pandemic, many restaurants discovered that they needed a license from the NH Fish and Game Department to sell lobster that had been processed and packaged. This bill, as amended, revises RSA 211:38 to exclude restaurants from this licensure requirement if that restaurant purchases and sells processed and packaged lobster meat from a licensed wholesaler or processor. This change will bring NH into line with Maine and Massachusetts and ensure New Hampshire remains in compliance with the Atlantic States Marine Fisheries Commission, a compact of Atlantic coastal states and federal agencies that regulate various fisheries along the Atlantic coast.

Griffin Roberge 271-3042

FOR THE CONSENT CALENDAR

ENERGY AND NATURAL RESOURCES

SB 51, relative to the sale of lobster meat.

Ought to Pass with Amendment, Vote 5-0.

Senator Bob Giuda for the committee.

During the midst of the COVID-19 pandemic, many restaurants discovered that they needed a license from the NH Fish and Game Department to sell lobster that had been processed and packaged. This bill, as amended, revises RSA 211:38 to exclude restaurants from this licensure requirement if that restaurant purchases and sells processed and packaged lobster meat from a licensed wholesaler or processor. This change will bring NH into line with Maine and Massachusetts and ensure New Hampshire remains in compliance with the Atlantic States Marine Fisheries Commission, a compact of Atlantic coastal states and federal agencies that regulate various fisheries along the Atlantic coast.

Docket of SB51**Bill Title:** relative to the sale of lobster meat.*Official Docket of SB51.:*

Date	Body	Description
1/19/2021	S	Introduced 01/06/2021 and Referred to Energy and Natural Resources; SJ 3
1/21/2021	S	Remote Hearing: 01/26/2021, 01:45 pm; Links to join the hearing can be found in the Senate Calendar; SC 8
3/10/2021	S	Committee Report: Ought to Pass with Amendment #2021-0715s , 03/18/2021; Vote 5-0; CC; SC 15
3/18/2021	S	Committee Amendment #2021-0715s, RC 23Y-1N, AA ; 03/18/2021; SJ 8
3/18/2021	S	Ought to Pass with Amendment 2021-0715s, RC 23Y-1N, MA ; OT3rdg; 03/18/2021; SJ 8
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Fish and Game and Marine Resources HJ 4 P. 50
4/28/2021	H	Public Hearing: 04/28/2021 09:30 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/97783276704 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/11/2021	H	Committee Report: Ought to Pass (Vote 18-0; CC) HC 26 P. 8
6/3/2021	H	Ought to Pass: MA VV 06/03/2021
7/1/2021	H	Enrolled (in recess of) 06/24/2021
7/1/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/13/2021	S	Signed by the Governor on 07/09/2021; Chapter 0116; Effective 09/07/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 51

Senate Committee: ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 0681s _____ - amendment # _____

- amendment # 0715s _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office