

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON MARINE RESOURCES

July 2013

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STATE OF MAINE

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES.....House & Senate disagreed; legislation died
DIED IN CONCURRENCE.....defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX.....chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Marine Resources

expanding opportunity in the limited-entry lobster fishery.

Enacted Law Summary

Public Law 2013, chapter 239 expands the authority of lobster management policy councils to allow them to make a recommendation to the Commissioner of Marine Resources regarding the methodology used to calculate the number of new entrants into a lobster management zone. Under previous law, the calculation was based on the number of trap tags retired; this law allows a council to recommend using the number of licenses retired instead.

Public Law 2013, chapter 239 also creates a temporary medical allowance so that when a parent or spouse holding a lobster and crab fishing license is unable to fish due to a medical condition, a child or spouse of the license holder who has completed the apprentice program may operate under the license for a limited duration of up to one year. The law requires that in order to be eligible for the temporary medical allowance provided in the bill, the holder of a lobster and crab fishing license must have harvested a minimum of 1,000 pounds of lobsters within one year prior to the request for a temporary medical allowance.

Public Law 2013, chapter 239 gives the Joint Standing Committee on Marine Resources the authority to report out a bill regarding lobster licenses and methods for expanding opportunity in the limited-entry lobster fishery.

Public Law 2013 chapter 239 was enacted as an emergency measure effective June 12, 2013.

LD 1545

An Act To Make Technical Changes to Maine's Marine Resources Laws and Elver Enforcement Mechanisms

PUBLIC 301

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOHNSON C	OTP-AM	S-247 H-473 DEVIN

This bill makes changes in the laws governing marine resources, including changes designed to improve enforcement mechanisms for the elver industry. This bill:

1. Specifically authorizes the Commissioner of Marine Resources to adopt or amend rules to add or delete authorization for the holders of aquaculture leases to use specific gear on the lease site and provides that the commissioner may grant authorization for a gear or species amendment only upon a determination that the change is consistent with the findings made by the commissioner when the lease was approved;
2. Specifies size limits on scallop spat collected under the authority of a special license and sold for placement on a lease site;
3. Provides that approval by the applicable advisory council is not required for a special license issued by the commissioner to a teacher who is providing a postsecondary school program;
4. Authorizes the commissioner to receive on behalf of the Aquaculture Monitoring, Research and Development Fund funds from any source;
5. Specifies that Atlantic salmon raised in a hatchery for purposes of restoration are not exempt from the possession prohibitions;
6. Eliminates language that would have repealed the exception allowing lobster processing by a person who holds both a wholesale seafood license with a lobster permit and a lobster processor license;
7. Specifies that the holder of an elver fishing license may possess elvers only during the open season and for up to

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6 hours after the end of open season;

8. Eliminates language that allows the taking of eels by hoop net;
9. Repeals a provision that prohibits a person from selling elvers for any form of payment other than a check that identifies both the seller and the buyer;
10. Eliminates language that prohibits an elver license holder or authorized representative from purchasing elvers in any manner other than by a check that identifies both the seller and buyer;
11. Enacts a provision that prohibits a person from assisting another person to illegally harvest elvers;
12. Specifically provides that elvers that are purchased or possessed that were illegally taken are subject to seizure;
13. Removes language requiring that shellfish conservation training programs include training in sampling techniques for the detection of pollutants and contaminants in shellfish areas;
14. Increases from 2 quarts to one gallon the amount of shucked scallops a person may take for personal use in any one day without possessing a scallop dragging license;
15. Increases from 2 quarts to one gallon the amount of shucked scallops a holder of a noncommercial scallop license may take for personal use in any one day;
16. Amends the description of the zone that is closed to sea urchin fishing that is designated "Zone 1";
17. Decreases from 125 to 50 the number of marine worms a person may take for personal use in any one day without possessing a marine worm digger's license or a marine worm dealer's license;
18. Restricts the allowable landings of northern shrimp for personal use to one standard fish tote;
19. Prohibits the issuance of an elver dealer's license after February 1st for the following licensing year;
20. Clarifies that an elver dealer's license authorizes licensed activities at only one permanent facility, which cannot be a dwelling, that is owned or legally leased by the license holder; and
21. Removes language prohibiting a licensed elver dealer or dealer's representative from purchasing or attempting to purchase elvers with a nonnegotiable check.

Committee Amendment "A" (S-247)

This amendment:

1. Modifies the provision of the bill that authorizes the Commissioner of Marine Resources to authorize gear or species changes under aquaculture leases; it provides that before any such changes are made, the public and interested parties must be notified and allowed to comment on the change;
2. Modifies the size limits on scallop spat collected under the authority of a special license and sold for placement on a lease site. Until September 1, 2015, the scallop spat must be less than 40 millimeters in the longest diameter and, beginning September 1, 2015, the scallop spat must be less than 25 millimeters in the longest diameter;
3. Clarifies that approval by the applicable advisory council is not required for a special license issued by the commissioner to a teacher who is providing a school program for educational purposes;

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4. Retains a recently enacted provision, repealed in the bill, that prohibits a person from buying or selling elvers with any form of payment other than a check, but modifies the provision to allow other forms of payment if the purchaser provides a written or electronic receipt that identifies both the buyer and seller; and
5. Suspends the elver gear lottery until action is taken to reauthorize the lottery.

House Amendment "A" To Committee Amendment "A" (H-473)

This amendment changes provisions in Committee Amendment "A" governing regulations that the Commissioner of Marine Resources may adopt or amend governing research and aquaculture leases. The committee amendment conditions authorization for a species or gear amendment on the provision of notice of the proposed amendment to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located and specifies that the notice must provide an opportunity for submission of written comments on the proposed amendment within 14 days. This amendment instead requires that these regulations provide for notice of proposed changes in only gear authorization to the lessee, the public, riparian landowners and the municipality in which the lease is located, and provide an opportunity for submission of written comments. The amendment provides that a change in authorization is not an adjudicatory proceeding.

This amendment also allows the commissioner to adopt similar rules for limited-purpose leases for commercial or scientific research.

Enacted Law Summary

Public Law 2013, chapter 301 makes the following changes in the laws governing marine resources, including changes designed to improve enforcement mechanisms for the elver industry. It:

1. Specifically authorizes the Commissioner of Marine Resources to adopt or amend rules to add or delete authorization for the holders of aquaculture leases to use specific gear on the lease site and provides that the commissioner may grant authorization for a gear or species amendment only upon a determination that the change is consistent with the findings made by the commissioner when the lease was approved. The rules must provide for notice of proposed changes in gear authorization only to the lessee, the public, riparian landowners and the municipality in which the lease is located, and provide an opportunity for submission of written comments. The law provides that a change in authorization is not an adjudicatory proceeding and also allows the commissioner to adopt similar rules for limited-purpose leases for commercial or scientific research;
2. Specifies size limits on scallop spat collected under the authority of a special license and sold for placement on a lease site. The new size limits on scallop spat collected under the authority of a special license and sold for placement on a lease site are as follows: Until September 1, 2015, the scallop spat must be less than 40 millimeters in the longest diameter and, beginning September 1, 2015, the scallop spat must be less than 25 millimeters in the longest diameter;
3. Provides that approval by the applicable advisory council is not required for a special license issued by the commissioner to a teacher who is providing a postsecondary school program for educational purposes;
4. Authorizes the commissioner to receive on behalf of the Aquaculture Monitoring, Research and Development Fund funds from any source;
5. Specifies that Atlantic salmon raised in a hatchery for purposes of restoration are not exempt from the possession prohibitions;
6. Eliminates language that would have repealed the exception allowing lobster processing by a person who holds both a wholesale seafood license with a lobster permit and a lobster processor license;
7. Specifies that the holder of an elver fishing license may possess elvers only during the open season and for up to

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6 hours after the end of open season;

- 8. Eliminates language that allows the taking of eels by hoop net;
- 9. Repeals a provision that prohibits a person from selling elvers for any form of payment other than a check that identifies both the seller and the buyer;
- 10. Eliminates language that prohibits an elver license holder or authorized representative from purchasing elvers in any manner other than by a check that identifies both the seller and buyer;
- 11. Enacts a provision that prohibits a person from assisting another person to illegally harvest elvers;
- 12. Specifically provides that elvers that are purchased or possessed that were illegally taken are subject to seizure;
- 13. Removes language requiring that shellfish conservation training programs include training in sampling techniques for the detection of pollutants and contaminants in shellfish areas;
- 14. Increases from 2 quarts to one gallon the amount of shucked scallops a person may take for personal use in any one day without possessing a scallop dragging license;
- 15. Increases from 2 quarts to one gallon the amount of shucked scallops a holder of a noncommercial scallop license may take for personal use in any one day;
- 16. Amends the description of the zone that is closed to sea urchin fishing that is designated "Zone 1";
- 17. Decreases from 125 to 50 the number of marine worms a person may take for personal use in any one day without possessing a marine worm digger's license or a marine worm dealer's license;
- 18. Restricts the allowable landings of northern shrimp for personal use to one standard fish tote;
- 19. Prohibits the issuance of an elver dealer's license after February 1st for the following licensing year;
- 20. Clarifies that an elver dealer's license authorizes licensed activities at only one permanent facility, which cannot be a dwelling, that is owned or legally leased by the license holder;
- 21. Prohibits a person from buying or selling elvers with any form of payment other than a check unless the purchaser provides a written or electronic receipt that identifies both the buyer and seller; and
- 22. Suspends the elver gear lottery until action is taken to reauthorize the lottery.

LD 1549 An Act To Provide an Exemption for Incidentally Caught Lobsters

**ACCEPTED
MINORITY
(ONTP) REPORT**

Sponsor(s)
HASKELL

Committee Report
OTP-AM
ONTP

Amendments Adopted

This bill allows the holder of a commercial fishing license while on a boat participating in the federal northeast multispecies fishery fishing exclusively in specific lobster management areas delineated under federal regulation to take, possess or sell lobsters but prohibits the first sale of those lobsters in Maine.