

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1767

6 S.P. 682

In Senate, January 3, 1986

7 Submitted by the Department of Inland Fisheries and Wildlife pursuant  
8 to Joint Rule 24.

9 Received by the Secretary of the Senate on January 3, 1986. Referred to  
10 the Committee on Fisheries and Wildlife and 1,600 ordered printed pursuant  
to Joint Rule 14.

Presented by Senator Matthews of Kennebec.

11 Cosponsored by Representative Walker of Norway, Representative Clark  
of Millinocket, and Representative Duffy of Bangor.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-SIX  
16

17 AN ACT to Revise the Statutes Pertaining to  
18 Use and Sale of Live Fish as Bait.  
19

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

22 Sec. 1. 12 MRSA §7001, sub-§§1-A and 1-B are en-  
23 acted to read:

24 1-A. Baitfish. "Baitfish" means only those spe-  
25 cies in the following list:

26 A. Lake chub, (Couesius plumbeus);

27 B. Silvery minnow, (Hybognathus nuchalis);

28 C. Golden shiner, (Notemigonus chrysoleucas);

29 D. Emerald shiner, (Notropis atherinoides);

30 E. Bridled shiner, (Notropis bifrenatus);

- 1        F. Common shiner, (Notropis cornutus);  
2        G. Blacknose shiner, (Notropis heterolepis);  
3        H. Spottail shiner, (Notropis hudsonius);  
4        I. Northern redbelly dace, (Phoxinus eos);  
5        J. Finescale dace, (Phoxinus neogaeus);  
6        K. Fathead minnow, (Pimephales promelas);  
7        L. Blacknose dace, (Rhinichthys atratulus);  
8        M. Longnose dace, (Rhinichthys cataractae);  
9        N. Creek chub, (Semotilus atromaculatus);  
10       O. Fallfish, (Semotilus corporalis);  
11       P. Pearl dace, (Semotilus margarita);  
12       Q. Banded killifish, (Fundulus diaphanus);  
13       R. Mummichog, (Fundulus heteroclitus);  
14       S. Longnose sucker, (Catostomus catostomus);  
15       T. White sucker, (Catostomus commersoni); and  
16       U. Creek chubsucker, (Erimyzon oblongus).

17       1-B. Baitfish trap. "Baitfish trap" means a de-  
18       vice used to take baitfish, fitted with rigid en-  
19       trance or exit holes no larger than 1 1/2 inches in  
20       breadth and a volume no greater than 50 cubic feet.

21       Sec. 2. 12 MRSA §7001, sub-§33-A is enacted to  
22       read:

23       33-A. Seine. "Seine" means an ordinary  
24       commercial-type minnow seine, not to exceed 8 feet in  
25       depth by 150 feet in length, used vertically to en-  
26       close baitfish when its ends are brought together or  
27       drawn ashore.

1           Sec. 3. 12 MRSA §7171, as amended by PL 1983, c.  
2 588, §10 and c. 807, Pt. P, §9, is repealed and the  
3 following enacted in its place:

4   §7171. Baitfish dealer's license

5           1. Issuance. The commissioner may issue a  
6 baitfish dealer's license to any person, permitting  
7 that person to:

8           A. Take, possess or transport live baitfish, as  
9 defined in section 7001, subsection 1-A, for re-  
10 sale; and

11          B. Sell or offer to sell live baitfish.

12          2. Fee. The fee for a baitfish dealer's license  
13 shall be \$20 for calendar year 1986, \$21 for calendar  
14 year 1987 and every calendar year thereafter.

15          3. Restrictions. The following restrictions ap-  
16 ply to the taking or selling of baitfish.

17          A. If a person sells live baitfish in more than  
18 one wholesale or retail outlet, he must obtain a  
19 separate license for each location.

20          B. A person engaged in taking live baitfish for  
21 resale must hold a current baitfish dealer's li-  
22 cence which shall be exhibited upon request to  
23 any agent of the commissioner.

24          C. The holder of a baitfish dealer's license may  
25 take baitfish by use of a seine as defined in  
26 section 7001, subsection 33-A; a baitfish trap as  
27 defined in section 7001, subsection 1-B; or by  
28 hook and line.

29           Sec. 4. 12 MRSA §7172, as amended by PL 1983, c.  
30 807, Pt. P, §14, is repealed and the following en-  
31 acted in its place:

32   §7172. Live smelt dealer's license

33           1. Issuance. The commissioner may issue a live  
34 smelt dealer's license to any person, permitting that  
35 person to:

1 A. Take, possess or transport live smelts  
2 (Osmerus mordax) for resale; and

3 B. Sell or offer to sell live smelts.

4 2. Fee. The fee for a live smelt dealer's li-  
5 cence shall be \$65 for calendar year 1986, \$66 for  
6 calendar year 1987 and each year thereafter.

7 3. Restrictions. The following restrictions ap-  
8 ply to the selling, taking, possession or transporta-  
9 tion of live smelts.

10 A. If a person sells live smelts in more than  
11 one wholesale or retail outlet, he must obtain a  
12 separate license for each location.

13 B. A person engaged in taking or transporting  
14 live smelts for resale must hold a current live  
15 smelt dealer's license which shall be exhibited  
16 upon request to any agent of the commissioner.

17 C. The holder of a live smelt dealer's license  
18 may take live smelts with a dipnet, dropnet or  
19 hook and line at any time from specific inland  
20 waters designated by the commissioner.

21 D. The holder of a live smelt dealer's license  
22 may take up to 8 quarts of smelts within any  
23 24-hour period.

24 E. The holder of a live smelt dealer's license  
25 may possess at the address on the smelt dealer's  
26 license or transport more than 8 quarts of live  
27 smelts at any time, provided that the smelts were  
28 acquired in a lawful manner. As evidence of law-  
29 ful possession, the receipted invoice, bill of  
30 lading, bill of sale or other satisfactory evi-  
31 dence shall be presented upon request to any  
32 agent of the commissioner.

33 Each container used to transport live smelts must  
34 be labeled with the words "live smelts" and must  
35 be accompanied with written documentation identi-  
36 fying both the source and destination of smelts.

37 Sec. 5. 12 MRSA §7173, as amended by PL 1979, c.  
38 723, §8, is further amended to read:

1     §7173. Permit to take baitfish

2             1. Issuance. Whenever any inland waters are  
3 closed to fishing, the commissioner may issue permits  
4 to take ~~minnows~~ baitfish for bait purposes from those  
5 waters.

6             Sec. 6. 12 MRSA §7606, as enacted by PL 1979, c.  
7 420, §1, is repealed and the following enacted in its  
8 place:

9     §7606. Selling, using or possessing baitfish

10            1. Selling, using or possessing illegal  
11 baitfish. A person is guilty, except as provided in  
12 section 7630, subsection 1, of selling, using or pos-  
13 sessing illegal baitfish if he sells, offers for  
14 sale, uses or possesses for use as bait for fishing  
15 any species of fish not listed in section 7001, sub-  
16 section 1-A.

17            2. Failure to label baitfish traps or baitfish  
18 holding boxes. A person is guilty of failure to label  
19 baitfish traps or baitfish holding boxes if he sets  
20 or places within the inland waters of the State any  
21 baitfish trap or any baitfish holding box without  
22 having the baitfish trap or baitfish holding box  
23 plainly labeled with his full name and address.

24            Sec. 7. 12 MRSA §7630, sub-§1, ¶B, as enacted by  
25 PL 1979, c. 420, §1, is repealed and the following  
26 enacted in its place:

27            B. It is lawful to take baitfish, as defined in  
28 section 7001, subsection 1-A, from all inland wa-  
29 ters of the State during the period that these  
30 waters are open to fishing and the commissioner  
31 may grant permits in accordance with section 7173  
32 to take baitfish from certain waters at any time.

33            Sec. 8. 12 MRSA §7630, sub-§§1-A and 4 are en-  
34 acted to read:

35            1-A. Section 7608. Notwithstanding section 7608,  
36 it is lawful to take baitfish with a baitfish trap,  
37 as defined in section 7001, subsection 1-B.

1           4. Section 7622. Notwithstanding section 7622,  
2 it is lawful to place food in a baitfish trap for the  
3 purpose of luring baitfish.

4   STATEMENT OF FACT

5           Many individuals derive much of their income by  
6 selling live baitfish and smelts to fishermen for use  
7 as bait in taking sport fish during both the open wa-  
8 ter and ice fishing seasons. The current laws dealing  
9 with live bait have been on the books for many years  
10 and are no longer adequate to ensure proper manage-  
11 ment and protection of this very important resource.

12           The purpose of this bill is to clarify, update  
13 and ensure enforceability of the laws which pertain  
14 to the taking, possessing and selling of live  
15 baitfish and live smelts.

16           Sections 1 and 2 provide definitions of the terms  
17 "baitfish", "baitfish trap" and "seine."

18           Section 3 establishes a new baitfish dealer's li-  
19 cense which allows a person to take for resale and  
20 sell live baitfish. The new license is similar to the  
21 current bait dealer's license and the fee is exactly  
22 the same. This revision makes it clear that each live  
23 baitfish outlet must be licensed separately and that  
24 all those who participate in taking baitfish for re-  
25 sale must be licensed.

26           A baitfish dealer's license will no longer allow  
27 the taking of live smelts for resale.

28           Persons who take live baitfish for their own use  
29 are not affected.

30           Section 4 establishes a new live smelt dealer's  
31 license which allows a person to take for resale and  
32 sell live smelts. The new license is similar to the  
33 current smelt dealer's license and the fee is exactly  
34 the same. This revision makes it clear that each live  
35 smelt outlet must be licensed separately and that all  
36 those who participate in taking live smelts for re-  
37 sale must be licensed.

1           A live smelt dealer's license allows the taking  
2 of 8 quarts of smelts in any 24-hour period rather  
3 than daily. The burden is on the dealer to provide  
4 satisfactory evidence that possession of smelts in  
5 excess of those taken by him within the 24-hour peri-  
6 od were acquired lawfully.

7           Persons who take live smelts for their own use  
8 are not affected.

9           Section 5 changes the word "minnow" to  
10 "baitfish."

11          Section 6 establishes prohibited acts for the  
12 sale or use of illegal baitfish and for failure to  
13 properly label baitfish traps and baitfish holding  
14 boxes.

15          Section 7 makes it clear that baitfish may be  
16 taken without a permit from waters which are open to  
17 fishing. Permits to take baitfish, both for resale  
18 and for personal use, are required during periods  
19 when waters are closed to fishing.

20          Section 8 makes it clear that baitfish may be  
21 taken by methods not allowed in taking other inland  
22 fish species.

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