

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 974

H.P. 707

House of Representatives, February 4, 1999

An Act to Amend the Laws Regarding Elver Fishing.

(EMERGENCY)

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TRAHAN of Waldoboro.
Cosponsored by Representative STANWOOD of Southwest Harbor.

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

4
6 Whereas, immediate action must be taken to protect the elver
resource and the public's safety during the 1999 elver fishing
season, which begins March 15th; and

8
10 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
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

16 **Sec. 1. 12 MRSA §6505-A, sub-§2,** as enacted by PL 1995, c.
18 536, Pt. A, §8 is amended to read:

20 **2. Eligibility.** An elver fishing license may be issued
only to an individual who is 16 years of age or older and who:

22 A. During the 1996 elver fishing season held an eel fishing
24 license under former section 6505 and paid fees for the use
of elver fyke nets, Sheldon eel traps and dip nets in
26 accordance with Public Law 1995, chapter 536, Part A,
section 12; and

28 B. During the 1997 and 1998 elver fishing seasons held an
30 elver fishing license issued under this section.

32 **Sec. 2. 12 MRSA 6505-B,** as amended by PL 1997, c. 575, §2, is
further amended to read:

34 **§6505-B. Elver gear fees**

36 ~~1.--Elver fyke net and Sheldon eel trap fee.--It is unlawful~~
38 ~~for a person to submerge an elver fyke net or a Sheldon eel trap~~
~~in the coastal waters of the State to fish for or take elvers~~
40 ~~unless the net or trap owner pays annually the following fees:~~

42 ~~A.--Fifty dollars per net or trap for the use of a first or~~
44 ~~2nd elver fyke net or Sheldon eel trap, except that the fee~~
~~under this paragraph does not apply to an elver fyke or~~
46 ~~Sheldon eel trap a person utilizes pursuant to section~~
~~6505-A, subsection 5.-- For the purposes of assessing fees~~
48 ~~under this subsection, an elver fyke net or Sheldon eel trap~~
~~utilized pursuant to section 6505-A, subsection 5 is the~~
50 ~~first net or trap;~~

2 B. ~~One hundred dollars per net or trap for the use of a 3rd~~
3 ~~elver fyke net or Sheldon eel trap; and~~

4 G. ~~Two hundred dollars per net or trap for the use of a 4th~~
5 ~~and 5th elver fyke net or Sheldon eel trap.~~

6
7 1-A. Fee. A person may not submerge an elver fyke net, a
8 Sheldon eel trap or a dip net in the coastal waters of the State
9 to fish for or take elvers unless the net or trap owner pays
10 annually a \$100 fee for each elver fyke net, Sheldon eel trap or
11 dip net, except that the fee under this subsection does not apply
12 to a net or trap a person utilizes pursuant to section 6505-A,
13 subsection 5.

14
15 2. **Tags for elver fyke net and Sheldon eel trap.** It is
16 unlawful for a person to submerge an elver fyke net or a Sheldon
17 eel trap in the coastal waters of the State to fish for or take
18 elvers unless a tag issued by the department is affixed to the
19 shoreside wing of the net or trap and is clearly visible. The
20 department may issue a replacement tag when an owner issued a tag
21 documents that a net or trap has been damaged or lost.

22
23 ~~3. Dip net fee. It is unlawful for a person to utilize a~~
24 ~~dip net to fish for or take elvers without paying a fee of \$50~~
25 ~~per dip net annually.~~

26
27 ~~This subsection does not apply to a dip net a person utilizes~~
28 ~~pursuant to section 6505-A, subsection 5.~~

29
30 4. **Payment with license.** The fees required under
31 ~~subsections 1 and 2~~ subsection 1-A must be paid upon application
32 for an elver fishing license under section 6505-A.

33
34 5. **Disposition of fees.** All fees collected under this
35 section accrue to the Eel and Elver Management Fund established
36 in section 6505-D.

37
38 **Sec. 3. 12 MRSA §6575-A**, as amended by PL 1997, c. 575, §3,
39 is further amended to read:

40 **§6575-A. Closed period; elver harvesting**

41
42 ~~It is unlawful for a person to fish for or take elvers from~~
43 ~~noon--Friday--to--noon--Sunday.~~ The commissioner may by rule
44 establish closed days or portions of days during the elver
45 fishing season for the purpose of conserving elvers. The
46 commissioner shall utilize the lunar tide schedule when
47 determining the closed days or portions of days. A person may
48 leave an elver fyke net or a Sheldon eel trap in the coastal
49 waters of the State during the closed period if the net or trap
50

is left in a condition that prevents the capture of elvers. An elver fyke net must be configured with a rigid opening in the code end to facilitate the escape of elvers during closed periods.

Sec. 4. 12 MRSA §6575-B, sub-§2, as enacted by PL 1995, c. 536, Pt. A, §9, is amended to read:

2. Number of elver fyke nets and Sheldon eel traps. It is unlawful from noon of March 15th to midnight of June 15th for a person to immerse at any one time:

~~A. More than 5 elver fyke nets;~~

~~B. More than 5 Sheldon eel traps; or~~

~~C. Any combination of elver fyke nets and Sheldon eel traps that total more than 5 nets and traps.~~

D. A number of elver fyke nets that is greater than the average number of nets that person utilized during the past 3 elver fishing seasons for which that person held a license; and

E. A number of Sheldon eel traps that is greater than the average number of traps that person utilized during the past 3 elver fishing seasons for which that person held a license.

Sec. 5. 12 MRSA §6575-B, sub-§§6 to 12 are enacted to read:

6. Eligibility for dip net use. A person may not use a dip net to fish for or take elvers unless:

A. That person's elver fishing license in one of the last 3 elver fishing seasons for which that person held a license identified a dip net as permissible gear under section 6505-A, subsection 5; or

B. That person forfeits use of one elver fyke net or one Sheldon eel trap for each dip net used from the total for that person established under subsection 2.

7. Setting elver fyke nets. A person may not set an elver fyke net within the wings of another elver fyke net or set an elver fyke net in a manner that interferes with the operation of another elver fyke net.

8. Obstructing elver fyke net. A person may not place any obstruction in front of an elver fyke net.

2 9. Interfering with elver fyke net location. A person may not in any way interfere with the placement of an elver fyke net.

4 10. Cod end rope. The distance of a rope between the cod end and the cod-end anchor of an elver fyke net may not be more than 10 feet. No part of a cod end rope or anchor may be between the wings of another elver fyke net.

8 11. Fishing from artificial platforms. A person may not utilize a dip net from any type of artificial platform constructed for the purpose of fishing for or taking elvers.

12 12. Bycatch release. A person shall return to the coastal waters as soon as is practical any species other than elver that is caught in an elver fyke net.

16 Sec. 6. 12 MRSA §6575-C, sub-§2, as enacted by PL 1995, c. 18 536, Pt. A, §9, is amended to read:

20 2. Alewife traps. It is unlawful for a person to fish for or take elvers within 50 feet of the downstream side of a licensed alewife trap.

24 Sec. 7. 12 MRSA §6575-F is enacted to read:

26 §6575-F. Zones; closed season

28 It is unlawful for a person to fish for or take elvers:

30 1. Zone 1. In Zone 1, from June 1st to noon on March 15th of the following year. For the purposes of this subsection, "Zone 1" has the same meaning as defined in section 6749-N, subsection 1; and

34 2. Zone 2. In Zone 2, from June 16th to noon on April 1st of the following year. For the purposes of this subsection, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

40 A person issued an elver fishing license may fish for or take elvers in both Zone 1 and Zone 2.

44 Sec. 8. Report. The Commissioner of Marine Resources shall by August 1, 1999 submit a report to the Joint Standing Committee on Marine Resources on the harvest of elvers during the 1999 season and make recommendations regarding the number of licenses and gear restrictions for the 2000 elver fishing season. The commissioner shall by September 1, 1999 convene a meeting with

2 representatives of the elver fishing industry to review the
findings of the report.

4 **Sec. 9. Application.** That part of this Act that amends the
Maine Revised Statutes, Title 6505-A applies to a person who
6 purchased an elver fishing license for the 1999 elver fishing
season before the effective date of this Act. That person must
8 document to the Commissioner of Marine Resources by March 15,
1999 that that person complies with the provisions of Title 12,
10 section 6505-A, subsection 2. If that person fails to provide
the documentation by March 15, 1999, that person's elver fishing
12 license for the 1999 season is revoked, and the Commissioner of
Marine Resources shall refund to the person all license and gear
14 fees paid by that person.

16 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.
18

20 SUMMARY

22 This bill establishes limits on the purchase of elver
fishing licenses. It prohibits a person from purchasing an elver
24 fishing license unless that person held a license to harvest
elvers in 1996, 1997 and 1998. The eligibility requirements
26 apply to a person who has already purchased a license for the
1999 elver fishing season. If a person who holds a license for
28 the 1999 elver fishing season does not meet the eligibility
requirements, the license becomes void, and all the fees must be
30 refunded to the person.

32 The bill also sets a \$100 fee for each elver fyke net,
Sheldon eel trap or dip net that is utilized in additions to the
34 one net or trap that is authorized with the purchase of an elver
fishing license.
36

38 The bill allows the Commissioner of Marine Resources to
establish days that are closed to elver fishing. It requires the
commissioner to use the lunar tide schedule when the commissioner
40 determines those days.

42 The bill limits the number of elver fyke nets and Sheldon
eel traps that a person may use to the average number of elver
44 fyke nets or Sheldon eel traps that person utilized during the
past 3 elver fishing seasons in which that person participated.
46 It prohibits a person from using a dip net to harvest elvers,
unless that person utilized a dip net in one of the last 3 elver
48 fishing seasons for which that person held a license, or that
person forfeits one elver fyke net or Sheldon eel trap for each
50 dip net used from the average number of elver fyke nets or

2 Sheldon eel traps that person utilized during the past 3 elver
fishing seasons in which that person participated.

4 The bill establishes 2 elver fishing zones in the State.
6 Zone 1 includes all coastal waters west of a line that runs
approximately down the middle of the Penobscot Bay. The elver
8 fishing season in Zone 1 is from noon March 15th to May 31st.
Zone 2 includes all coastal waters east of the line. The elver
10 fishing season in Zone 2 runs from noon April 1st to June 15th.
A person may fish in either zone during the open season.

12 The bill also establishes a variety of limitations on the
placement of elver gear and the use of elver gear.

14 The bill requires the Commissioner of Marine Resources to
16 report by August 1, 1999 to the Joint Standing Committee on
Marine Resources on the harvest of elvers during the 1999 season
18 and on any recommendations regarding the number of licenses and
gear restrictions for the 2000 elver fishing season. The
20 commissioner must by September 1, 1999 convene a meeting with
representatives of the elver fishing industry to review the
22 findings of the reports.