

MAINE STATE LEGISLATURE

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DATE: 5/12/5

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INLAND FISHERIES AND WILDLIFE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 518, L.D. 723, Bill, "An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 12 MRSA §10001, sub-§12-A, as enacted by PL 2003, c. 552, §1 and affected by §15 and c. 655, Pt. C, §§2 and 6, is repealed and the following enacted in its place:

12-A. Dip net. "Dip net" means:

A. Except when taking smelts in a tributary or within 100 feet of the mouth of a tributary, a device consisting of a rigid frame filled with netting, firmly attached to a rigid handle and manually operated by a single person; and

B. When used to take smelts in a tributary or within 100 feet of the mouth of a tributary, a device consisting of a rigid circular frame that is not more than 24 inches in diameter as measured at any point on the hoop, filled with netting, firmly attached to a rigid handle and manually operated by a single person.

Sec. 2. 12 MRSA §12456, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed and the following enacted in its place:

A. A person who holds a valid Maine fishing license may take smelts for recreational purposes only from the inland waters or portions of inland waters that are naturally free

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2 of ice with a dip net in the usual and ordinary way from
3 noon to 2:00 a.m. in accordance with bag limits established
4 by rule. Bag limits established by rule under this
5 paragraph are for a 24-hour period, beginning at noon on a
6 given day and ending at 11:59 a.m. the following day. The
7 commissioner may prohibit the taking of smelts under this
8 section or shorten the noon to 2:00 a.m. smelt fishing
timeframe by rule for enforcement or conservation purposes.

10 (1) A person may not keep more than 5 dozen smelts
11 alive as part of that person's daily bag limit pursuant
12 to this paragraph.

14 (2) A person may not take smelts with a dip net unless
15 that dip net meets the requirements under section
16 10001, subsection 12-A.

18 Each day a person violates subparagraph (1) or (2) that
19 person commits a Class E crime;

20 **Sec. 3. 12 MRSA §12551-A, sub-§7, ¶¶A and B,** as enacted by PL
22 2003, c. 655, Pt. B, §259 and affected by §422, are amended to
23 read:

24 A. The holder of a smelt wholesale dealer's license may:

26 (1) Take live smelts for resale from any inland water
27 waters or private pond ponds. The taking of live
28 smelts from inland waters must be in accordance with
29 general rules adopted by the commissioner in regard to
30 the taking of smelts. Except as provided in paragraph
31 B, the holder of a smelt wholesaler's license shall
32 comply with the same daily bag limit and the same
33 tackle restrictions that apply to all other anglers and
34 is subject to the same penalties for violations of
35 those limits and restrictions. This subparagraph does
36 not apply to a holder of a fish cultivator license as
37 provided under section 12507;

40 (2) ~~Use a baitfish trap, a dip net, From ice-in to~~
41 ~~ice-out, use~~ a drop net, a lift net, ~~a bag-net~~ or hook
42 and line to take up to 8 quarts of smelts ~~in a 24-hour~~
43 ~~period, beginning at noon on a given day,~~ from specific
44 inland waters designated by the commissioner. A dip
45 net may be used in conjunction with the above methods
46 to assist with the handling and transporting of
47 smelts. A licensee may keep the daily bag limit
48 alive. The daily bag limit established under this
subparagraph is for a 24-hour period, beginning at noon

Notes

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on a given day and ending at 11:59 a.m. the following day;

(2-A) In waters naturally free of ice, take smelts from noon to 2:00 a.m. by the use of a dip net in the usual and ordinary way. The commissioner may establish the daily bag limit by rule and a licensee may keep the daily bag limit of smelts alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day. The commissioner may shorten the noon to 2:00 a.m. smelt fishing timeframe by rule for enforcement or conservation purposes;

~~May-use-particles-of-feed~~ Use artificial light for the purpose of luring smelts to a ~~baitfish-trap, a dip net, a drop net,~~ or a lift net ~~or a bag-net;~~

(4) Transport or possess at the holder's business facility more than the daily bag limit of smelts provided that the smelts were taken by the license holder in accordance with this section or acquired from a person licensed under this section to deal in live smelts;

(5) Designate others to assist in selling live smelts at the holder's business facility; and

(6) Transport or designate others to transport on the license holder's behalf live smelts in accordance with this subsection.

B. The holder of a smelt wholesale dealer's license may not:

(1) When engaged in taking, or assisting in taking, live smelts for resale from inland waters, fail to exhibit the license to any agent of the commissioner upon request;

(2) Take multiple bag limits from waters governed by general rules regulating the taking of smelts in order to attain the 8-quart limit of smelts described in paragraph A, subparagraph 2 (2);

(3) Use a seine to take smelts;

(4) Transport or possess at the holder's business facility more than the daily bag limit of smelts at any time unless the smelts were acquired in accordance with paragraph A, subparagraph -4- (4). If the smelts were

COMMITTEE AMENDMENT

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purchased from another person, the license holder must present a receipted invoice, bill of lading or bill of sale to any agent of the commissioner upon request;

(5) Transport from an inland water source to the licensee's place of business more than 8 quarts of live smelts;

(6) Permit any person to transport live smelts on the license holder's behalf directly from an inland water source;

(7) Attempt to take from the inland waters of the State live smelts for resale using drop nets through the ice unless the license holder marks all holes made in the ice by that license holder for that purpose. The holes must be marked either by evergreen boughs placed around the hole or by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides;

(8) ~~Take smelts during the winter months, except by hook and line, unless the holder has a~~ uses an operable commercially manufactured number 14 fish grader in operable condition in that holder's immediate proximity to sort smelts by size during the taking of smelts and uses that grader during the smelt harvesting activity. The holder shall liberate immediately all undersized smelts alive into the waters from which they were taken. For the purpose of this subparagraph, a commercially manufactured number 14 grader is a grader having a minimum grate size of 14/64 inches and that allows smelts to pass through at least 2 sides and the bottom of the grader. The commissioner may adopt rules to amend the grate size restrictions under this subparagraph if the commissioner determines such rules are necessary for conservation or enforcement purposes. This subparagraph does not apply to a license holder who fishes with a hook and line only; or

(9) Possess at that person's place of business any species of fish that may not legally be sold as bait;

(10) Use particles of food or any other type of bait or lure except light to lure smelts to a drop net or a lift net; or

COMMITTEE AMENDMENT

1003

2 (11) Use a dip net to take smelts unless that dip net
3 meets the requirements under section 10001, subsection
4 12-A.

5 Each day a person violates this paragraph that person
6 commits a class Class E crime.

7 **Sec. 4. 12 MRSA §12551-A, sub-§10** is enacted to read:

10 10. Reports required. A person licensed under this section
11 must submit a report on forms provided by the department with the
12 following information: name and location, including the town and
13 county of waters fished; date fished; total catch; gear type; and
14 number of nets used. The report must be submitted by May 31st of
15 each year. A person who has not submitted this report may be
16 prohibited from obtaining a license under this section. A person
17 who is prohibited from obtaining a license under this section
18 may submit an appeal to the commissioner.

19 All data submitted as part of the report are for scientific
20 purposes only and are confidential and not a public record within
21 the meaning of Title 1, chapter 13, subchapter 1, except that the
22 commissioner may disclose data collected under this subsection if
23 that data are released in a form that is statistical or general
24 in nature.'

25 **SUMMARY**

26 This amendment replaces the bill and:

27 1. Provides restrictions on the size of a dip net that can
28 be used to take smelts in certain areas;

29 2. Provides that a person who holds a valid Maine fishing
30 license may take smelts for recreational purposes only in inland
31 waters free or partially free of ice from noon to 2:00 a.m. with
32 a dip net. It also provides that a licensee may keep only 5
33 dozen smelts of that person's bag limit alive and clarifies that
34 the bag limit is for a 24-hour period;

35 3. Provides that from ice-in to ice-out, smelt wholesale
36 dealers are prohibited from using baitfish traps and dip nets to
37 take smelts, except a dip net can be used to assist in handling
38 and transporting smelts;

39 4. Provides that in waters naturally free of ice, a smelt
40 wholesale dealer may take smelts from noon to 2:00 a.m. by the
41 use of a dip net and authorizes the Commissioner of Inland
42 Fisheries and Wildlife to establish a daily bag limit by rule. A
43 licensee may keep the daily bag limit alive and the daily bag
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2 limit is for a 24-hour period. The amendment restricts wholesale
dealers to 2 quarts during this time period;

4 5. It authorizes the commissioner to shorten the noon to
2:00 a.m. smelt fishing timeframe by rule for enforcement or
6 conservation purposes;

8 6. Prohibits smelt wholesale dealers from using food
particles or any other type of bait or lure except artificial
10 light for luring smelts into a drop net or lift net;

12 7. Amends the description of a smelt grader and gives the
commissioner the authority to modify that description by rule for
14 conservation or enforcement purposes;

16 8. Requires a person who holds a smelt wholesaler dealer
license who fishes with a hook and line or a dip net to use a
18 grader to size smelts caught by hook and line and dip net;

20 9. Removes the requirement that smelt wholesale dealers
report dates they fished for smelts;

22 10. Changes the date that smelt wholesale dealers must
24 report to the Department of Inland Fisheries and Wildlife from
April 10th to May 31st annually and makes all data submitted in
26 the report confidential, except the commissioner may release
otherwise confidential information if it is released in a form
28 that is statistical or general in nature; and

30 11. Gives the commissioner the discretion to prohibit a
person from obtaining a smelt wholesale dealers license if that
32 person fails to meet reporting requirements. Current law
mandates that a person who fails to meet the reporting
34 requirements is ineligible to obtain a smelt wholesale dealers
license.

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FISCAL NOTE REQUIRED
(See attached)



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LD 723

LR 0332(02)

An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund