

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 723

H.P. 518

House of Representatives, February 10, 2005

### **An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish**

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Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.  
Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CEBRA of Naples.  
Cosponsored by Representatives: RICHARDSON of Carmel, RICHARDSON of Greenville.

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

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4       **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 amended to read:

6               **12-A. Dip net.** "~~Dipnet~~" "Dip net" means a device  
8 consisting of a rigid frame with a maximum hoop size of 24 inches, filled with netting, firmly attached to a rigid handle and manually operated by a single person.

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12       **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 amended to read:

14               A. A From March 15th to November 30th, a person may take smelts at any time from noon to midnight in accordance with bag limits established by rule by the use of a dipnet dip net in the usual and ordinary way in inland waters or portions of inland waters that are naturally free of ice, and where the taking of smelts is not prohibited by rules of the commissioner. Only 5 dozen smelts per person may be kept alive as part of the daily bag limit;

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

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

30                       (1) Take live smelts for resale from any inland water or private pond. The taking of live smelts from inland waters must be in accordance with general rules adopted by the commissioner in regard to the taking of smelts. Except as provided in paragraph B, the holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers and is subject to the same penalties for violations of those limits and restrictions;

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40                       (2) Use From December 1st to March 14th, use a baitfish trap, a dip net, a drop net, a lift net, a bag net or hook and line to take up to 8 quarts of smelts in a 24-hour period, beginning at noon on a given day, from specific inland waters designated by the commissioner. From March 15th to November 30th, a person licensed under this section may take smelts in accordance with the bag limit established by rule of the commissioner from noon to midnight by the use of a

dip net in the usual and ordinary way in inland waters designated by the commissioner;

(3) May use particles of food for the purpose of luring smelts to a baitfish trap, a dip net, a drop net, 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;

(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. If the smelts were 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;

2 (7) Attempt to take from the inland waters of the  
4 State live smelts for resale using drop nets through  
6 the ice unless the license holder marks all holes made  
8 in the ice by that license holder for that purpose.  
10 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;

12 (8) Take smelts during the winter months, except by  
14 hook and line, unless the holder has a commercially  
16 manufactured number 14 fish grader certified by the  
18 Department of Agriculture, Bureau of Weights and  
20 Measures in operable condition in that holder's  
immediate proximity 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  
22 commercially manufactured number 14 grader is a grader  
24 having a minimum grate size of 14/64 inches. This  
subparagraph does not apply to a license holder who  
fishes with a hook and line only; or

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

30 Each day a person violates this paragraph that person  
32 commits a class E crime.

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

36 10. Reports required. A person licensed under this section  
38 shall submit a report on forms provided by the department, with  
40 the following information: name and location of waters fished,  
42 the dates fished, total catch, gear type, and number of nets  
44 used. The report must be submitted by April 10th of each year.  
46 The data submitted as part of the report is confidential  
information. The department may use the data submitted as part  
of the report for scientific purposes only. A person who has not  
submitted this report is prohibited from retaining a license. A  
person whose ability to retain a license has been affected  
pursuant to this subsection may submit an appeal to the  
commissioner.

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## SUMMARY

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4       This bill changes the definition of dip net to include a  
6       minimum size, provides further definition of a commercial grader  
      within the smelt wholesaler's license and provides for reporting  
      requirements for commercial smelt dealers.