

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1331

H.P. 935

House of Representatives, March 31, 2009

### An Act Regarding Saltwater Recreational Fishing

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Submitted by the Department of Marine Resources pursuant to Joint Rule 204.  
Reference to the Committee on Marine Resources suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PERCY of Phippsburg.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§57-D**, as enacted by PL 1999, c. 85, §1, is  
3 repealed.

4 **Sec. 2. 5 MRSA §12004-I, sub-§57-H** is enacted to read:

5 **57-H.**

6 Marine Resources Marine Recreational Expenses Only 12 MRSA §6139-A  
7 Fisheries and  
8 Habitat Advisory  
9 Council

10 **Sec. 3. 12 MRSA §6024, sub-§1-A**, as amended by PL 2007, c. 695, Pt. K, §1, is  
11 further amended to read:

12 **1-A. Appointment; composition; term; compensation.** The Marine Resources  
13 Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of ~~16~~  
14 15 members. The chair of the Lobster Advisory Council, the chair of the Marine  
15 Recreational ~~Fishing~~ Fisheries and Habitat Advisory Council, ~~the chair of the Sea Run~~  
16 ~~Fisheries and Habitat Advisory Council~~, the chair of the Sea Urchin Zone Council and the  
17 chair of the Shellfish Advisory Council are ex officio members of the council. Each other  
18 member is appointed by the Governor and is subject to review by the joint standing  
19 committee of the Legislature having jurisdiction over marine resources matters and to  
20 confirmation by the Legislature. Five members must be persons who are licensed under  
21 this Part to engage in commercial harvesting activities. Those 5 members are selected by  
22 the Governor from names recommended to the Governor by groups representing  
23 commercial harvesting interests. Each member must represent a different commercial  
24 harvesting activity, except that none of those 5 members may represent lobster harvesters.  
25 The remaining 6 members must include one public member, 4 persons who hold a  
26 nonharvesting-related license under this Part and one person representing the aquaculture  
27 industry. The Governor shall select the person to represent the aquaculture industry from  
28 among the names recommended by the aquaculture industry. The composition of the  
29 council must reflect a geographical distribution along the coast. All appointed members  
30 are appointed for a term of 3 years, except a vacancy must be filled in the same manner as  
31 an original member for the unexpired portion of the term. An appointed member may not  
32 serve for more than 2 consecutive terms. Appointed members serve until their successors  
33 are appointed. The chair of the Lobster Advisory Council, the chair of the Marine  
34 Recreational ~~Fishing~~ Fisheries and Habitat Advisory Council, ~~the chair of the Sea Run~~  
35 ~~Fisheries and Habitat Advisory Council~~, the chair of the Sea Urchin Zone Council and the  
36 chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster  
37 Advisory Council, a new chair of the Marine Recreational ~~Fishing~~ Fisheries and Habitat  
38 Advisory Council, ~~a new chair of the Sea Run Fisheries and Habitat Advisory Council~~, a  
39 new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory  
40 Council, respectively, is chosen. Members are compensated as provided in Title 5,  
41 chapter 379.

1           **Sec. 4. 12 MRSA §6032**, as enacted by PL 1999, c. 85, §3, is repealed and the  
2 following enacted in its place:

3           **§6032. Marine Recreation Fishing Conservation and Management Fund**

4           **1. Fund established.** The Marine Recreation Fishing Conservation and  
5 Management Fund, referred to in this section as "the fund," is established within the  
6 department. In addition to fees derived from the saltwater recreational fishing license  
7 pursuant to section 6506, subsection 6, the commissioner may receive on behalf of the  
8 fund funds from any source. All money received into the fund must be used for the  
9 purposes of the fund. Unexpended balances in the fund at the end of the fiscal year do not  
10 lapse but must be carried forward to the next fiscal year to be used for the purposes of the  
11 fund. Any interest earned on the money in the fund must be credited to the fund. By  
12 February 1st of each year, the commissioner shall report to the joint standing committee  
13 of the Legislature having jurisdiction over marine resources matters on the amount of  
14 money collected in the fund and all expenditures made from the fund in the previous  
15 fiscal year.

16           **2. Uses of fund.** The commissioner, with the advice of the Marine Recreational  
17 Fisheries and Habitat Advisory Council created pursuant to section 6139-A, may  
18 authorize the expenditure of money from the fund for:

19           A. Resource and habitat enhancement;

20           B. Fisheries management research;

21           C. Acquisition of land or an interest in land that provides for the enhancement of  
22 fishery habitat or public access to coastal fishing waters;

23           D. Enforcement of marine resources laws;

24           E. Education, promotion and outreach; and

25           F. Administration and operating expenses.

26           Funds allocated for expenditure under paragraph C must be deposited in the Public  
27 Access to Maine Waters Fund established in Title 5, section 6203-A for the purpose of  
28 acquisition of properties, or interests in properties, providing public access to coastal  
29 waters.

30           **Sec. 5. 12 MRSA §6033**, as enacted by PL 1999, c. 85, §4, is repealed.

31           **Sec. 6. 12 MRSA §6034, sub-§1**, as amended by PL 2005, c. 505, §1, is further  
32 amended to read:

33           **1. Appointment; composition.** The Commercial Fishing Safety Council, referred to  
34 in this section as "the council" and established by Title 5, section 12004-I, subsection  
35 57-E, consists of 17 members, 15 of whom are appointed by the commissioner as follows:

36           A. One member who is a license holder under this Part and a member of the  
37 Lobster Advisory Council, recommended by the chair of the Lobster Advisory  
38 Council;

- 1 B. One member who is a license holder under this Part and a member of the Marine  
2 Resources Advisory Council, recommended by the chair of the Marine Resources  
3 Advisory Council;
- 4 C. One member who is a license holder under this Part and a member of the Sea  
5 Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;
- 6 D. Five members who are license holders under this Part and who represent  
7 commercial marine harvesting activities;
- 8 E. An educator experienced in community-based adult education and volunteer  
9 safety training;
- 10 F. An expert in fishing industry risk analysis and occupational health;
- 11 G. An expert in marine safety equipment;
- 12 H. A representative of the marine insurance industry;
- 13 I. A marine surveyor;
- 14 J. A spouse or domestic partner of a license holder under this Part; and
- 15 K. A member of the public.

16 The chair of the Marine Resources Advisory Council and the chair of the Marine  
17 Recreational Fishing Fisheries and Habitat Advisory Council are ex officio members of  
18 the council. The composition of the council must reflect a geographic distribution along  
19 the coast of the State. The council may invite to carry out the duties of the council other  
20 participants on an ad hoc basis, including representatives of private or governmental  
21 organizations or individuals with expertise or interest in marine, education, labor or  
22 health matters.

23 **Sec. 7. 12 MRSA §6137, sub-§3**, as enacted by PL 2007, c. 240, Pt. QQ, §4, is  
24 amended to read:

25 **3. Rules.** The commission may adopt rules necessary to manage the Atlantic salmon  
26 fishery and to promote the conservation and propagation of the Atlantic salmon. Rules  
27 adopted by the commission must be enforced by the department, the Department of  
28 Inland Fisheries and Wildlife and other public officials authorized by law to enforce  
29 marine resource laws or inland fisheries and wildlife laws. The department and the  
30 Department of Inland Fisheries and Wildlife retain exclusive jurisdiction over rules  
31 pertaining to species other than Atlantic salmon that are designed to promote the  
32 conservation and propagation of Atlantic salmon. The departments shall consult with the  
33 commission and the ~~Sea-Run~~ Marine Recreational Fisheries and Habitat Advisory  
34 Council, established in section ~~6139~~ 6139-A, in adopting such rules.

35 **Sec. 8. 12 MRSA §6139**, as enacted by PL 2007, c. 240, Pt. QQ, §6, is repealed.

36 **Sec. 9. 12 MRSA §6139-A** is enacted to read:

1 **§6139-A. Marine Recreational Fisheries and Habitat Advisory Council**

2 **1. Appointment; composition; term; compensation.** The Marine Recreational  
3 Fisheries and Habitat Advisory Council, referred to in this section as "the council," as  
4 established by Title 5, section 12004-I, subsection 57-H, and consists of 11 members  
5 appointed by the commissioner. All council members must have a demonstrated interest  
6 in the restoration and recovery of marine species or in marine recreational fishing issues.  
7 The commissioner shall appoint the members as follows:

8 A. Four members who represent the State's recreational marine fisheries. These  
9 members must be anglers who target varied species along the coast;

10 B. Two members who represent the interests of inland areas with populations of  
11 anadromous species and who have significant understanding of issues related to  
12 Atlantic salmon;

13 C. One member who represents tribal interests;

14 D. Two members who represent the interests of the for-hire saltwater recreational  
15 fishing fleet;

16 E. One member who represents the tackle shop industry; and

17 F. One member who represents the tourism industry.

18 Members must be appointed to 3-year terms and may serve 2 consecutive terms.  
19 Members are compensated as provided in Title 5, chapter 379.

20 **2. Powers and duties; meetings; officers.** The council shall give the commissioner  
21 information and advice concerning the development of plans and programs for the  
22 protection, preservation, enhancement, restoration and management of all sea run and  
23 saltwater species in all waters of the State where these species were historically present,  
24 including Atlantic salmon. The council shall make recommendations to the commissioner  
25 concerning expenditures from the Marine Recreation Fishing Conservation and  
26 Management Fund described in section 6032. The council shall hold meetings with the  
27 commissioner, or the commissioner's designee. The council shall elect one of its members  
28 as chair, one as vice-chair and one as secretary, all for a term of one year, at the first  
29 regular meeting in each year. The officers have the following duties.

30 A. The chair shall call and preside at all meetings of the council.

31 B. The vice-chair shall call and preside at all meetings of the council in the chair's  
32 absence.

33 C. The secretary shall cause records to be taken and preserved of all meetings of the  
34 council.

35 **3. Quorum.** A quorum is a majority of the members of the council.

36 **4. Council actions.** An affirmative vote of a majority of the members present at a  
37 meeting or polled is required for any action. An action may not be considered unless a  
38 quorum is present or, if there is no meeting, by written poll of a quorum of members  
39 responding.

1           **Sec. 10. 12 MRSA §6140-A, sub-§4**, as enacted by PL 2007, c. 240, Pt. QQ, §8,  
2 is amended to read:

3           **4. Open season.** The commission, after consultation with and advice from the Sea  
4 ~~Ran~~ Marine Recreational Fisheries and Habitat Advisory Council, may establish by rule  
5 an open season during which a person may fish for Atlantic salmon. Rules adopted  
6 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
7 subchapter 2-A.

8           **Sec. 11. 12 MRSA §6501, sub-§3**, as amended by PL 2001, c. 421, Pt. B, §25  
9 and affected by Pt. C, §1, is repealed.

10           **Sec. 12. 12 MRSA §6506** is enacted to read:

11           **§6506. Saltwater recreational fishing license**

12           **1. License required.** Except as otherwise provided pursuant to this Part, it is  
13 unlawful for an individual to engage in saltwater recreational fishing without holding at  
14 least one of the following:

15           A. An annual resident saltwater recreational fishing license;

16           B. An annual nonresident saltwater recreational fishing license; or

17           C. A 2-week nonresident saltwater recreational fishing license.

18           A saltwater recreational fishing license does not authorize the license holder to sell fish  
19 taken with the license.

20           **2. Agents for purpose of selling licenses.** The commissioner shall adopt rules that  
21 establish the criteria for selecting agents to issue saltwater recreational fishing licenses.  
22 Agents appointed by the commissioner to issue licenses shall charge a fee of \$2 for each  
23 license issued. Rules adopted pursuant to this subsection are routine technical rules as  
24 defined in Title 5, chapter 375, subchapter 2-A.

25           **3. Licensed activities.** The holder of a saltwater recreational fishing license may  
26 fish for, take, transport and possess finfish and freshwater fish as defined in section 6001  
27 in coastal waters.

28           **4. Exemptions.** A license is not required to engage in saltwater recreational fishing  
29 in coastal waters for an individual under 16 years of age or a resident 70 years of age or  
30 older. A license is not required for a passenger or crew member on board a vessel  
31 captained by an individual who possesses a current guide license for tidewater fishing  
32 issued by the Department of Inland Fisheries and Wildlife in accordance with section  
33 12853 or on board a vessel carrying 7 or more for-hire passengers engaged in recreational  
34 saltwater fishing. A license is not required for an individual renting a smelt fishing camp  
35 from a commercial operator. A license is not required for an individual who possesses a  
36 current tidewater fishing guide license issued in accordance with section 12853.

37           **5. Eligibility.** A saltwater recreational fishing license may be issued only to an  
38 individual.

