

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

Date: 3-26-10

(Filing No. H-789)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "C" to S.P. 516,  
L.D. 1432, Bill, "An Act To Create a Saltwater Recreational Fishing Registry"

Amend the amendment by striking out everything after the title and before the  
summary and inserting the following:

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

'Sec. 1. 12 MRSA §6312 is enacted to read:

**§6312. Saltwater recreational fishing registry**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the  
following terms have the following meanings.

A. "Disabled veteran" means a veteran of the Armed Forces of the United States who  
has a service-connected disability as determined by the United States Department of  
Veterans Affairs.

B. "Person with a disability" means a person who is physically or mentally  
incapacitated as determined by the commissioner.

C. "Registry" means the registry for persons engaged in saltwater recreational fishing  
established under subsection 2.

**2. Saltwater recreational fishing registry established.** The commissioner shall  
administer and maintain a registry of persons who engage in saltwater recreational  
fishing. The commissioner may designate by rule the methods of fishing or the saltwater  
areas for which registration is required under this section. The registry must contain the  
name, address, date of birth and telephone number for each person registered. Any  
revenue generated from the sale of registry information must be used to fund the costs  
associated with the registry.

**3. Registry procedures.** A person may register pursuant to subsection 2 through an  
agent under section 12501 or a publicly accessible online licensing and registration  
system operated by the Department of Inland Fisheries and Wildlife. The commissioner  
and the Commissioner of Inland Fisheries and Wildlife shall work together to allow a  
person to register on the registry through the Department of Inland Fisheries and

Wildlife's online licensing and registration system while that data is stored and maintained by the Department of Marine Resources. A person purchasing a fishing license under section 12501 must be asked if that person intends to fish in salt water for that calendar year. If the person answers in the affirmative, the person must be informed of the requirements under this section.

**4. Registration required.** A person may not engage in saltwater recreational fishing or land or possess fish taken from salt water without registering pursuant to this section except:

A. A person under 16 years of age;

B. A passenger on board a vessel captained by an individual who possesses a current guide license for tidewater fishing issued under section 12853 or a customer on board a vessel licensed to carry passengers for hire for recreational fishing;

C. A person with a disability;

D. A disabled veteran;

E. A person who is registered or licensed to engage in saltwater recreational fishing in another jurisdiction if the registration or licensing requirements of that jurisdiction meet the requirements of 50 Code of Federal Regulations, Sections 600.1415 and 600.1416 (2009);

F. An individual renting a smelt fishing camp from a commercial operator for recreational saltwater smelt fishing if that operator has registered with the commissioner in a manner determined by the commissioner; and

G. A resident fishing on July 4th, Memorial Day weekend or Labor Day weekend.

**5. Fees.** A fee for registering on the registry may not be established or levied. Notwithstanding any other provision of law to the contrary, a person registering through an agent authorized under section 12501 or an online licensing and registration system may not be charged an agent fee or a fee for using the online licensing and registration system except that a person registering through an agent authorized under section 12501 may be charged an agent fee of \$1 if the only transaction conducted by that person is registering on the registry. Notwithstanding any provision of law to the contrary, the department may reimburse the operator of the online licensing and registration system only to the extent of the actual expenses incurred by that operator when permitting registration under subsection 3.

**6. Administration and enforcement; funding.** The commissioner shall administer and enforce the provisions of this section within the department's existing resources. The commissioner shall work with the State's congressional delegation to seek federal funding for purposes of this section. The commissioner may not expand enforcement activities under this subsection beyond existing department resources unless federal funding is secured to cover the costs of those expanded enforcement operations.

A. Until September 30, 2011, a person who violates subsection 4 without having received a prior warning for a violation of that subsection may be issued a warning and must be informed about the registry requirements. A person who violates

1 subsection 4 after having received a warning commits a civil violation for which a  
2 fine of not less than \$100 may be adjudged.

3 B. Beginning October 1, 2011, a person who violates subsection 4 commits a civil  
4 violation for which a fine of not less than \$100 may be adjudged.

5 7. **Education; source of funding.** The department may accept funding from any  
6 source, public or private, to be used by the department to educate the public on the  
7 provisions of this section.

8 8. **Collaboration on outreach efforts.** The commissioner shall work with fishing  
9 and hunting groups and interested parties in the commissioner's efforts to notify and  
10 educate the public about the registry.

11 9. **Report.** The commissioner shall report registry information to the United States  
12 Department of Commerce, National Oceanic and Atmospheric Administration in a form  
13 and manner as required by the National Oceanic and Atmospheric Administration.

14 10. **Rules.** The commissioner may adopt rules to carry out the purposes of this  
15 section. Rules adopted pursuant to this subsection are routine technical rules as defined  
16 by Title 5, chapter 375, subchapter 2-A.

17 **Sec. 2. Registration proposal and report.** The Commissioner of Marine  
18 Resources shall, within existing resources, establish and implement a registration process  
19 for commercial smelt fishing camps by November 3, 2010. The commissioner may not  
20 charge a fee for registering commercial smelt fishing camps. The commissioner shall  
21 report on the registration to the joint standing committee of the Legislature having  
22 jurisdiction over marine resources matters by January 3, 2011.

23 **Sec. 3. Contingent effective date.** This Act does not take effect unless, by  
24 January 1, 2011, the Secretary of State receives written certification from the Department  
25 of Marine Resources and the Department of Inland Fisheries and Wildlife that a  
26 memorandum of agreement has been executed with the Federal Government to provide  
27 federal funding to the State for purposes of implementing and enforcing the saltwater  
28 recreational fishing registry. The Commissioner of Marine Resources shall immediately  
29 notify the Clerk of the House of Representatives, the Secretary of the Senate, the chairs of  
30 the joint standing committees of the Legislature having jurisdiction over inland fisheries  
31 and wildlife matters and marine resources matters and the Revisor of Statutes regarding  
32 the execution of the memorandum of agreement."

### 33 SUMMARY

34 This amendment replaces Committee Amendment "C" and does the following.

35 1. It creates a saltwater recreational fishing registry administered by the Department  
36 of Marine Resources to register persons engaged in saltwater recreational fishing and  
37 directs that department and the Department of Inland Fisheries and Wildlife to work  
38 together to allow a person to register on the saltwater recreational fishing registry through  
39 the Department of Inland Fisheries and Wildlife's online licensing and registration system  
40 while that data is stored and maintained by the Department of Marine Resources.

2. It provides that a law enforcement officer may issue a warning to a person who violates the registry requirements before September 30, 2011 and makes a subsequent violation by that person before September 30, 2011 a civil violation for which a fine of not less than \$100 may be adjudged. After that date, any violation of the registry requirements is a civil violation.

3. It provides that a fee or online system fee, and in most cases an agent fee, may not be charged to a person registering on the registry.

4. It requires the Commissioner of Marine Resources to establish and implement, within existing resources, a registration process for commercial smelt fishing camps by November 3, 2010. The commissioner may not charge a fee for registering commercial smelt fishing camps. The commissioner shall report on the registration to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 3, 2011.

5. It establishes an effective date of January 1, 2011 contingent on the Secretary of State's receiving written certification from the Department of Marine Resources and the Department of Inland Fisheries and Wildlife that a memorandum of agreement has been executed with the Federal Government to provide federal funding to the State for purposes of implementing and enforcing the saltwater recreational fishing registry.

**FISCAL NOTE REQUIRED**

(See attached)

SPONSORED BY: \_\_\_\_\_

(Representative MCKANE)

TOWN: Newcastle



# 124th MAINE LEGISLATURE

LD 1432

LR 1889(20)

## An Act To Create a Saltwater Recreational Fishing Registry

Fiscal Note for House Amendment "*A*" to Committee Amendment "*C*"

Sponsor: Rep. McKane of Newcastle

Fiscal Note Required: Yes

### Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	(\$162,316)	(\$665,609)	(\$875,486)
<b>Revenue</b>				
Other Special Revenue Funds	\$0	(\$248,530)	(\$912,788)	(\$1,170,650)

### Fiscal Detail and Notes

This floor amendment provides that enactment of the saltwater recreational fishing registry is not effective unless, by January 1, 2011, the Department of Marine Resources has executed a memorandum of agreement with the federal government to provide federal funding to the state for implementation and enforcement of the saltwater recreational fishing registry. Therefore, the allocations have been removed from the bill and the Department of Marine Resources is required to work with Maine's Congressional Delegation to secure federal funding to cover the costs of the saltwater recreational fishing registry. Additionally, this bill provides that a fee cannot be assessed for the registry and the increased Other Special Revenue Funds revenue to the Department of Marine Resources has been removed.

Additional costs to the Department of Marine Resources associated with establishing and implementing a registration process for commercial smelt fishing shacks can be absorbed within existing budgeted resources.