

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 731

S.P. 269

In Senate, February 28, 2013

**An Act To Increase the Number of Elver Harvesting Licenses and  
Preserve the Fishery through Conservation**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator MAZUREK of Knox.  
Cosponsored by Representative WELSH of Rockport and  
Senators: JACKSON of Aroostook, LACHOWICZ of Kennebec.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§57-H** is enacted to read:

3 **57-H.**

4 Marine Resources Eel and Elver Expenses Only 12 MRSA §6595  
5 Advisory Council

6 **Sec. 2. 12 MRSA §6140-C** is enacted to read:

7 **§6140-C. Elver restocking program**

8 The department shall work in consultation with the Department of Inland Fisheries  
9 and Wildlife and persons who hold elver fishing licenses to establish an elver restocking  
10 program under which a portion of the elvers harvested in this State is transported and  
11 released alive above the first obstruction, dam or high-water mark in the rivers to which  
12 the elvers are returning.

13 **Sec. 3. 12 MRSA §6505-A, sub-§2-B**, as enacted by PL 2011, c. 549, §4, is  
14 amended to read:

15 **2-B. Elver lotteries.** The commissioner shall establish a dual lottery system under  
16 which the number of pieces of gear authorized does not exceed the number of pieces of  
17 gear ~~authorized as of December 31, 2011~~ specified in subsection 2-D.

18 A. The commissioner shall establish an elver gear lottery under which gear  
19 authorizations for use under a license issued under subsection 1 that is not renewed  
20 become available to other license holders in the elver gear lottery.

21 (1) The elver gear lottery must be held on or before February 15th of each  
22 calendar year beginning in 2013.

23 (2) In order to be eligible for the elver gear lottery, a person must hold an elver  
24 fishing license pursuant to subsection 1 and must have authorization to use only a  
25 dip net.

26 (3) In order to be eligible for the elver gear lottery, a person must submit to the  
27 Commissioner of Marine Resources a lottery application together with a \$25  
28 nonrefundable application fee no later than January 15th for the lottery to be held  
29 by the following February 15th.

30 (4) A person may submit no more than one elver gear lottery application per  
31 lottery year.

32 (5) A person selected in the elver gear lottery must relinquish a dip net  
33 authorization that person holds in exchange for authorization to use an elver fyke  
34 net.

35 B. The commissioner shall establish an elver fishing license lottery under which a  
36 person who did not hold an elver fishing license in the previous calendar year may  
37 become eligible to obtain that license. The number of persons issued licenses under

1 this paragraph may not exceed the number of individual gear authorizations  
2 remaining after the elver gear lottery.

3 (1) The elver fishing license lottery must take place after the elver gear lottery.

4 (2) The elver fishing license lottery must be held on or before February 15th of  
5 each calendar year beginning in 2013.

6 (3) In order to be eligible for the elver fishing license lottery, a person must  
7 submit a lottery application together with a \$25 nonrefundable application fee no  
8 later than January 15th of the same calendar year as the lottery.

9 (4) A person may submit no more than one elver fishing license lottery  
10 application per lottery year.

11 The commissioner shall adopt rules no later than December 31, 2012 to implement the  
12 elver gear lottery and the elver fishing license lottery. The rules must include provisions  
13 for the method and administration of the lotteries. The elver gear lottery must be set up so  
14 that gear authorizations associated with a license that is not renewed go into the elver  
15 gear lottery. If a person who held a license that is not renewed has 2 authorized pieces of  
16 gear, the gear authorizations must be divided and made available to 2 lottery entrants.  
17 Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter  
18 375, subchapter 2-A.

19 Application fees collected under this subsection must be deposited in the Eel and Elver  
20 Management Fund established in section 6505-D.

21 **Sec. 4. 12 MRSA §6505-A, sub-§§2-C and 2-D** are enacted to read:

22 **2-C. Special elver license lotteries in 2014 and 2015; eligibility and gear.** The  
23 commissioner shall establish special elver fishing license lotteries in 2014 and 2015. The  
24 number of persons issued licenses under this subsection may not exceed 200.

25 A. The commissioner shall establish a special elver fishing license lottery to be held  
26 in 2014 and 2015 under which a person not eligible to obtain a license under  
27 subsection 2 who possessed an elver fishing license in the 1996, 1997 or 1998  
28 calendar year may obtain an elver fishing license. The number of persons issued a  
29 license under this paragraph may not exceed 50 in 2014 or 50 in 2015. A person  
30 issued a license under this paragraph may use one elver fyke net or one dip net to fish  
31 for or take elvers. The person may enter the lottery pursuant to subsection 2-B to  
32 obtain authorization to use additional gear. A license issued under this paragraph  
33 must identify the number of pieces and type of gear that the license holder may use  
34 pursuant to this section and section 6505-B.

35 B. The commissioner shall establish a special elver fishing license lottery to be held  
36 in 2014 and 2015 under which a person who has never held an elver fishing license  
37 may obtain that license. The number of persons issued a license under this paragraph  
38 may not exceed 50 in 2014 or 50 in 2015. A person issued a license under this  
39 paragraph may use one elver fyke net or one dip net to fish for or take elvers. The  
40 person may enter the lottery pursuant to subsection 2-B to obtain authorization to use  
41 additional gear. A license issued under this paragraph must identify the number of

1 pieces and type of gear that the license holder may use pursuant to this section and  
2 section 6505-B.

3 In order to be eligible for an elver fishing license lottery under this subsection, a person  
4 must submit to the commissioner a lottery application together with a \$25 nonrefundable  
5 application fee no later than January 15th of the same calendar year as the lottery. A  
6 person may submit no more than one elver fishing license lottery application per lottery  
7 year. The commissioner shall adopt rules no later than December 31, 2013 to implement  
8 the special elver fishing license lotteries in 2014 and 2015. The rules must include  
9 provisions for the method and administration of the lotteries. The special elver fishing  
10 license lotteries must be set up so that gear authorizations associated with a license that is  
11 not renewed go into the elver gear lottery under subsection 2-B, paragraph A. Rules  
12 adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375,  
13 subchapter 2-A.

14 Application fees collected under this subsection must be deposited in the Eel and Elver  
15 Management Fund established in section 6505-D.

16 **2-D. Gear limits.** The number of pieces of gear that may be used in fishing for or  
17 taking elvers may not exceed:

18 A. In 2013, the number of pieces of gear authorized as of December 31, 2011;

19 B. In 2014, the number of pieces of gear specified in paragraph A, plus the up to 100  
20 additional pieces of gear authorized in 2014 pursuant to subsection 2-C;

21 C. In 2015, the number of pieces of gear specified in paragraph B, plus the up to 100  
22 additional pieces of gear authorized in 2015 pursuant to subsection 2-C; and

23 D. In 2016 and thereafter, the number of pieces of gear authorized as of December  
24 31, 2011, plus the actual number of additional pieces of gear authorized in 2014 and  
25 2015 pursuant to subsection 2-C.

26 **Sec. 5. 12 MRSA §6505-D, sub-§2,** as amended by PL 2011, c. 266, Pt. A, §17,  
27 is further amended to read:

28 **2. Permissible uses.** The commissioner may use the fund to research and manage  
29 the State's eel and elver resources, to enforce the laws related to eels and elvers ~~and~~ to  
30 cover the costs associated with determining eligibility for elver fishing licenses and to  
31 reimburse Eel and Elver Advisory Council members for expenses pursuant to section  
32 6595.

33 **Sec. 6. 12 MRSA §6575, sub-§1,** as amended by PL 1999, c. 7, §7, is further  
34 amended to read:

35 **1. Open season.** It is unlawful for a person to fish for or take elvers within the  
36 waters of the State except during the open season from noon on ~~March 22nd~~ April 1st to  
37 noon on May 31st.

38 **Sec. 7. 12 MRSA §6575-A, first ¶,** as amended by PL 2011, c. 549, §7, is further  
39 amended to read:

1 It is unlawful for a person to fish for or take elvers from noon Tuesday to noon  
2 Wednesday, and from noon ~~Saturday~~ Friday to noon Sunday. A person may leave an  
3 elver fyke net or a Sheldon eel trap in the waters of the State during the closed period if  
4 the net or trap is left in a condition that prevents the capture of elvers. The terminal  
5 portion of a fyke net cod end must contain a rigid device with an opening not less than 3  
6 inches in diameter and not exceeding 6 inches in length that is unobstructed by any other  
7 portion of the net.

8 **Sec. 8. 12 MRSA §6575-G** is enacted to read:

9 **§6575-G. Prohibition on harvesting yearlings; penalty**

10 **1. Prohibition on harvesting yearlings.** A person who catches a yearling elver, as  
11 defined by the commissioner by rule, may not retain that yearling elver and shall  
12 immediately release that yearling elver alive into the waters from which it was caught.  
13 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
14 chapter 375, subchapter 2-A.

15 **2. Penalty.** A person who violates this section commits a civil violation for which a  
16 fine of not less than \$100 and not more than \$500 may be adjudged.

17 **Sec. 9. 12 MRSA c. 621, sub-c. 5** is enacted to read:

18 **SUBCHAPTER 5**

19 **EEL AND ELVER ADVISORY COUNCIL**

20 **§6595. Eel and Elver Advisory Council**

21 **1. Appointment; composition.** The Eel and Elver Advisory Council, referred to in  
22 this section as "the council" and established by Title 5, section 12004-I, subsection 57-H,  
23 consists of 11 members as follows:

24 **A. Five members who are elver fishing license holders, 3 of whom are primarily**  
25 **elver harvesters and 2 of whom are elver dealer's license holders, appointed by the**  
26 **commissioner;**

27 **B. One member who is an officer of the department's Bureau of Marine Patrol,**  
28 **appointed by the commissioner;**

29 **C. Two members who are marine biologists specializing in eels and elvers, one of**  
30 **whom may be affiliated with the department, appointed by the commissioner;**

31 **D. One member who is a member of the general public and does not hold any license**  
32 **under this chapter, appointed by the commissioner;**

33 **E. One member who is a law enforcement officer with the Department of Inland**  
34 **Fisheries and Wildlife, Bureau of Warden Service, appointed by the Commissioner of**  
35 **Inland Fisheries and Wildlife; and**

