

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 547

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S.P. 182

In Senate, February 14, 2017

### An Act To Update Maine's Fishing Laws

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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.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator CYRWAY of Kennebec.  
Cosponsored by Representative DUCHESNE of Hudson and  
Representatives: ALLEY of Beals, HARLOW of Portland, LYFORD of Eddington, MASON  
of Lisbon, REED of Carmel, STEARNS of Guilford, THERIAULT of China, WOOD of  
Greene.

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

2 **Sec. 1. 12 MRSA §10001, sub-§6, ¶¶D, G and H**, as enacted by PL 2003, c.  
3 414, Pt. A, §2 and affected by c. 614, §9, are repealed.

4 **Sec. 2. 12 MRSA §10001, sub-§53-A** is enacted to read:

5 **53-A. River herring.** "River herring" means the species Alosa pseudoharengus,  
6 commonly called alewife, and Alosa aestivalis, commonly called blueback herring.

7 **Sec. 3. 12 MRSA §12457, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §245  
8 and affected by §422, is amended to read:

9 **2. Prohibition.** A person may not fish in inland waters closed to fishing as  
10 described in this section except that a person may fish for ~~alewives~~ river herring and  
11 smelts in the manner provided under the laws regulating marine resources.

12 **Sec. 4. 12 MRSA §12506**, as amended by PL 2015, c. 494, Pt. A, §9, is further  
13 amended to read:

14 **§12506. Eel, sucker, lamprey and yellow perch harvesting method permit; elver**  
15 **prohibition; limitations on river herring harvesting**

16 **1. Permit required.** Except as otherwise authorized pursuant to this Part and except  
17 as provided in subsection 5-A, a person may not fish for or possess the following fish  
18 using the harvesting methods listed in subsection 2 without a valid permit issued under  
19 this section:

- 20 B. Eels;
- 21 C. Suckers;
- 22 D. Lampreys; or
- 23 E. Yellow perch.

24 Each day a person violates this subsection, that person commits a Class E crime for which  
25 a minimum fine of \$50 and an amount equal to twice the applicable license fee must be  
26 imposed.

27 **2. Issuance.** The commissioner may adopt rules providing for the issuance of  
28 permits to fish for or possess the following fish using the following harvesting methods in  
29 the inland waters of the State, provided the permits do not interfere with any rights  
30 granted under section 6131:

- 31 A. Eels using eel pots or weirs;
- 32 B. Suckers and yellow perch using trap nets, dip nets or spears;
- 33 C. Lampreys by hand or using hand-held dip nets; and
- 34 E. Yellow perch using seines.

1 The commissioner may place conditions on the use of gear allowed under this subsection  
2 and may prohibit or restrict the use of any gear used to concentrate species for harvest  
3 under this subsection.

4 Each day a person violates a condition or restriction placed on the use of gear allowed  
5 under this subsection, that person commits a Class E crime.

6 **3. Fees; transfer of permit.** The minimum fee for an individual permit for suckers,  
7 lampreys and yellow perch is \$44. The holder of an individual permit for suckers,  
8 lampreys or yellow perch may purchase a crew permit for suckers, lampreys and yellow  
9 perch for \$102, authorizing up to 3 persons to engage in the permitted activity. The  
10 annual fee for an eel pot or weir permit is \$102. An eel pot or eel weir permit is not  
11 transferable.

12 **4. Five-year limited entry; eel weirs.** A person is ineligible to receive an eel weir  
13 permit unless that person possessed a valid eel weir permit for calendar year 1995. The  
14 department shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter  
15 2-A regarding the issuance of eel weir permits. The number of weirs and the number of  
16 square miles of watersheds in this State fished by eel weirs may be no more than those  
17 permitted in calendar year 1995.

18 **5-A. Limitations on river herring harvesting.** Except as provided in this  
19 subsection a person may not harvest ~~alewives~~ river herring.

20 A. A person may fish for ~~alewives~~ river herring by use of a dip net or single hook  
21 and line for consumption by that person or members of that person's family, as long  
22 as the person takes or possesses no more than 25 fish in any day and as long as the  
23 ~~alewives~~ river herring are taken downstream from any location where a municipality  
24 or other person has been granted exclusive rights under section 6131; and

25 B. A person may fish for or possess ~~alewives~~ river herring from inland waters if that  
26 person has been granted fishing rights under section 6131.

27 A person that violates this subsection commits a Class E crime.

28 **5-B. Harvesting suckers for bait without a permit.** Notwithstanding subsection 1,  
29 a person may take suckers for use as bait for fishing in inland waters as provided in  
30 section 12551-A without a permit under subsection 2.

31 **6. Eels and elvers prohibitions.** The following prohibitions apply to the harvesting  
32 of eels and elvers in inland waters.

33 A. A person may not fish for or take elvers from inland waters.

34 B. A person other than the owner of a weir used to fish for or take eels in inland  
35 waters may not tend that weir while the weir is immersed unless that person has in  
36 the person's possession written permission from the owner to tend the weir or is in the  
37 presence of the owner and has the owner's permission to tend the weir.

38 A person who violates this subsection commits a Class E crime.

39 **7. Other harvesting methods for suckers.** Notwithstanding subsection 1, a person  
40 licensed or otherwise entitled to fish in Maine waters may take suckers for that person's

1 use in all rivers, brooks and streams that are open to fishing between April 1st and June  
2 30th of each calendar year by the use of a hand spear, by bow and arrow or by snagging.

3 A. A person may not use a bow and arrow to harvest suckers unless the arrow used  
4 has a barbed or pronged point and the arrow is attached to the bow with a line.

5 B. The following penalties apply to violations of paragraph A.

6 (1) A person who violates paragraph A commits a civil violation for which a fine  
7 of not less than \$100 nor more than \$500 may be adjudged.

8 (2) A person who violates paragraph A after having been adjudicated as having  
9 committed 3 or more civil violations under this Part within the previous 5-year  
10 period commits a Class E crime.

11 **8. Reports required.** A person issued a permit under this section shall submit a  
12 completed report on forms provided by the department with the following information:  
13 water name and location, including the town and county of waters fished; date fished;  
14 total catch; gear type and quantity; number of crew; amount of time the gear is set; total  
15 gear in the water; water depth; total time the boat is on the water; species and pounds  
16 harvested; license number of the dealer the catch was sold to or the disposition of the  
17 catch; town where the catch was brought to shore; boat registration number; vessel name;  
18 and the harvester's name, telephone number and permit number. A holder of an eel  
19 permit must submit the report by the date specified on the permit. A holder of a sucker,  
20 lamprey or yellow perch permit must submit the report by December 31st of each year.  
21 All data submitted as part of the report are for scientific purposes only and are  
22 confidential and not part of a public record within the meaning of Title 1, chapter 13,  
23 subchapter 1, except that the commissioner may disclose data collected under this  
24 subsection if released in a form that is statistical or general in nature.

25 If a person issued a permit under this section fails to provide information required under  
26 this section, the commissioner may refuse to renew or may revoke that person's permit. If  
27 a person becomes ineligible for a permit as a result of a violation of this section, that  
28 person may request a hearing in accordance with section 10905.

29 **Sec. 5. 12 MRSA §12602**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected  
30 by c. 614, §9, is amended to read:

31 **§12602. Violation of number, amount, weight or size limits**

32 A person may not:

33 **1. Fish in violation of certain rules.** Fish in violation of the number, amount,  
34 weight or size limits established by rules adopted by the commissioner; ~~or~~

35 **2. Possess fish in violation of certain rules.** Possess fish in violation of the number,  
36 amount, weight or size limits established by rules adopted by the commissioner; and

37 **3. Alter fish from their natural state prior to measuring for bag limit.** When a  
38 fish is measured by volume, including smelts, alter fish from or possess fish altered from  
39 their natural state prior to measuring.

1 A person who violates this section commits a Class E crime. The court shall also  
2 impose a fine of \$20 for each fish unlawfully possessed, none of which may be  
3 suspended.

4 **Sec. 6. 12 MRSA §12606, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and  
5 affected by c. 614, §9, is amended to read:

6 **1. Prohibition.** A person may not ice fish in inland waters closed to ice fishing,  
7 except that person may fish for ~~alewives~~ river herring and smelts in the manner provided  
8 under the laws regulating marine resources.

9 **Sec. 7. 12 MRSA §12656, sub-§1, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2  
10 and affected by c. 614, §9, is amended to read:

11 B. Except as otherwise provided, use any grapnel, spear, spear gun, trawl, weir, gaff,  
12 seine, gill net, trap or set lines for fishing.

13 (1) A person may take suckers, eels, ~~alewives~~ river herring and yellow perch in  
14 accordance with section 12506.

15 (2) A person may take baitfish with a baitfish trap, as defined in section 10001,  
16 subsection 7.

17 **Sec. 8. 12 MRSA §12759**, as amended by PL 2003, c. 655, Pt. B, §303 and  
18 affected by §422, is further amended to read:

19 **§12759. Stocking river herring**

20 **1. Prohibition.** A person may not stock ~~alewives~~ river herring in Hogan Pond or  
21 Whitney Pond in the Town of Oxford or any waters that drain into or out of those ponds.

22 **2. Penalty.** The following penalties apply to violations of this section.

23 A. A person who violates this section commits a civil violation for which a fine of  
24 not less than \$100 nor more than \$500 may be adjudged.

25 B. A person who violates this section after having been adjudicated as having  
26 committed 3 or more civil violations under this Part within the previous 5-year period  
27 commits a Class E crime.

28 **Sec. 9. 12 MRSA §12760, sub-§1**, as amended by PL 2011, c. 612, §1, is further  
29 amended to read:

30 **1. Commissioners' authority.** In order to conserve, develop or restore anadromous  
31 or migratory fish resources, the commissioner and the Commissioner of Marine  
32 Resources jointly may require a fishway to be erected, maintained, repaired or altered by  
33 the owners, lessors or other persons in control of any dam or other artificial obstruction  
34 within inland waters frequented by ~~alewives~~ river herring, shad, salmon, sturgeon or other  
35 anadromous or migratory fish species.

36 The commissioners may not require or authorize a fishway or fish bypass structure at a  
37 dam on the outlet of Sebec Lake in the Town of Sebec or at a dam on the Sebec River in

1 the Town of Milo or at a dam on the outlet of Schoodic Lake in Lake View Plantation or  
2 at a dam on the outlet of Seboeis Lake in Township 4, Range 9 NWP that would allow  
3 the upstream passage of an invasive fish species known to be present downstream in the  
4 Piscataquis River or Penobscot River drainage. For the purposes of this section, “invasive  
5 fish species” means those invasive fish species identified in the action plan for managing  
6 invasive aquatic species developed pursuant to Title 38, section 1872.

7 **SUMMARY**

8 This bill:

9 1. Prohibits a person from altering fish, including smelts, from their natural state  
10 until after a wet measure has been conducted;

11 2. Replaces the term "alewives" with the term "river herring" to be more consistent  
12 with Department of Inland Fisheries and Wildlife usage. The definition of river herring  
13 includes both alewives and blueback herring; and

14 3. Removes several species from the definition of baitfish that do not exist in the  
15 waters of the State, are not commonly used or sold in the State or are found in very  
16 localized areas and should not be used as bait due to the possibility of introduction into  
17 other areas with adverse effects.