

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 1925

S.P. 667

In Senate, January 2, 2020

### **An Act To Make Technical Changes to Maine's Marine Resources Laws**

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Submitted by the Department of Marine Resources pursuant to Joint Rule 203.  
Received by the Secretary of the Senate on January 2, 2020. Referred to the Committee on  
Marine Resources pursuant to Joint Rule 308.2 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 MIRAMANT of Knox.

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

2 **Sec. 1. 12 MRSA §6302-B, sub-§3**, as enacted by PL 2013, c. 485, §3, is  
3 amended to read:

4 **3. Overage.** If the total ~~weight~~ amount of ~~elvers~~ elver quota sold by persons  
5 licensed by the Passamaquoddy Tribe, Penobscot Nation, Aroostook Band of Micmacs or  
6 Houlton Band of Maliseet Indians exceeds the quota allocated under subsection 1 to that  
7 tribe, nation or band, the commissioner shall deduct the amount of the overage from any  
8 future allocation to that tribe, nation or band. If the overage exceeds the overall annual  
9 quota allocated to that tribe, nation or band for the following year, the overage must be  
10 deducted from the overall annual quota allocations to that tribe, nation or band in  
11 subsequent years until the entire overage has been accounted for.

12 **Sec. 2. 12 MRSA §6409**, as amended by PL 2009, c. 561, §14, is further amended  
13 to read:

14 **§6409. Suspension of license for failure to appear, answer or pay**

15 If a license is suspended pursuant to Title 14, section 3142, the suspension remains in  
16 effect and that person is ineligible to obtain or hold a license until the person pays the  
17 fine. ~~On~~ Except for a limited entry fishery, as defined in section 6310-A, subsection 2,  
18 upon payment of the fine and on condition of payment of a \$25 administrative fee to the  
19 department, the suspension is rescinded and the person's eligibility to obtain or hold a  
20 license reinstated. For a limited entry fishery, as defined in section 6310-A, subsection 2,  
21 in order for the suspension to be rescinded and the person's eligibility to obtain or hold a  
22 license to be reinstated, the person must purchase the license and pay the \$25  
23 administrative fee to the department by no later than the end of the calendar year  
24 following the year in which the fine is paid. For the purposes of this section, "fine" has  
25 the same meaning as in Title 14, section 3141, subsection 1.

26 **Sec. 3. 12 MRSA §6410**, as amended by PL 2009, c. 561, §15, is further amended  
27 to read:

28 **§6410. Suspension of license for failure to comply with court order of support**

29 If a person's eligibility to obtain or hold a license or registration is suspended  
30 pursuant to Title 19-A, section 2201, the suspension remains in effect until the person is  
31 in compliance with a court order of support. ~~On condition of~~ Except for a limited entry  
32 fishery, as defined in section 6310-A, subsection 2, upon payment of a \$25 administrative  
33 fee to the department, the suspension is rescinded and the person's eligibility to obtain or  
34 hold a license reinstated. For a limited entry fishery, as defined in section 6310-A,  
35 subsection 2, in order for the suspension to be rescinded and the person's eligibility to  
36 obtain or hold a license to be reinstated, the person must purchase the license and pay the  
37 \$25 administrative fee to the department by no later than the end of the calendar year  
38 following the year in which the person is in compliance with the court order of support.

39 **Sec. 4. 12 MRSA §6411**, as enacted by PL 2009, c. 561, §16, is amended to read:

1           **§6411. Refusal to renew or reissue license for failure to file or failure to pay state**  
2           **tax obligations**

3           If a person's eligibility to obtain a license is suspended pursuant to Title 36, section  
4           175, the suspension is in effect until the State Tax Assessor issues a certificate of good  
5           standing. ~~On condition of~~ Except for a limited entry fishery, as defined in section  
6           6310-A, subsection 2, upon payment of a \$25 administrative fee to the department, the  
7           suspension is rescinded and the person's eligibility to obtain a license reinstated. For a  
8           limited entry fishery, as defined in section 6310-A, subsection 2, in order for the  
9           suspension to be rescinded and the person's eligibility to obtain a license to be reinstated,  
10          the person must purchase the license and pay the \$25 administrative fee to the department  
11          by no later than the end of the calendar year following the year in which the person is  
12          issued a certificate of good standing.

13          **Sec. 5. 12 MRSA §6505-A, sub-§3-A,** as amended by PL 2015, c. 131, §1, is  
14          further amended to read:

15          **3-A. Elver fishing quotas.** The commissioner may adopt rules to establish,  
16          implement and administer an elver individual fishing quota system in order to ensure that  
17          the elver fishery annual landings do not exceed the overall annual quota established by  
18          the Atlantic States Marine Fisheries Commission. Except as provided in section 6575-L, a  
19          person issued a license under this section or section 6302-A, subsection 3, paragraph E,  
20          E-1, F or G may not take, possess or sell ~~elvers~~ an amount of elver quota in excess of the  
21          weight quota allocated to that person under the quota system. The rules must:

22                A. Establish an overall annual quota for the State;

23                B. Establish the amount of the overall annual quota under paragraph A that is  
24                allocated to persons licensed under this section and specify a formula to establish  
25                individual quotas for persons licensed under this section. The formula may take into  
26                account the amount of elvers a person licensed under this section lawfully harvested  
27                in previous seasons based on final harvesting reports. The rules must specify the date  
28                by which harvester reports are considered final for the purpose of determining  
29                individual quotas; and

30                C. Provide, in accordance with section 6302-B, that 21.9% of the overall annual  
31                quota under paragraph A is allocated to the federally recognized Indian tribes in the  
32                State and establish the amount of that portion of the overall annual quota allocated to  
33                the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet  
34                Indians and the Aroostook Band of Micmacs.

35          If persons issued licenses under this section collectively exceed the overall annual quota  
36          allocated to those persons pursuant to paragraph B, the number of pounds by which the  
37          license holders exceeded that overall annual quota must be deducted from the following  
38          year's overall annual quota allocated to persons licensed under this section. If the overage  
39          exceeds the overall annual quota allocated to persons licensed under this section for the  
40          following year, the overage must be deducted from the overall annual quota allocated to  
41          persons licensed under this section in subsequent years until the entire overage has been  
42          accounted for.

1 The commissioner may adopt or amend rules on an emergency basis if immediate action  
2 is necessary to establish and implement the elver individual fishing quota in advance of  
3 the beginning of the elver fishing season.

4 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
5 chapter 375, subchapter 2-A.

6 **Sec. 6. 12 MRSA §6575-K, sub-§1**, as amended by PL 2015, c. 131, §2, is  
7 further amended to read:

8 **1. Prohibition on possession or sale of elvers in excess of elver individual fishing**  
9 **quota.** A person may not possess or sell ~~a weight of elvers~~ an amount of elver individual  
10 fishing quota that exceeds the elver individual fishing quota that person has been  
11 allocated for the fishing season pursuant to section 6505-A, subsection 3-A, plus any  
12 additional quota the person may be authorized to take under section 6575-L.

13 **Sec. 7. 12 MRSA §6575-K, sub-§2**, as amended by PL 2015, c. 131, §2, is  
14 further amended to read:

15 **2. Prohibition on fishing after elver individual fishing quota has been reached.**  
16 Except as provided in section 6575-L, this section applies to fishing after a person's elver  
17 individual fishing quota has been reached. A person who has sold ~~a weight of elvers~~ an  
18 amount of elver individual fishing quota that meets or exceeds that person's elver  
19 individual fishing quota may not fish for or possess elvers for the remainder of the  
20 season, except that such a person who has been issued a license to fish for elvers may in  
21 accordance with section 6575-D assist another person who has been issued a license to  
22 fish for elvers who has not met or exceeded that person's elver individual fishing quota as  
23 provided in section 6505-A, subsection 3-A. All gear tagged by a license holder who has  
24 met or exceeded that person's elver individual fishing quota must be removed. A marine  
25 patrol officer may seize the elver transaction card of a license holder who has met or  
26 exceeded that person's elver individual fishing quota.

27 **Sec. 8. 12 MRSA §6851, sub-§2-A**, as amended by PL 2009, c. 523, §8, is  
28 further amended to read:

29 **2-A. Wholesale seafood license with lobster permit.** At the request of the  
30 applicant, the commissioner shall issue a wholesale seafood license with a lobster permit.  
31 A person holding a wholesale seafood license with a lobster permit may engage in all the  
32 activities in subsection 2 and may buy, sell, process or ship lobster or properly licensed or  
33 lawfully imported lobster meat or parts. A person holding a wholesale seafood license  
34 with a lobster permit may transport lobster or properly licensed or lawfully imported  
35 lobster meat or parts anywhere within the state limits. A license under this subsection  
36 does not authorize a person to possess or transport lobster that person has taken unless  
37 that person is in possession of a license issued under section 6421, subsection 3-A,  
38 paragraph A, B, C or E. A license under this subsection does not authorize a person to  
39 remove lobster meat from the shell unless a license under section 6851-B or 6857 is held.

1

## SUMMARY

2           This bill makes technical changes to Maine's marine resources laws. It clarifies that it  
3 is the amount of quota, not the weight of elvers, sold through the elver transaction card  
4 system that is used to determine if an allocated quota has been exceeded. It clarifies that  
5 if a person holds a license in a limited entry fishery and that license has been suspended  
6 by the court, by the Department of Health and Human Services or by the Department of  
7 Administrative and Financial Services, Maine Revenue Services, the person, when the  
8 person becomes compliant, has the remainder of that calendar year and all of the  
9 following calendar year to purchase the license. It clarifies that a person who holds a  
10 wholesale seafood license with a lobster permit may remove lobster meat from the shell  
11 under either a lobster processor license or a lobster meat permit.