

# 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 electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

**CHAPTER 6****H.P. 125 - L.D. 156****An Act to Amend the Laws  
Regarding the Maine Jobs Council**

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

**Sec. 1. 26 MRSA §2006, sub-§7, ¶A**, as amended by PL 1997, c. 683, Pt. D, §10, is further amended to read:

A. The council shall create 4 standing committees of up to 12 members. Each standing committee may include up to ~~4~~ 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership. The standing committees shall make recommendations to the full council. The 4 standing committees are as follows:

- (1) Apprenticeship, with its membership specified in subsection 5-A, paragraph B;
- (2) School-to-work;
- (3) Employment of people with disabilities; and
- (4) Women's employment issues.

**Sec. 2. 26 MRSA §2006, sub-§7, ¶B**, as enacted by PL 1997, c. 410, §12 and affected by §13, is amended to read:

B. The council may also create additional committees to address specific problems and issues. These committees may consist of up to 12 members and may include up to ~~4~~ 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership. These committees shall make recommendations to the full council.

See title page for effective date.

**CHAPTER 7****S.P. 303 - L.D. 905****An Act Concerning the 1999 Elver  
Fishery**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the elver fishery has sustained a doubling in fishing effort in one year; and

**Whereas**, it is important that this fishery be managed as a sustainable fishery; and

**Whereas**, the level of fishing pressure experienced in the fishery places this resource at risk; and

**Whereas**, the fishing season in this fishery commences March 15th of this year; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §6001, sub-§13-H**, as enacted by PL 1997, c. 91, §2, is amended to read:

**13-H. Elver dip net.** "Elver dip net" means a dip net with a hoop of not more than 30 inches in diameter and fitted with netting that measures 1/8 inch bar mesh or less.

**Sec. 2. 12 MRSA §6505-A, sub-§2**, as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**2. Eligibility.** An elver fishing license may be issued only to an individual- who:

A. During the 1996 elver fishing season held an eel fishing license under former section 6505 or an elver fishing license and paid fees for the use of elver fyke nets, Sheldon eel traps or dip nets in accordance with Public Law 1995, chapter 536, Part A, section 12; and

B. During the 1997 and 1998 elver fishing seasons held an elver fishing license issued under this section.

**Sec. 3. 12 MRSA §6505-A, sub-§3**, as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**3. Limits on issuance.** The department may not issue an elver fishing license ~~after March 15th and before June 16th~~ during the open season for elver fishing.

**Sec. 4. 12 MRSA §6505-A, sub-§5**, as amended by PL 1997, c. 297, §2, is further amended to read:

**5. Gear.** ~~—A—~~ Except as prohibited by section 6575-B, subsection 2-A, a person issued a license under this section may utilize one elver fyke net, one Sheldon eel trap or one dip net to fish for or take

elvers without paying the fee required for a first net or trap pursuant to section 6505-B. A license issued under this section must identify the number and types of nets that the license holder may use pursuant to this section and section 6505-B.

**Sec. 5. 12 MRSA §6505-A, sub-§§6 and 7** are enacted to read:

**6. Minimum age.** It is unlawful for a person who is under 15 years of age to fish for or take elvers.

**7. Nonresident licenses; reciprocity with other states.** A nonresident is eligible to purchase an elver fishing license only if the nonresident documents to the commissioner that the nonresident's state of residence allows Maine residents to purchase an elver license and fish for elvers in that state.

**Sec. 6. 12 MRSA §6505-B, sub-§1,** as amended by PL 1997, c. 297, §§3 and 4, is further amended to read:

**1. Elver fyke net and Sheldon eel trap fee.** It is unlawful for a person to submerge an elver fyke net or a Sheldon eel trap in the coastal waters of the State to fish for or take elvers unless the net or trap owner pays annually the following fees:

A. Fifty dollars per net or trap for the use of a first or 2nd an elver fyke net or Sheldon eel trap, except that the fee under this paragraph does not apply to an elver fyke or Sheldon eel trap a person utilizes pursuant to section 6505-A, subsection 5. ~~For the purposes of assessing fees under this subsection, an elver fyke net or Sheldon eel trap utilized pursuant to section 6505-A, subsection 5 is the first net or trap;~~

B. ~~One hundred dollars per net or trap for the use of a 3rd elver fyke net or Sheldon eel trap; and~~

C. ~~Two hundred dollars per net or trap for the use of a 4th and 5th elver fyke net or Sheldon eel trap.~~

**Sec. 7. 12 MRSA §6575,** as amended by PL 1997, c. 91, §4, is further amended to read:

**§6575. Open season; elver harvesting**

**1. Open season.** It is unlawful for a person to fish for or take elvers within the coastal waters of the State ~~from June 16th to noon on March 15th of the following year~~ except during the open season from noon on March 22nd to noon on May 31st.

**2. Setting nets and traps.** It is unlawful for a person to immerse or leave immersed ~~a~~ an elver fyke net or a Sheldon eel trap in any river, stream or brook of the coastal waters of the State ~~from February 15th~~

to noon of March 15th at any time other than the open season for elver fishing.

**3. Locating nets.** It is unlawful ~~between February 15th and noon of March 15th~~ for a person to designate or claim by any means a location in which to set an elver fyke net or a Sheldon eel trap ~~would be placed or set at any time other than the open season for elver fishing.~~

**4. Nets of certain sizes.** It is unlawful for a person to immerse or leave immersed in the coastal waters of the State a fyke net, Sheldon eel trap or dip net fitted with netting that measures 1/8 inch bar mesh or less from midnight of June 15th to noon of March 15th of the following year.

**Sec. 8. 12 MRSA §6575-A,** as amended by PL 1997, c. 575, §3, is further amended to read:

**§6575-A. Closed period; elver harvesting**

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

**Sec. 9. 12 MRSA §6575-B, sub-§2,** as enacted by PL 1995, c. 536, Pt. A, §9, is repealed.

**Sec. 10. 12 MRSA §6575-B, sub-§2-A** is enacted to read:

**2-A. Number of nets and Sheldon eel traps.** A person may not immerse at any one time a total of more than 2 elver dip nets, elver fyke nets and Sheldon eel traps. In determining the number of traps or nets that may be immersed, the following formula must be used. A person may not immerse:

A. A number of elver dip nets that is greater than the average number, rounded down, of elver dip nets that person was authorized to use during the past 3 elver fishing seasons for which that person held a license;

B. A number of elver fyke nets that is greater than the average number, rounded down, of elver fyke nets that person was authorized to use during the past 3 elver fishing seasons for which that person held a license; and

C. A number of Sheldon eel traps that is greater than the average number, rounded down, of traps that person was authorized to use during

the past 3 elver fishing seasons for which that person held a license.

However, if the number arrived at using the formula is greater than 2 nets or traps, the maximum number of traps and nets that may be immersed may not exceed 2.

**Sec. 11. 12 MRSA §6575-B, sub-§3,** as amended by PL 1997, c. 91, §5, is further amended to read:

**3. Rebuttable presumption.** It is a rebuttable presumption that an elver fyke net, Sheldon eel trap or elver dip net immersed in any coastal waters of the State ~~from noon of March 15th to midnight of June 15th~~ at any time of the year is immersed for the purpose of fishing for or taking elvers.

**Sec. 12. 12 MRSA §6575-B, sub-§§6 and 7** are enacted to read:

**6. Prohibition on fishing from artificial platforms.** A person may not build or use an artificial platform to fish for elvers. This subsection does not prohibit fishing for elvers from piers or floats established for purposes other than elver fishing.

**7. Bycatch release.** A person immediately shall return alive into the waters of the State any species other than elver that is caught in an elver fyke net.

**Sec. 13. 12 MRSA §6575-C, sub-§§5 to 7** are enacted to read:

**5. Fyke net placement.** A person may not place or set an elver fyke net or take elvers from an elver fyke net when any portion of the net, including any anchoring device, is located within an imaginary line between the wing ends of another elver fyke net. Cod end anchoring devices may not exceed 10 feet in length and wing end anchoring devices may not interfere with or create a hazard to navigation within the middle 1/3 of a navigable watercourse. A marine patrol officer may open the cod end of a net that is located in violation of this subsection.

**6. Obstructing elver fyke nets.** A person may not set an elver fyke net or place an obstruction near an elver fyke net in a manner that interferes with the operation of an elver fyke net.

**7. Rulemaking; gear placement.** If necessary to conserve the elver resource, the commissioner may adopt rules pursuant to section 6171 relating to placement of elver fishing gear based on the configuration of specific rivers, streams, brooks or other watercourses. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 14. 12 MRSA §6575-D, sub-§1,** as enacted by PL 1995, c. 536, Pt. A, §9, is amended to read:

**1. Prohibition.** ~~It is unlawful for any~~ A person other than a marine patrol officer or the license holder issued a tag for an elver fyke net or a Sheldon eel trap ~~to~~ may not utilize, transfer, alter, possess or in any manner handle the net or trap unless that person has been issued an elver fishing license under section 6505-A and:

~~A. Is in the presence of the license holder issued a tag for the net or trap and has the license holder's permission to tend the net or trap; or~~

B. Is issued written permission by a marine patrol officer to tend the net or trap of a license holder issued a tag. A marine patrol officer may issue a person written permission for the person to tend the license holder's net or trap only for the purpose of releasing captured elvers into the waters of the State if the license holder can not tend the net or trap because of a disability or personal or family medical condition. If the license holder is unable to tend the net or trap for more than 2 weeks, the net or trap must be removed from the water.

**Sec. 15. 12 MRSA §6864, sub-§6** is enacted to read:

**6. Reporting.** The commissioner shall require the holder of an elver dealer's license to submit monthly reports to the department with data on the harvest of elvers. The commissioner may deny an application for the renewal of an elver dealer's license if the dealer fails to report the information required pursuant to this subsection.

**Sec. 16. Report; legislation.** The Commissioner of Marine Resources shall study the harvest of elvers during the 1999 season and make recommendations regarding any changes to the number of licenses and gear restrictions for the 2000 elver fishing season. The commissioner shall by September 1, 1999 convene a meeting with representatives of the elver fishing industry and other interested parties to review the commissioner's findings and recommendations and, by November 1, 1999, submit the findings and recommendations to the Joint Standing Committee on Marine Resources.

The Joint Standing Committee on Marine Resources may report out legislation concerning elver fishing during the Second Regular Session of the 119th Legislature.

**Sec. 17. 1999 licenses; eligibility or revocation.** A person who purchased an elver fishing license for the 1999 elver fishing season before the

effective date of this Act shall document to the Commissioner of Marine Resources by March 22, 1999 that that person complies with the provisions of the Maine Revised Statutes, Title 12, section 6505-A, subsections 2 and 6 and a nonresident who purchased an elver fishing license for the 1999 elver fishing season before the effective date of this Act must also document to the commissioner by March 22, 1999 that that person complies with the provisions of Title 12, section 6505-A, subsection 7. If that person fails to provide the documentation by March 22, 1999, that person's elver fishing license for the 1999 season is revoked and the Commissioner of Marine Resources shall refund to the person all license and gear fees paid by that person.

**Sec. 18. Gear fees; refund.** A person who purchased an elver fishing license for the 1999 elver fishing season before the effective date of this Act and who paid gear fees for a greater number of nets or traps than that person is authorized to use pursuant to the Maine Revised Statutes, Title 12, section 6575-B, subsection 2-A, shall return any extra tags issued pursuant to section 6505-B, subsection 2 and the Commissioner of Marine Resources shall refund to the person all gear fees paid by that person for gear that the person is not authorized to utilize.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 11, 1999.

---

---

## CHAPTER 8

S.P. 46 - L.D. 117

### **An Act to Amend Maine's Insurance Laws Regarding Gifts and Rebates**

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

**Sec. 1. 24-A MRSA §2163-A**, as enacted by PL 1997, c. 457, §41, is amended to read:

#### **§2163-A. Permitted activities**

Notwithstanding any other provision in sections 2160 to 2163, an insurer, employee of an insurer or producer may offer to give gifts in connection with marketing for the sale or retention of contracts of insurance provided the cost does not exceed \$20 per year per policy or quote, and conduct raffles or drawings, so long as there is no participation costs to entrants, in which case prizes may be valued in excess of \$20 but not more than \$100. Nothing in sections 2160 to 2163 may be construed to prohibit an insurance producer from receiving a fee rather than

commission on the sale of property and casualty insurance in accordance with section 1450 and rules adopted by the superintendent.

Gifts and prizes given pursuant to this section may not be in the form of cash, check or other cash equivalent.

See title page for effective date.

---

---

## CHAPTER 9

H.P. 46 - L.D. 60

### **An Act to Permit the Sale of Moose Bones**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the 90-day period may not terminate in time to sell products at spring fairs; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §7464, sub-§9, ¶A**, as amended by PL 1985, c. 369, §21, is further amended to read:

A. Notwithstanding subsection 8, the head, antlers, bones, feet and hide of any moose may be sold.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 11, 1999.

---

---

## CHAPTER 10

S.P. 55 - L.D. 125

### **An Act to Lower the Age of Consent for the Donation of Blood**

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

**Sec. 1. 22 MRSA §1502-A** is enacted to read: