

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
MARINE RESOURCES**

JULY 1999

MEMBERS:

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Sen. Peggy A. Pendleton
Sen. Bruce W. MacKinnon*

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**ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION**

**Summary Of Legislation Before The Joint Standing and Select Committees
August 1999**

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER*..... *Bill carried over to Second Regular Session*
- CON RES XXX*..... *Chapter # of Constitutional Resolution passed by both Houses*
- CONF CMTE UNABLE TO AGREE*..... *Committee of Conference unable to agree; bill died*
- DIED BETWEEN BODIES*..... *House & Senate disagree; bill died*
- DIED IN CONCURRENCE*..... *One body accepts ONTP report; the other indefinitely postpones the bill*
- DIED ON ADJOURNMENT*..... *Action incomplete when session ended; bill died*
- EMERGENCY*..... *Enacted law takes effect sooner than 90 days*
- ENACTMENT FAILED*..... *Bill failed to get vote required for enactment or final passage*
- NOT PROPERLY BEFORE THE BODY*..... *Ruled out of order by the presiding officers; bill died*
- INDEF PP*..... *Bill Indefinitely Postponed*
- ONTP*..... *Ought Not To Pass report accepted*
- OTP ND*..... *Committee report Ought To Pass In New Draft*
- OTP ND/NT*..... *Committee report Ought To Pass In New Draft/New Title*
- P&S XXX*..... *Chapter # of enacted Private & Special Law*
- PUBLIC XXX*..... *Chapter # of enacted Public Law*
- RESOLVE XXX*..... *Chapter # of finally passed Resolve*
- UNSIGNED*..... *Bill held by Governor*
- VETO SUSTAINED*..... *Legislature failed to override Governor's Veto*

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

House Amendment "A" to Committee Amendment "A" (H-127) proposed to maintain the current open season of November 1st to April 15th for persons taking scallops under a noncommercial scallop license. This amendment was not adopted.

Enacted law summary

Public Law 1999, chapter 94 shortens the open scallop season by one month by changing the opening day from November 1st to December 1st. It requires scallop rings to measure 3 1/2 inches in diameter beginning on December 1, 2000. Current law requires a 3 1/2 inch ring size beginning on November 1, 2001. The law also eliminates the smaller size limit on scallop drags for the opening month of the season and instead maintains the size limit of 10 feet, 6 inches for the entire open scallop season.

LD 905

An Act Concerning the 1999 Elver Fishery

**PUBLIC 7
EMERGENCY**

<u>Sponsor(s)</u> GOLDTHWAIT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-13
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LD 905 proposed to make the following changes to the elver fishing laws:

1. To clarify the definition of an elver dip net;
2. To provide that in 2001 the Department of Marine Resources may not issue an elver fishing license once the season has begun;
3. To specify that the open season for elver fishing is April 1st to May 31st;
4. To specify that the cod end of a fyke net must have a rigid opening during the time when the net is not allowed to be in fishable condition;
5. To specify that it is unlawful to build or use an artificial platform for elver fishing;
6. To establish a separation zone with regard to the placement of fyke nets; and
7. To establish that it is a rebuttable assumption that an individual is molesting the net of another if that individual is not the person to whom the net tag on the net was issued.

This bill was submitted on behalf of the Department of Marine Resources.

Committee Amendment "A" (S-13) proposed to do the following:

1. To limit entry into the elver fishery to conserve the resource by specifying that elver fishing licenses may be issued only to people who held elver fishing licenses during the 1996, 1997 and 1998 elver fishing seasons and therefore have shown a long-term interest and investment in the elver fishery;
2. To specify that the open season for elver fishing is March 22nd to May 31st and to clarify that the Department of Marine Resources may not issue an elver fishing license during the open season for elver fishing;
3. To establish a minimum age of 15 years old for elver fishing;
4. To limit the eligibility of nonresidents to purchase elver fishing licenses to those nonresidents from states that allow Maine residents to purchase elver fishing licenses;

5. To strike the requirement in the bill that the cod end of an elver fyke net must be closed during the closed period for elver fishing but to maintain the requirement that the cod end must contain a rigid device with an opening not less than three inches in diameter during the closed period and specify that the opening must not exceed six inches in length;
6. To limit the amount of gear that a person may utilize to a maximum combined total of two elver dip nets, elver fyke nets and Sheldon eel traps. A person may not utilize more than the average number of elver dip nets, elver fyke nets and Sheldon eel traps that person used during the past three elver fishing seasons;
7. To prohibit a person from building or using an artificial platform to fish for elvers and to require a person to immediately release any bycatch caught in an elver fyke net;
8. To clarify placement requirements for elver fyke nets, to authorize a marine patrol officer to open the cod end of a net that is located in violation of those requirements, and to give the Commissioner of Marine Resources authority to adopt rules relating to the placement of elver fishing gear if necessary because of the configuration of a river, stream, brook or other watercourse;
9. To prohibit the tending of another person's gear except with written permission from a marine patrol officer and for the purpose of releasing captured elvers if the person issued a tag for the gear is unable to tend the gear because of a disability or medical condition. It proposed to require that gear be removed from the water if the license holder is unable to tend the gear for more than two weeks;
10. To authorize the Commissioner of Marine Resources not to renew the elver dealer's license of a dealer who does not meet reporting requirements;
11. To require the Commissioner of Marine Resources to submit a report by November 1, 1999 to the Joint Standing Committee on Marine Resources with findings on the 1999 elver harvest and recommendations regarding the 2000 elver fishing season. It proposed to authorize the committee to report out legislation concerning elver fishing during the Second Regular Session of the 119th Legislature; and
12. To require the Commissioner of Marine Resources to revoke the 1999 elver fishing license of any person who has purchased a license but does not meet the new eligibility requirements and to refund all license and gear fees paid by that person. It also proposed to require the commissioner to refund any gear fees paid by a person for gear that person is no longer authorized to utilize.

Enacted law summary

Public Law 1999, chapter 7 does the following.

1. It limits entry into the elver fishery to conserve the resource by specifying that elver fishing licenses may be issued only to people who held elver fishing licenses during the 1996, 1997 and 1998 elver fishing seasons and therefore have shown a long-term interest and investment in the elver fishery.
2. It changes the open season for elver fishing to the period from March 22nd to May 31st and clarifies that the Department of Marine Resources may not issue an elver fishing license during the open season for elver fishing.
3. It establishes a minimum age of 15 years old for elver fishing.
4. It limits the eligibility of nonresidents to purchase elver fishing licenses to those nonresidents from states that allow Maine residents to purchase elver fishing licenses.

5. It requires that the cod end of an elver fyke net contain a rigid device with an opening not less than three inches in diameter during the closed period for elver fishing and specifies that the opening must not exceed six inches in length.
6. It limits the amount of gear that a person may utilize to a maximum combined total of two elver dip nets, elver fyke nets and Sheldon eel traps. A person may not utilize more than the average number of elver dip nets, elver fyke nets and Sheldon eel traps that person used during the past three elver fishing seasons.
7. It prohibits a person from building or using an artificial platform to fish for elvers and requires a person to immediately release any bycatch caught in an elver fyke net.
8. It clarifies placement requirements for elver fyke nets and authorizes a marine patrol officer to open the cod end of a net that is located in violation of those requirements. It also gives the Commissioner of Marine Resources authority to adopt rules relating to the placement of elver fishing gear if necessary because of the configuration of a river, stream, brook or other watercourse.
9. It prohibits the tending of another person's gear except with written permission from a marine patrol officer and for the purpose of releasing captured elvers if the person issued a tag for the gear is unable to tend the gear because of a disability or medical condition. It requires that gear be removed from the water if the license holder is unable to tend the gear for more than two weeks.
10. It authorizes the Commissioner of Marine Resources not to renew the elver dealer's license of a dealer who does not meet reporting requirements.
11. It requires the Commissioner of Marine Resources to submit a report by November 1, 1999 to the Joint Standing Committee on Marine Resources with findings on the 1999 elver harvest and recommendations regarding the 2000 elver fishing season. It authorizes the committee to report out legislation concerning elver fishing during the Second Regular Session of the 119th Legislature.
12. It requires the Commissioner of Marine Resources to revoke the 1999 elver fishing license of any person who has purchased a license but does not meet the new eligibility requirements and to refund all license and gear fees paid by that person. It also requires the commissioner to refund any gear fees paid by a person for gear that person is no longer authorized to utilize.

Chapter 7 was enacted as an emergency measure effective March 11, 1999.

LD 906

An Act to Improve Elver Fishery Management

CARRIED OVER

Sponsor(s)
GOLDTHWAIT

Committee Report

Amendments Adopted

LD 906 proposes to amend the elver fishing laws in several ways. It proposes to limit people to holding an elver fyke net license or a dip net license, but not both, and to allow only people who held an elver fyke net license during 1996, 1997 and 1998 to be issued an elver fyke net license beginning in 2000. The bill proposes to allow elver fishing only with a dip net beginning with the 2003 season. The bill also proposes to establish a cap on the number of dip net licenses that may be sold in any year beginning with the 2003 season and a mechanism for bringing new people into the fishery as licenses become available through attrition. It proposes to establish a new fee schedule for licenses and for elver fishing gear and to establish the open and closed seasons for the elver fishery for the years 2000, 2001, 2002 and 2003. The bill also proposes to limit the number of eels that an individual may take for personal purposes. This bill was submitted on behalf of the Department of Marine Resources.