

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*First Regular Session and  
First Special Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Marine Resources*

*August 2005*

**Members:**

*Sen. Dennis S. Damon, Chair  
Sen. Nancy B. Sullivan  
Sen. Mary Black Andrews*

*Rep. Leila J. Percy, Chair  
Rep. Walter E. Ash, Jr.  
Rep. Herbert Adams  
Rep. Edward R. Dugay*

*Rep. Jeff Kaelin  
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Rep. John Eder*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
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 June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

## Joint Standing Committee on Marine Resources

**Committee Amendment "A" (H-104)** proposed to replace the substance of the bill and was the minority report. The amendment proposed to require the Commissioner of Marine Resources, when granting alewife fishing rights, to give preference to the municipality in which alewives are harvested. Committee Amendment "A" was not adopted.

**LD 691**

**An Act To Provide Public Health Protection Authority to the Department of Marine Resources**

**PUBLIC 44**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP MAJ ONTP MIN	S-45 DAMON

LD 691 proposed to give the Commissioner of Marine Resources the authority to adopt rules, with the advice and consent of the Marine Resources Advisory Council, as necessary to protect public health.

**Senate Amendment "A" (S-45)** proposed to replace the bill. The amendment proposed to retain the provision of the bill that would give the Commissioner of Marine Resources the authority to adopt rules, with the advice and consent of the Marine Resources Advisory Council, as necessary to protect the public health. The amendment proposed to clarify that rulemaking to close contaminated or polluted flats does not require advice and consent of the advisory council. The amendment proposed updates cross-references to public health rule-making authority.

### *Enacted law summary*

Public Law 2005, chapter 44 gives the Commissioner of Marine Resources the authority to adopt rules, with the advice and consent of the Marine Resources Advisory Council, as necessary to protect public health. The law clarifies that rulemaking to close contaminated or polluted flats does not require the advice and consent of the advisory council.

**LD 728**

**An Act To Change the Noncommercial Scallop Season**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAIGLE	ONTP MAJ OTP-AM MIN	

LD 728 proposed to lengthen the noncommercial scallop fishing season by changing the beginning of the season from December 1st to November 1st.

**Committee Amendment "A" (H-142)** proposed to replace the bill and was the minority report of the committee. The amendment proposed to retain the provision of the bill that would change the beginning of the noncommercial scallop fishing season from December 1st to November 1st. The amendment further proposed to prohibit a person from holding a noncommercial scallop license and a commercial scallop license at the same time, to limit the noncommercial scallop license to hand harvest only and to set a minimum shell size limit of 5 inches for scallops taken by noncommercial scallop harvesters. The amendment proposed to establish a \$20 license surcharge for noncommercial scallop licenses to go to the Scallop Research Fund. The amendment also

## *Joint Standing Committee on Marine Resources*

proposed to require the holder of a noncommercial scallop license to maintain a logbook pursuant to rules to be adopted by the Commissioner of Marine Resources. Committee Amendment "A" was not adopted.

**LD 793**                      **An Act To Reauthorize Funding for the Lobster Promotion Council**                      **PUBLIC 102**

<u>Sponsor(s)</u> DAMON PERCY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-86
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LD 793 proposed to continue to capitalize the Lobster Promotion Fund through surcharges on lobster and crab licenses through the year 2020.

**Committee Amendment "A" (S-86)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Public Law 2005, chapter 102 continues to capitalize the Lobster Promotion Fund through surcharges on lobster and crab licenses through the year 2020.

**LD 836**                      **An Act To Amend the Laws Governing Aquaculture**                      **PUBLIC 92**

<u>Sponsor(s)</u> KAELIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-159
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LD 836 proposed to allow an aquaculture lease to continue beyond its expiration date until the commissioner makes a decision regarding lease renewal if a renewal application has been submitted. It proposed to provide the same restitution provisions for intentionally damaging approved aquaculture gear on standard leases and limited-purpose leases as currently exist for limited-purpose licenses, and it proposed to eliminate the \$500 upper limit of a fine on the civil violation for intentionally damaging approved aquaculture gear on a limited-purpose license. It proposed to exempt an individual who holds a limited-purpose aquaculture license from any requirements regarding time of taking or possessing and minimum or maximum size for organisms cultivated on the individual's lease areas. The bill proposed to eliminate the authority of the Commissioner of Marine Resources to establish by rule a fee schedule for the production of shellfish on a lease site. It proposed to amend the purpose of the Aquaculture Advisory Council to make recommendations on expenditures from the Aquaculture Management Fund, as well as other matters of interest to the aquaculture industry. The bill also proposed to make a violation of the Maine Revised Statutes, Title 12, chapter 605, General Department Activities, a civil violation, unless another penalty is provided.

**Committee Amendment "A" (H-159)** proposed to make several technical corrections to the bill.

### *Enacted law summary*

Public Law 2005, chapter 92 allows an aquaculture lease to continue beyond its expiration date until the commissioner makes a decision regarding lease renewal if a renewal application has been submitted. It provides