

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

JOINT STANDING COMMITTEE ON MARINE RESOURCES

May 2008

STAFF:

CURTIS C. BENTLEY, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

MEMBERS:

SEN. DENNIS S. DAMON, CHAIR
SEN. DANA L. DOW
SEN. LOIS A. SNOWE-MELLO

REP. LEILA J. PERCY, CHAIR
REP. HERBERT ADAMS
REP. PEGGY A. PENDLETON
REP. EDWARD J. MAZUREK
REP. ROBERT N. EATON
REP. W. BRUCE MACDONALD
REP. JOHN F. McDONOUGH
REP. KENNETH C. FLETCHER
REP. HAROLD IAN EMERY
REP. WESLEY E. RICHARDSON

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Marine Resources

savings be transferred to the Shellfish Fund, which is established for the management, enforcement, restoration, development and conservation of shellfish and mussels in the intertidal zone or coastal waters, and allocates those funds for funding overtime for water quality staff and training volunteers in the water quality program.

Enacted Law Summary

Public Law 2007, chapter 692 eliminates the requirement that notification of rulemaking relating to the status of a shellfish area be published in a newspaper. Instead, Public Law 2007, chapter 692 requires the Department of Marine Resources to place any information concerning the opening or closing of a shellfish area on the department's shellfish sanitation hotline and on the department's publicly accessible website. It also directs that the resulting savings be transferred to the Shellfish Fund, which is established for the management, enforcement, restoration, development and conservation of shellfish and mussels in the intertidal zone or coastal waters, and allocates those funds for funding overtime for water quality staff and training volunteers in the water quality program.

LD 2137 An Act To Clarify the Licensing Requirements for Aquaculturists and Allow for the Appropriate Handling of Bycatch from Aquaculture Lease Sites

PUBLIC 522

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCDONOUGH	OTP-AM	H-711

LD 2137 provides that wild fish found with farmed fish in an area leased for aquaculture must be harvested and returned for appropriate disposal by the lease holder. It also provides that the holder of an aquaculture lease is not required to hold a separate license for the removal, possession, transport or sale of certain cultured organisms from the area leased for aquaculture or licensed gear. This bill establishes that commercial shellfish license holders, mussel hand-raking license holders and mussel boat license holders may use these licenses to remove, possess, transport and sell cultured shellfish they have removed from an area they lease for aquaculture.

Committee Amendment "A" (H-711)

This amendment makes technical corrections to certain statutory references in the bill.

Enacted Law Summary

Public Law 2007, chapter 522 provides that wild fish found with farmed fish in an area leased for aquaculture must be harvested and returned for appropriate disposal by the lease holder. It also provides that the holder of an aquaculture lease is not required to hold a separate license for the removal, possession, transport or sale of certain cultured organisms from the area leased for aquaculture or licensed gear. Public Law 2007, chapter 522 establishes that commercial shellfish license holders, mussel hand-raking license holders and mussel boat license holders may use these licenses to remove, possess, transport and sell cultured shellfish they have removed from an area they lease for aquaculture.

LD 2156 An Act To Amend the Laws Governing Marine Resources

PUBLIC 615

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-615

This bill makes the following changes to the laws governing marine resources:

1. Modifies the definition of "common carrier" to ensure that the intrastate transportation of marine organisms by common carrier is allowed;

Joint Standing Committee on Marine Resources

2. Provides the Commissioner of Marine Resources the authority to dispose of property as well as acquire and hold property;
3. Corrects a conflict created when Public Law 2007, chapters 176 and 240 both amended a provision of law that governs the Marine Resources Advisory Council. It corrects the conflict by incorporating the changes made by both laws;
4. Corrects a reference regarding where United States Coast Guard funding should be deposited within the Department of Marine Resources;
5. Creates the Watercraft Fund within the Department of Marine Resources;
6. Creates the Halibut Fund within the Department of Marine Resources;
7. Creates an exception to the prohibition against the possession, buying or selling of Atlantic salmon for those fish that have been legally obtained from a licensed private fee pond and are tagged in conformance with rules adopted by the Commissioner of Marine Resources;
8. Creates a mandatory suspension based on 3 or more convictions of possessing oversize sea urchins;
9. Clarifies that an individual who is under 18 years of age and living year round on an island that is not connected to the mainland by an artificial structure may not be subject to being placed on a waiting list when issued a license in a limited-entry zone;
10. Provides for a portion of the fees for Class I and Class III lobster and crab fishing licenses for applicants 70 years of age and older to be deposited in the Lobster Fund;
11. Creates an exemption to limited entry in the elver fishery to allow a person whose elver fishing license was suspended for longer than a year to purchase a license in the year after the suspension is concluded;
12. Creates an exemption to allow dead marine mammals to be brought to shore for the purpose of research with written permission of the Commissioner of Marine Resources and subject to conditions imposed by the commissioner
13. Prohibits a person from fishing for or taking mussels between sunset and sunrise;
14. Provides that half of the research surcharge on a sea urchin and scallop diving tender license is deposited into the Scallop Research Fund and half is deposited into the Sea Urchin Research Fund;
15. Creates an exemption to limited entry in the sea urchin fishery to allow a person whose urchin license was suspended for longer than a year to purchase a license in the year after the suspension is concluded
16. Clarifies that an individual with a wholesale seafood license with lobster permit may ship lobster out of state, but may only transport within the State, unless they also hold a lobster transportation permit; and
17. Adds areas covered by limited purpose leases for commercial aquaculture research and development or for scientific research, emergency aquaculture leases for shellfish relocation and the limited-purpose aquaculture license to the areas where fishing near floating equipment is prohibited.

Committee Amendment "A" (S-615)

This amendment reduces the fee for a nonresident lobster and crab landing permit from \$2,047.25 to \$500 and

Joint Standing Committee on Marine Resources

increases the surcharge on that license from \$93.75 to \$250. Money raised from the surcharge on that license goes into the Lobster Promotion Fund. It makes a technical change to the law regarding lobster fishing in the Monhegan Lobster Conservation Area. It authorizes the Commissioner of Marine Resources to grant an exception for research purposes to the law prohibiting a person from depositing a dead marine animal in the intertidal zone. This amendment limits the prohibition in the bill for harvesting mussels between sunset and sunrise to draggers and authorizes the Commissioner of Marine Resources to allow the harvest of mussels during that time in areas designated as seed mussel areas.

Enacted Law Summary

Public Law 2007, chapter 615 makes the following changes to the laws governing marine resources:

1. Modifies the definition of "common carrier" to ensure that the intrastate transportation of marine organisms by common carrier is allowed;
2. Provides the Commissioner of Marine Resources the authority to dispose of property as well as acquire and hold property;
3. Corrects a conflict created when Public Law 2007, chapters 176 and 240 both amended a provision of law that governs the Marine Resources Advisory Council. It corrects the conflict by incorporating the changes made by both laws;
4. Corrects a reference regarding where United States Coast Guard funding should be deposited within the Department of Marine Resources;
5. Creates the Watercraft Fund within the Department of Marine Resources;
6. Creates the Halibut Fund within the Department of Marine Resources;
7. Creates an exception to the prohibition against the possession, buying or selling of Atlantic salmon for those fish that have been legally obtained from a licensed private fee pond and are tagged in conformance with rules adopted by the Commissioner of Marine Resources;
8. Creates a mandatory suspension based on 3 or more convictions of possessing oversize sea urchins;
9. Clarifies that an individual who is under 18 years of age and living year round on an island that is not connected to the mainland by an artificial structure may not be subject to being placed on a waiting list when issued a license in a limited-entry zone;
10. Provides for a portion of the fees for Class I and Class III lobster and crab fishing licenses for applicants 70 years of age and older to be deposited in the Lobster Fund;
11. Creates an exemption to limited entry in the elver fishery to allow a person whose elver fishing license was suspended for longer than a year to purchase a license in the year after the suspension is concluded;
12. Authorizes the Commissioner of Marine Resources to grant an exception for research purposes to the law prohibiting a person from depositing a dead marine animal in the intertidal zone;
13. Prohibits a person from fishing for or taking mussels between sunset and sunrise except the Commissioner of Marine Resources may allow the harvest of mussels during that time in areas designated as seed mussel areas.
14. Provides that half of the research surcharge on a sea urchin and scallop diving tender license is deposited into the Scallop Research Fund and half is deposited into the Sea Urchin Research Fund;

Joint Standing Committee on Marine Resources

15. Creates an exemption to limited entry in the sea urchin fishery to allow a person whose urchin license was suspended for longer than a year to purchase a license in the year after the suspension is concluded;
16. Clarifies that an individual with a wholesale seafood license with lobster permit may ship lobster out of state, but may only transport within the State, unless they also hold a lobster transportation permit;
17. Adds areas covered by limited purpose leases for commercial aquaculture research and development or for scientific research, emergency aquaculture leases for shellfish relocation and the limited-purpose aquaculture license to the areas where fishing near floating equipment is prohibited;
18. Reduces the fee for a nonresident lobster and crab landing permit from \$2,047.25 to \$500 and increases the surcharge on that license from \$93.75 to \$250. Money raised from the surcharge on that license goes into the Lobster Promotion Fund; and
19. Makes a technical change to the law regarding lobster fishing in the Monhegan Lobster Conservation Area.

**LD 2158 Resolve, Regarding Legislative Review of Portions of Chapter
34.10(1)(B)(4)(b)(viii): Atlantic Halibut, Landings Tag, Proposed Fee, a
Major Substantive Rule of the Department of Marine Resources**

**RESOLVE 169
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-724

This resolve provides for legislative review of portions of Chapter 34.10(1)(B)(4)(b)(viii): Atlantic Halibut, Landings Tag, proposed fee, a major substantive rule of the Department of Marine Resources.

Committee Amendment "A" (H-724)

This amendment approves the final adoption of the major substantive rule regarding halibut tag fees if the rule is amended to set the tag fee at \$1 and to allow the Department of Marine Resources to increase the fee to cover increased tag, administration and mailing costs. It must also provide that a portion of the tag fee may be used to fund Atlantic halibut research.

Enacted Law Summary

Resolve 2007, chapter 169 approves the final adoption of the major substantive rule regarding halibut tag fees if the rule is amended to set the tag fee at \$1 and to allow the Department of Marine Resources to increase the fee to cover increased tag, administration and mailing costs. It also provides that the final rule must allow a portion of the tag fee be used to fund Atlantic halibut research.

Resolve 2007, chapter 169 was enacted as an emergency measure effective March 27, 2008.