

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON MARINE RESOURCES

July 2011

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Marine Resources

LD 1282 An Act To Increase Fairness in Lobster Fishing Licensure

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| VOLK | ONTP | |

LD 1282 allows an individual who has completed the Department of Marine Resources' apprentice program to enter the lobster fishery with the same number of trap tags allowed a license holder at the time of the individual's entrance into the apprentice program, or to enter the lobster fishery with a limited-entry zone as the declared lobster zone based on the limits on new zone entrants that were in effect at the time of the individual's entrance into the apprentice program.

LD 1284 An Act To Amend the Scallop Advisory Council

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| FOSSEL LANGLEY | ONTP | |

LD 1284 alters the makeup of the Scallop Advisory Council to include one elected scallop harvester with a valid scallop license from each of the lobster management zones to serve on the council. It decreases the number of appointed members and ensures that the makeup of the council includes a mix of harvesters with hand fishing scallop licenses and dragging licenses. The Department of Marine Resources is directed to adopt routine technical rules governing the elections of council members. The bill also provides that the commissioner must seek the council's approval on decisions that affect the scallop fishery.

LD 348 includes a review of the Scallop Advisory Council.

LD 1409 An Act Concerning the Labeling of Maine Shellfish Products

**PUBLIC 234
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| TILTON TRAHAN | OTP-AM | H-321 |

LD 1409 requires that shellfish that is labeled as a product of Maine must be harvested in Maine, not just processed in Maine.

Committee Amendment "A" (H-321)

The amendment does the following.

1. It adds an emergency preamble and emergency clause to the bill;
2. It specifies that a person authorized to hold or possess shellfish under the Maine Revised Statutes, Title 12,

Joint Standing Committee on Marine Resources

chapter 623 may not label shellfish sold alive with the words "product of Maine" or any similar words that suggest the shellfish was taken from the waters of the State unless the shellfish was in fact taken from the waters of this State;

3. It states that a violation of this provision is a deceptive business practice in violation of Title 17-A, section 901; and

4. It specifies that a violation of this provision that results in a conviction is considered a conviction for a violation of a marine resources law.

Enacted Law Summary

Public Law 2011, chapter 234 does the following.

1. It specifies that a person authorized to hold or possess shellfish under the Maine Revised Statutes, Title 12, chapter 623 may not label shellfish sold alive with the words "product of Maine" or any similar words that suggest the shellfish was taken from the waters of the State unless the shellfish was in fact taken from the waters of this State;

2. It states that a violation of this provision is a deceptive business practice in violation of Title 17-A, section 901; and

3. It specifies that a violation of this provision that results in a conviction is considered a conviction for a violation of a marine resources law.

Public Law 2011, chapter 234 was enacted as an emergency measure effective June 6, 2011.

LD 1462 An Act To Amend the Department of Marine Resources' Administrative Suspension Process

PUBLIC 311

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| RECTOR | OTP-AM | S-190 |

LD 1462 amends the ability of the Department of Marine Resources to suspend a license or certificate based on a violation of marine resources law. This bill redirects the license suspension hearing process through the department rather than the District Court for violations of refusing access to department shellfish inspectors. It creates a new administrative hearing process for all other violations of marine resources laws when a license suspension is being considered, clarifies that such suspensions are remedial, and creates a provision to prohibit multiple suspensions for the same violation. It retains the current provision that allows for immediate license or certificate suspension in cases when a person denies the Marine Patrol access for inspection and amends the statute that allows for immediate license suspension when the department's public health division's shellfish inspectors are refused access to a shellfish facility.

Committee Amendment "A" (S-190)

The amendment:

1. States that the Commissioner of Marine Resources' determination of whether a suspension without criminal conviction or civil adjudication is necessary must be based on a preponderance of the evidence;

2. Changes from 3 to 10 the number of business days within which a hearing must be held after the commissioner