

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
125<sup>TH</sup> 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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STATE OF MAINE  
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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 125<sup>th</sup> 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 125<sup>th</sup> 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*

receives a request under the Maine Revised Statutes, Title 12, section 6374;

3. States that a hearing may be held more than 10, instead of 3, business days after the request if the delay is requested by the person requesting the hearing;
4. Adds that a license or certificate holder may request a hearing regarding the length of suspension within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area; and
5. Adds an appropriations and allocations section.

### **Enacted Law Summary**

Public Law 2011, chapter 311 does the following. It:

1. Amends the ability of the Department of Marine Resources to suspend a license or certificate based on a violation of marine resources law.
2. Redirects the license suspension hearing process through the department rather than the District Court for violations of refusing access to department shellfish inspectors.
3. 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.
4. 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.
5. 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;
6. Changes from 3 to 10 the number of business days within which a hearing must be held after the commissioner receives a request under the Maine Revised Statutes, Title 12, section 6374;
7. States that a hearing may be held more than 10, instead of 3, business days after the request if the delay is requested by the person requesting the hearing;
8. Adds that a license or certificate holder may request a hearing regarding the length of suspension within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

**LD 1508**

### **An Act To Ensure Cultchless American Oyster Growers Licenses Are Issued by the Department of Marine Resources Only to Individuals Who Are Growers of American Oysters**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEBSTER GERZOFISKY	ONTP	

LD 1508 clarifies that a person may not grow or harvest cultchless American oysters without a license. This bill also directs the Department of Marine Resources to modify the rules for cultchless American oyster growers licenses

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to ensure that those who receive licenses purchased seed at least one year prior to the date the license goes into effect and provide a plan for how and where the oysters will be grown.

**LD 1522      An Act To Make Technical Changes to Marine Resources Laws**

**PUBLIC 266**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	OTP-AM	S-215

LD 1522 makes technical changes to a variety of existing marine resources statutes. It:

1. Adds the recently created pelagic and anadromous fishing license to the list of state-issued licenses that members of the Passamaquoddy Tribe are not required to hold;
2. Adds the limited entry scallop fishery to those fisheries that allow medical or military waivers from the yearly requirement to purchase a license in order to participate in the fishery in the future;
3. Removes the part of the nonresident lobster and crab landing permit laws that limits permit holders to Maine's trap limit and requires that they purchase Maine lobster trap tags;
4. Extends the date for submitting information to the Commissioner of Marine Resources in order to qualify for grandfathering under the established base of operations requirement;
5. Clarifies that all lobster traps and trawls must be marked by a visible buoy and that the Bureau of Marine Patrol may require more distinguishable buoy color designs in instances where family members' buoys are not distinct enough to provide adequate enforcement of current laws;
6. Specifies a process by which abandoned lobster gear may be disposed;
7. Clarifies the commercial fishing license to reflect the creation of 2 recently created specific licenses, the pelagic and anadromous fishing license and the sea cucumber harvesting license;
8. Repeals an error in the qualifying years for eligibility to hold a scallop license; and
9. Establishes in statutes the administration of the existing Maine Working Waterfront Access Pilot Program.

### **Committee Amendment "A" (S-215)**

The amendment makes the following changes to the bill.

1. It provides that the State assents to the Federal Aid in Sport Fish Restoration Act and that the Commissioner of Marine Resources may perform acts necessary for the establishment and implementation of cooperative fish restoration and management projects defined in that Act.
2. It corrects a reference in current law to "double gauge" as the State's lobster measure to provide consistency with a similar change made by the bill.
3. It removes the definition of "temporarily" added by the bill to 2 provisions of law related to the commissioner's authority to allow a person to take lobsters from a vessel other than the vessel listed on the person's license. This removal gives the commissioner discretion to continue to make determinations on a case-by-case basis when