

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON MARINE RESOURCES

June 2012

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*REPLACED LATE IN THE SESSION BY SEN. CHRISTOPHER K. JOHNSON

STATE OF MAINE

125TH LEGISLATURE
SECOND REGULAR SESSION



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 Second 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.

<i>CARRIED OVER</i>	<i>carried over to a subsequent session of the Legislature</i>
<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; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation 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>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 of the 125th Legislature is Thursday, August 30, 2012. 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 1722

An Act To Make Technical Changes to Maine's Marine Resources Laws

**PUBLIC 598
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	OTP-AM	S-466

This bill does the following.

1. It eliminates the definition of "alewives," which included both alewives and blueback herring, in the marine resources laws and provides instead a definition of "river herring," which includes both alewives and blueback herring and replaces the term "alewife" with "river herring" throughout the marine resources laws.
2. It expands the allowable uses of the funds collected through the leasing of fisheries allocations held in the permit banking program beyond the administration of the program to include providing assistance to the groundfishing industry, consistent with the goals of the program.
3. It eliminates a number of reports to the Legislature, including:
 - A. A financial report on the Department of Marine Resources Educational Fund;
 - B. A financial report on the Aquaculture Management Fund;
 - C. A financial report on the Aquaculture Monitoring, Research and Development Fund;
 - D. A report on the activities of the Maine Coast Environmental Trust Fund;
 - E. A report on the lobster research program within the Department of Marine Resources, Bureau of Resource Management;
 - F. A report on the stock status of mahogany quahogs and a financial report on the status of the Mahogany Quahog Monitoring Fund;
 - G. A report on the quantity and type of sea urchin licenses sold in each zone in each year; and
 - H. A report on the status of all current and planned programs, activities and rules of the department pertaining to the conservation or management of state endangered or state threatened marine species.
4. It eliminates the repeal of a provision that allows the Department of Marine Resources to adopt certain rules as routine technical rules, rather than as major substantive rules.
5. It provides that a member of the Passamaquoddy Tribe or Penobscot Nation who is a resident of this State is not required to hold a state license to use a boat for dragging for the harvesting of surf clams, or fish for or take green crabs or possess, ship or sell green crabs if that member holds a valid license issued by the tribe or nation to conduct those activities.
6. It lengthens the time frame by which a hearing requested under the administrative suspension process must be provided from 10 days to 30 days.

Joint Standing Committee on Marine Resources

7. It adds taking by hand dip net to the allowable methods of taking for which an individual does not need to obtain a commercial pelagic and anadromous fish license, as long as the fish taken are for personal use.
8. It eliminates the green crab fencing program.
9. It establishes the Marine Recreation Fishing Conservation and Management Fund to be used for research and conservation efforts related to the saltwater recreational fishery.
10. It allows a holder of a wholesale seafood license to buy, sell, ship or transport shrimp, except for shrimp purchased directly from a harvester, unless the person also holds a shrimp permit. Currently, the holder of a wholesale seafood license is not allowed to buy, sell, ship or transport shrimp unless that person also holds a shrimp permit.

Committee Amendment "A" (S-466)

This amendment makes the following changes to the bill.

1. It reenacts the Aquaculture Advisory Council.
2. Instead of eliminating the Department of Marine Resources' requirement to report on the Aquaculture Management Fund by February 1st of each year to the joint standing committee of the Legislature having jurisdiction over marine resources matters, it requires the department to report annually to the Aquaculture Advisory Council.
3. It provides that a member of the Aroostook Band of Micmacs who is a resident of this State is not required to hold a state license to use a boat for dragging for the harvesting of surf clams, or fish for or take green crabs or possess, ship or sell green crabs if that member holds a valid license issued by the band or the agent of the band to conduct those activities.
4. It adds the Aroostook Band of Micmacs under the tribal exemption for certain commercial harvesting licenses and allows the band or the agent of the band to issue those licenses.
5. It specifies that the Aroostook Band of Micmacs or the agent of the band may issue up to 10 commercial lobster and crab fishing licenses, 10 commercial scallop licenses and 8 commercial elver licenses in any calendar year to members of the band.
6. It requires the commissioner to adopt rules authorizing the Aroostook Band of Micmacs or its agent to issue commercial sea urchin licenses if the commissioner determines that the sea urchin resources are sufficient to permit the issuance of new licenses.
7. It adds the Aroostook Band of Micmacs under the tribal exemption of sustenance or ceremonial tribal use.
8. It expands the area where sustenance use is allowed to include the Passamaquoddy Indian territory, Penobscot Indian territory and Aroostook Band Trust Land, instead of only Passamaquoddy Tribe and Penobscot Nation reservation land.
9. It allows the Aroostook Band of Micmacs to have an agent to act on its behalf if the Aroostook Band of Micmacs Tribal Council certifies the agent with the Department of Marine Resources.
10. It clarifies that a person may not use a boat for dragging scallops in the State's territorial waters unless that person holds a scallop dragging license. This continues to allow those with federal scallop licenses who fish in federal waters to land scallops in the State if they have a wholesale dealer's license.

Joint Standing Committee on Marine Resources

11. It decreases the license fee for a Zone 1 individual handfishing sea urchin license from \$152 to \$25 and a handfishing sea urchin license with tender from \$202 to \$50 due to a short season in Zone 1. The fees remain in effect as long as the sea urchin season in Zone 1 is 10 days or less, after which the Department of Marine Resources may increase fees to an amount no higher than fees in Zone 2.

12. It repeals the enhanced retail seafood license and creates an enhanced retail certificate. A person must have a retail seafood license to obtain an enhanced retail certificate. A certificate authorizes the holder to buy, sell, transport, ship or serve shellstock bought from a commercial shellfish license holder, a surf clam boat license holder, a mahogany quahog license holder or a hand-raking mussel license holder or mussel boat license holder in the retail trade within state limits. A certificate authorizes activities at only one establishment. The fee for an enhanced retail certificate is \$28 and is deposited in the Shellfish Fund.

13. It removes "within state limits" from licensed activities under the retail seafood license in order to allow license holders to buy, sell, transport, ship or serve shellstock purchased from a wholesale seafood license holder, crayfish or lobsters in the retail trade within or outside of the State. It eliminates shucked shellfish and lobster parts or meat from what can be bought, sold, transported, shipped or served under this license.

14. It applies rules currently in effect pertaining to enhanced retail seafood license holders to enhanced retail certificate holders until the Department of Marine Resources updates its rules.

The amendment adds an emergency preamble and emergency clause to the bill.

Enacted Law Summary

Public Law 2011, chapter 598 does the following.

1. It eliminates the definition of "alewives," which included both alewives and blueback herring, in the marine resources laws and provides instead a definition of "river herring," which includes both alewives and blueback herring and replaces the term "alewife" with "river herring" throughout the marine resources laws.
2. It expands the allowable uses of the funds collected through the leasing of fisheries allocations held in the permit banking program beyond the administration of the program to include providing assistance to the groundfishing industry, consistent with the goals of the program.
3. It eliminates a number of reports to the Legislature, including:
 - A. A financial report on the Department of Marine Resources Educational Fund;
 - B. A financial report on the Aquaculture Monitoring, Research and Development Fund;
 - C. A report on the activities of the Maine Coast Environmental Trust Fund;
 - D. A report on the lobster research program within the Department of Maine Resources, Bureau of Resource Management;
 - E. A report on the stock status of mahogany quahogs and a financial report on the status of the Mahogany Quahog Monitoring Fund;
 - F. A report on the quantity and type of sea urchin licenses sold in each zone in each year;
 - G. A report on the status of all current and planned programs, activities and rules of the department pertaining to the conservation or management of state endangered or state threatened marine species.

Joint Standing Committee on Marine Resources

4. It reenacts the Aquaculture Advisory Council.
5. It requires the department to report annually to the Aquaculture Advisory Council.
6. It retains a provision that allows the Department of Marine Resources to adopt certain rules as routine technical rules, rather than as major substantive rules.
7. It provides that a member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs who is a resident of this State is not required to hold a state license to use a boat for dragging for the harvesting of surf clams, or fish for or take green crabs or possess, ship or sell green crabs if that member holds a valid license issued by the tribe, nation, band or agent of the band to conduct those activities.
8. It adds the Aroostook Band of Micmacs under the tribal exemption for certain commercial harvesting licenses and allows the band or the agent of the band to issue those licenses.
9. It specifies that the Aroostook Band of Micmacs or the agent of the band may issue up to 10 commercial lobster and crab fishing licenses, 10 commercial scallop licenses and 8 commercial elver licenses in any calendar year to members of the band.
10. It requires the commissioner to adopt rules authorizing the Aroostook Band of Micmacs or its agent to issue commercial sea urchin licenses if the commissioner determines that the sea urchin resources are sufficient to permit the issuance of new licenses.
11. It adds the Aroostook Band of Micmacs under the tribal exemption of sustenance or ceremonial tribal use.
12. It expands the area where sustenance use is allowed to include the Passamaquoddy Indian territory, Penobscot Indian territory and Aroostook Band Trust Land, instead of only Passamaquoddy Tribe and Penobscot Nation reservation land.
13. It allows the Aroostook Band of Micmacs to have an agent to act on its behalf if the Aroostook Band of Micmacs Tribal Council certifies the agent with the Department of Marine Resources.
14. It lengthens the time frame by which a hearing requested under the administrative suspension process must be provided from 10 days to 30 days.
15. It adds taking by hand dip net to the allowable methods of taking for which an individual does not need to obtain a commercial pelagic and anadromous fish license, as long as the fish taken are for personal use.
16. It eliminates the green crab fencing program.
17. It reenacts the Marine Recreation Fishing Conservation and Management Fund to be used for research and conservation efforts related to the saltwater recreational fishery.
18. It allows a holder of a wholesale seafood license to buy, sell, ship or transport shrimp, except for shrimp purchased directly from a harvester, unless the person also holds a shrimp permit.
19. It clarifies that a person may not use a boat for dragging scallops in the State's territorial waters unless that person holds a scallop dragging license. This continues to allow those with federal scallop licenses who fish in federal waters to land scallops in the State if they have a wholesale dealer's license.
20. It decreases the license fee for a Zone 1 individual handfishing sea urchin license from \$152 to \$25 and a

Joint Standing Committee on Marine Resources

handfishing sea urchin license with tender from \$202 to \$50 due to a short season in Zone 1. The fees remain in effect as long as the sea urchin season in Zone 1 is 10 days or less, after which the Department of Marine Resources may increase fees to an amount no higher than fees in Zone 2.

21. It repeals the enhanced retail seafood license and creates an enhanced retail certificate. A person must have a retail seafood license to obtain an enhanced retail certificate. A certificate authorizes the holder to buy, sell, transport, ship or serve shellstock bought from a commercial shellfish license holder, a surf clam boat license holder, a mahogany quahog license holder or a hand-raking mussel license holder or mussel boat license holder in the retail trade within state limits. A certificate authorizes activities at only one establishment. The fee for an enhanced retail certificate is \$28 and is deposited in the Shellfish Fund.

22. It allows retail seafood license holders to buy, sell, transport, ship or serve shellstock purchased from a wholesale seafood license holder, crayfish or lobsters in the retail trade within or outside of the State. It eliminates shucked shellfish and lobster parts or meat from what can be bought, sold, transported, shipped or served under this license.

23. It applies rules currently in effect pertaining to enhanced retail seafood license holders to enhanced retail certificate holders until the Department of Marine Resources updates its rules.

Public Law 2011, chapter 598 was enacted as an emergency measure effective April 6, 2012.

LD 1765 An Act To Sustain the Elver Fishery

**PUBLIC 549
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TILTON RAYE	OTP-AM	H-816

This bill lifts the moratorium on the issuance of new elver fishing licenses and increases the total number of licenses available to 600. New licenses are geographically distributed and issued by a lottery system overseen by the Commissioner of Marine Resources. The bill also does the following: increases the cost of licenses; increases the number of allowable elver fyke nets for residents to 3; increases the fines for elver gear molestation, failure to pay elver gear fees and fishing without a license to up to \$5,000; changes the open season to April 1st to June 20th; and allows elver fishing 7 days per week during the open season.

Committee Amendment "A" (H-816)

This amendment replaces the bill and adds an emergency preamble and clause. It does the following.

1. It changes the suspension for molesting elver fishing gear from a one-year license suspension to a 3-year suspension for the first offense and adds that a second offense results in permanent revocation of the elver fishing license. It increases the fine for molesting elver fishing gear from between \$100 and \$500 to \$2,000.
2. It creates an elver fishing lottery system and adds a suspension of eligibility in the elver lotteries for fishing without an elver fishing license. The first offense results in a one-year suspension of eligibility. A second offense results in a permanent loss of eligibility in the elver lotteries. It increases the fine for fishing without a license from between \$100 and \$500 to \$2,000 and makes a second or subsequent offense a Class D crime.
3. It adds a license suspension for an adjudication of untagged elver gear. The first offense results in a one-year license suspension. A second offense results in permanent revocation of the license holder's license. It increases the fine for untagged elver gear from between \$100 and \$500 to \$2,000.