

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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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

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.

Joint Standing Committee on Marine Resources

4. It adds a license suspension for elver fishing during the closed season or a closed period. The first offense results in a one-year license suspension. A second offense results in permanent revocation of the license holder's license.
5. It adds a license suspension for violation of an elver dealer's license. 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 a violation of an elver dealer's license from between \$100 and \$500 to \$2,000.
6. It lifts the moratorium on elver fishing licenses and creates a dual elver fishing lottery system to keep the fishery at the same level as it was December 31, 2011.
7. It requires the elver gear lottery and elver license lottery to begin in 2013. Gear authorized by licenses that are not renewed is placed in the elver gear lottery. Each lottery entrant can win authorization to use only one piece of gear.
8. It allows only current elver fishing license holders who hold a dip net authorization to enter the elver gear lottery to exchange authorization to use a dip net for authorization to use a fyke net, if any are available.
9. It sets up the elver license lottery to be held after the elver gear lottery for any remaining gear authorizations left over after the elver gear lottery. Each winner of the elver license lottery wins the ability to purchase an elver fishing license and authorization to use one piece of gear. The number of licenses available is based on and is the same as the number of gear pieces available in the elver gear lottery.
10. It changes the closed period for elver harvesting, which in current law is from noon Friday to noon Sunday, and splits the days in the closed period. The closed period is changed to from noon Tuesday to noon Wednesday and from noon Saturday to noon Sunday.
11. It adds that it is unlawful for an elver dealer to possess elvers prior to the beginning of the elver season and five days beyond the end of the season. This allows dealers to package and ship product after the season ends.
12. It restricts the elver dealer's license to allow activities at only one permanent facility. A supplemental license is required for vehicles and for additional facilities.
13. It allows an elver dealer's license holder to identify authorized representatives to purchase elvers for the dealer at locations other than the permanent facility.
14. It requires the elver dealer's license holder or the license holder's authorized representative to purchase elvers from licensed harvesters and requires the elver dealer or authorized representative to keep a record that identifies each harvester from which elvers were purchased and the amount of elvers purchased from each harvester. The records must be available for inspection by a marine patrol officer.
15. It requires the elver dealer's license holder or the license holder's authorized representative to transport elvers to a permanent facility identified on the license holder's license prior to shipping or transporting elvers outside state limits.
16. It provides for the Commissioner of Marine Resources to make routine technical rules to set up the elver lotteries and the additional requirements for elver dealer's license holders.

Enacted Law Summary

Public Law 2011, chapter 549 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

Joint Standing Committee on Marine Resources

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.

4. It adds a license suspension for elver fishing during the closed season or a closed period. The first offense results in a one-year license suspension. A second offense results in permanent revocation of the license holder's license.

5. It adds a license suspension for violation of an elver dealer's license. 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 a violation of an elver dealer's license from between \$100 and \$500 to \$2,000.

6. It lifts the moratorium on elver fishing licenses and creates a dual elver fishing lottery system to keep the fishery at the same level as it was December 31, 2011.

7. It requires the elver gear lottery and elver license lottery to begin in 2013. Gear authorized by licenses that are not renewed is placed in the elver gear lottery. Each lottery entrant can win authorization to use only one piece of gear.

8. It allows only current elver fishing license holders who hold a dip net authorization to enter the elver gear lottery to exchange authorization to use a dip net for authorization to use a fyke net, if any are available.

9. It sets up the elver license lottery to be held after the elver gear lottery for any remaining gear authorizations left over after the elver gear lottery. Each winner of the elver license lottery wins the ability to purchase an elver fishing license and authorization to use one piece of gear. The number of licenses available is based on and is the same as the number of gear pieces available in the elver gear lottery.

10. It changes the closed period for elver harvesting from noon Friday to noon Sunday, and splits the days in the closed period. The closed period is changed to from noon Tuesday to noon Wednesday and from noon Saturday to noon Sunday.

11. It adds that it is unlawful for an elver dealer to possess elvers prior to the beginning of the elver season and five days beyond the end of the season. This allows dealers to package and ship product after the season ends.

12. It restricts the elver dealer's license to allow activities at only one permanent facility. A supplemental license is required for vehicles and for additional facilities.

13. It allows an elver dealer's license holder to identify authorized representatives to purchase elvers for the dealer at locations other than the permanent facility.

14. It requires the elver dealer's license holder or the license holder's authorized representative to purchase elvers from licensed harvesters and requires the elver dealer or authorized representative to keep a record that identifies each harvester from which elvers were purchased and the amount of elvers purchased from each harvester. The records must be available for inspection by a marine patrol officer.

15. It requires the elver dealer's license holder or the license holder's authorized representative to transport elvers to

Joint Standing Committee on Marine Resources

a permanent facility identified on the license holder's license prior to shipping or transporting elvers outside state limits.

16. It provides for the Commissioner of Marine Resources to make routine technical rules to set up the elver lotteries and the additional requirements for elver dealer's license holders.

Public Law 2011, chapter 549 was enacted as an emergency measure effective March 29, 2012.