

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
126<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON MARINE RESOURCES**

May 2014

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**STATE OF MAINE**  
126<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION  
**LEGISLATIVE DIGEST OF BILL SUMMARIES AND**  
**ENACTED LAWS**

The *Digest* is arranged 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.

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 Second Regular Session of the 126<sup>th</sup> Legislature is August 1, 2014. 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*

This bill allows certain businesses licensed under the marine resources laws to request that certain information submitted to the Department of Marine Resources be kept confidential to protect proprietary business information. It also corrects two references to confidential statistical landings information collected under aquaculture leases and licenses.

### **Committee Amendment "A" (H-715)**

This amendment strikes the provision in the bill that specifies that information collected by any governmental entity other than the Department of Marine Resources is not confidential.

### **Enacted Law Summary**

Public Law 2013, chapter 512 allows certain businesses licensed under the marine resources laws to request that certain information submitted to the Department of Marine Resources, including information that is also collected by any other governmental entity, be kept confidential to protect proprietary business information. It also corrects two references to confidential statistical landings information collected under aquaculture leases and licenses.

<b>LD 1689</b>	<b>An Act To Encourage and Protect Innovation in Fisheries, Aquaculture and Seafood Processing</b>	<b>PUBLIC 518</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAVERS JOHNSON C	OTP	

This bill provides that records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources are not subject to disclosure under the Freedom of Access Act.

### **Enacted Law Summary**

Public Law 2013, chapter 518 provides that records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources are not subject to disclosure under the Freedom of Access Act.

<b>LD 1723</b>	<b>An Act To Improve Enforcement of Marine Resources Laws</b>	<b>PUBLIC 468 EMERGENCY</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOAK	OTP-AM	H-672 H-680 KUMIEGA

This bill amends the laws governing the enforcement of marine resources laws in the following ways.

1. It allows the Commissioner of Marine Resources to enter into an interstate wildlife violator compact and allows the commissioner to suspend or revoke the licenses of individuals whose licenses have been suspended or revoked for violations of marine resources law in other member states.
  
2. It increases the limit on the value of items seized by a marine patrol officer that need not be subject to judicial process for the disposition of property seized by the government from \$75 to \$200. It provides for the notice of judicial process for the disposition of property seized by the government to be mailed to the individual from whom the items were seized, in addition to the existing requirement to post notice in the municipality or place where the items were seized. It specifies the process for the sale or disposition of marine organisms prior to judicial process for the disposition of property seized by the government.

## *Joint Standing Committee on Marine Resources*

3. It provides that the commissioner may suspend a license or certificate for up to the maximum time allowable for a criminal conviction or civil adjudication of the same violation.
4. It allows the commissioner to permanently revoke any license of a habitual violator who is convicted or adjudicated of six or more violations of marine resources laws.
5. It allows a court to suspend fines imposed for violations of lobster laws.
6. It creates a temporary exemption from owner-operator requirements for an individual who holds a lobster and crab fishing license, has sold one vessel and is purchasing another.
7. It lowers the fines for harvesting shellfish without a municipal shellfish license, harvesting shellfish in violation of a license restriction and violating the laws related to lobster processor licenses. It also provides that violation of certain laws governing crayfish dealers is a civil violation rather than a Class D crime, as in current law.

### **Committee Amendment "A" (H-672)**

This amendment adds an emergency preamble and emergency clause to the bill. This amendment also:

1. Creates the Marine Science, Management and Enforcement Fund for the deposit of funds received from the proceeds of the sale of seized items that have been forfeited to the State;
2. Creates an administrative process for assessing a penalty for pecuniary gain realized from the unlawful purchase, sale or fishing of elvers;
3. Establishes an elver transaction card to be issued by the Department of Marine Resources to the holders of elver fishing licenses issued by the Department of Marine Resources and the federally recognized Indian tribes in the State and requires the holder of an elver fishing license to present the card issued to that person, which includes that person's name and license number, in order to sell or transfer elvers the license holder has taken to a dealer;
4. Requires every individual fishing for elvers to possess on that individual's actual person an elver fishing license, government-issued photo identification card and elver transaction card. Failure to present the elver fishing license and elver transaction card if required constitutes prima facie evidence of a violation;
5. Clarifies for revocation purposes that a habitual violator is a license holder and, notwithstanding other specific penalties that may be applied, the Commissioner of Marine Resources is authorized to suspend licenses for violating marine resources laws;
6. Provides a process for suspending an elver dealer's license for failure to comply with daily reporting requirements that includes telephone notification or, after 24 hours, mailing or providing the notice in hand to the license holder. The amendment stipulates that the notice must describe the information that is sought by the department and state that, if the information is not provided or a hearing requested within 12 hours, the license suspension is in effect. Current law allows a license holder three days to provide the missing information or to request a hearing;
7. Requires unlicensed crew to sell lobsters or crabs only under the direct supervision of the Class II or Class III license holder under whose authority the lobster or crabs were taken;
8. Establishes for the 2015 season an elver fishing license for a resident with crew for a fee of \$305 and a nonresident with crew for a fee of \$1,326 and allocates \$200 of each license fee to the Eel and Elver Management Fund;

## *Joint Standing Committee on Marine Resources*

9. Allows, for the 2014 elver fishing season only, elver fishing license holders to assist each other under the direct supervision of another license holder, as long as each person sells only elvers that person has taken and the person issued the tag attached to the elver fyke net is the only person to empty the cod end of the elver fyke net. Whoever is licensed to fish with an elver fyke net may not fish with an elver dip net and anyone licensed to fish for elvers with an elver dip net may not continue to fish for or take elvers with an elver dip net once that person has met that person's quota;
10. Provides an exception for a person other than the license holder identified on the tag for an elver fyke net or a Sheldon eel trap to empty that net or trap if a license holder is temporarily disabled or has a personal or family medical condition for two weeks only and with written permission from a marine patrol officer. That person may tend the license holder's net or trap only for the purpose of releasing captured elvers into the waters of the State. The license holder issued the tag for the elver fyke net or Sheldon eel trap must be present and assisting in setting, tending or removing the net or trap;
11. Prohibits fishing for or taking elvers from noon Friday to noon Sunday. Current law prohibits fishing for or taking elvers from noon Tuesday to noon Wednesday and from noon Saturday to noon Sunday;
12. Restricts elver fishing to the use of elver dip nets only and prohibits the use of elver fyke nets to fish for or take elvers in the St. Croix River;
13. Clarifies that payment for elvers, which already must be by check or cashier's check and must identify both the seller and the buyer, must indicate the buyer under whose license the landings will be reported;
14. Makes assisting in the illegal harvest of elvers a Class D strict liability crime with a \$2,000 mandatory fine. This offense is a civil violation under current law;
15. Clarifies that a retail seafood license is required to sell shellstock, crayfish, lobsters and any marine organism that is purchased directly from a harvester; and
16. Authorizes the commissioner to delay the start to the 2014 elver fishing season if necessary in order to establish, implement and administer the elver transaction card system.

### **House Amendment "A" To Committee Amendment "A" (H-680)**

This amendment removes the provision of Committee Amendment "A" making it a Class D strict liability crime with a mandatory \$2,000 fine to assist in the illegal harvest of elvers and repeals the law that makes it a civil violation with a \$2,000 mandatory fine to assist in the illegal harvest of elvers.

### **Enacted Law Summary**

Public Law 2013, chapter 468 amends the laws governing the enforcement of marine resources laws in the following ways.

1. It allows the Commissioner of Marine Resources to enter into an interstate wildlife violator compact and allows the commissioner to suspend or revoke the licenses of individuals whose licenses have been suspended or revoked for violations of marine resources law in other member states.
2. It increases the limit on the value of items seized by a marine patrol officer that need not be subject to judicial process for the disposition of property seized by the government from \$75 to \$200. It provides for the notice of judicial process for the disposition of property seized by the government to be mailed to the individual from whom the items were seized, in addition to the existing requirement to post notice in the municipality or place where the items were seized. It specifies the process for the sale or disposition of marine organisms prior to judicial process for the disposition of property seized by the government.

## *Joint Standing Committee on Marine Resources*

3. It provides that the commissioner may suspend a license or certificate for up to the maximum time allowable for a criminal conviction or civil adjudication of the same violation.
4. It allows the commissioner to permanently revoke any license or certificate of a license holder or certificate holder who is convicted or adjudicated of six or more violations of marine resources laws.
5. It allows a court to suspend fines imposed for violations of lobster laws.
6. It creates the Marine Science, Management and Enforcement Fund for the deposit of funds received from the proceeds of the sale of seized items that have been forfeited to the State.
7. It creates an administrative process for assessing a penalty for pecuniary gain realized from the unlawful purchase, sale or fishing of elvers.
8. It establishes an elver transaction card to be issued by the Department of Marine Resources to the holders of elver fishing licenses issued by the Department of Marine Resources and the federally recognized Indian tribes in the State and requires the holder of an elver fishing license to present the card issued to that person, which includes that person's name and license number, in order to sell or transfer elvers the license holder has taken to a dealer.
9. It requires every individual fishing for elvers to possess on that individual's actual person an elver fishing license, government-issued photo identification card and elver transaction card. Failure to present the elver fishing license and elver transaction card if required constitutes prima facie evidence of a violation.
10. It clarifies for revocation purposes that a habitual violator is a license holder and, notwithstanding other specific penalties that may be applied, the Commissioner of Marine Resources is authorized to suspend licenses for violating marine resources laws.
11. It provides a process for suspending an elver dealer's license for failure to comply with daily reporting requirements that includes telephone notification or, after 24 hours, mailing or providing the notice in hand to the license holder. It also stipulates that the notice must describe the information that is sought by the department and state that, if the information is not provided or a hearing requested within 12 hours, the license suspension is in effect. Current law allows a license holder three days to provide the missing information or to request a hearing.
12. It requires unlicensed crew to sell lobsters or crabs only under the direct supervision of the Class II or Class III license holder under whose authority the lobster or crabs were taken.
13. It establishes for the 2015 season an elver fishing license for a resident with crew for a fee of \$305 and a nonresident with crew for a fee of \$1,326 and allocates \$200 of each license fee to the Eel and Elver Management Fund.
14. It allows, for the 2014 elver fishing season only, elver fishing license holders to assist each other under the direct supervision of another license holder, as long as each person sells only elvers that person has taken and the person issued the tag attached to the elver fyke net is the only person to empty the cod end of the elver fyke net. Whoever is licensed to fish with an elver fyke net may not fish with an elver dip net and anyone licensed to fish for elvers with an elver dip net may not continue to fish for or take elvers with an elver dip net once that person has met that person's quota.
15. It provides an exception for a person other than the license holder identified on the tag for an elver fyke net or a Sheldon eel trap to empty that net or trap if a license holder is temporarily disabled or has a personal or family medical condition for two weeks only and with written permission from a marine patrol officer. That person may tend the license holder's net or trap only for the purpose of releasing captured elvers into the waters of the State. The license holder issued the tag for the elver fyke net or Sheldon eel trap must be present and assisting in setting,

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tending or removing the net or trap.

16. It prohibits fishing for or taking elvers from noon Friday to noon Sunday. Current law prohibits fishing for or taking elvers from noon Tuesday to noon Wednesday and from noon Saturday to noon Sunday.

17. It restricts elver fishing to the use of elver dip nets only and prohibits the use of elver fyke nets to fish for or take elvers in the St. Croix River.

18. It clarifies that payment for elvers, which already must be by check or cashier's check and must identify both the seller and the buyer, must indicate the buyer under whose license the landings will be reported.

19. It clarifies that a retail seafood license is required to sell shellstock, crayfish, lobsters and any marine organism that is purchased directly from a harvester.

20. It authorizes the commissioner to delay the start to the 2014 elver fishing season if necessary in order to establish, implement and administer the elver transaction card system.

21. It repeals the law that makes it a civil violation with a \$2,000 mandatory fine to assist in the illegal harvest of elvers, in order to make it a strict liability offense. It also removes the provision in Committee Amendment "A" that proposes to criminalize this action. It is a Class D strict liability offense under the existing law. In accordance with Title 12, section 6204, the general penalty for violating any provision of marine resources' laws, including assisting in the illegal harvest of elvers, is a Class D strict liability crime. The Department of Marine Resources may also enforce the prohibition against assisting in the illegal harvest of elvers based on liability accomplice in Title 17, section 57.

Public Law 2013, chapter 468 was enacted as an emergency measure effective March 13, 2014.

See also bill summary for LD 1397 and enacted law summary for LD 1625.

### **LD 1830     An Act To Further the Implementation of the Rockweed Fishery Management Plan**

**PUBLIC 558**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM OTP-AM	H-807

This bill changes the existing law for seaweed harvesting rules to make the rules for the allocation to sectors major substantive and not routine technical rules, as is currently the case. This bill also directs the Commissioner of Marine Resources to convene a working group that will identify criteria for the designation of no-harvest areas for conservation and to identify specific areas that are to be closed to rockweed harvesting, except for research purposes, on a seasonal or permanent basis according to the criteria identified by the working group. The commissioner is required to complete and present to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 31, 2015 a statewide management plan for rockweed. The committee is authorized to report out legislation to the First Regular Session of the 127th Legislature related to the plan.

#### **Committee Amendment "A" (H-807)**

This amendment, which is the majority report and replaces section 2 of the bill, requires the Commissioner of Marine Resources to provide an update to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 31, 2015, on the implementation of the Rockweed Fishery Management Plan.

The bill requires submission of a statewide management plan for rockweed and contains specific parameters for