

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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Joint Standing Committee on Marine Resources

LD 1579 An Act To Amend the Lobster Promotion Council

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP	

This bill was carried over from the First Regular Session of the 125th Legislature. It revises the structure of the Lobster Promotion Council.

1. It changes the makeup of the council. Current law requires that the council consist of 3 members from each of the defined districts of the State: the western district, the midcoast district and the eastern district. Current law also requires 3 members to be full-time lobster harvesters who have held valid lobster and crab fishing licenses, 3 members to be lobster dealers or pound operators and 3 members to be public members. This bill instead requires the appointment of at least one member who represents the western district of the State, at least one member who represents the eastern district of the State and up to 7 public members who have professional knowledge or experience in trade, promotion or marketing or other disciplines that the Commissioner of Marine Resources determines would assist in the advancement of the council's objectives. This bill also revises the area that is defined as the western district.
2. It authorizes the commissioner to remove a member for cause or for the violation of a marine resources law or Department of Marine Resources rule.
3. It authorizes the commissioner to vote in case of a tie vote on the council.
4. It requires the council to draw upon the expertise of industries, organizations and persons experienced in marketing and promotion and expands the council's purposes to specifically include identification and promotion of initiatives for the marketing and promotion of lobsters harvested or processed in the State.
5. It provides that the terms of the members currently serving on the Lobster Promotion Council expire and directs the commissioner to appoint 9 members to the council within 90 days after the effective date of this bill.

LD 1609 An Act To Ensure the Safety of Bait Used in Maine's Fishery

**PUBLIC 475
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PARRY	OTP-AM	H-690

This bill allows the Commissioner of Marine Resources to maintain a list of freshwater organisms acceptable for and a list of marine organisms prohibited from use as bait to fish for or take lobster or crabs. The list of freshwater organisms acceptable for use as bait fish for lobster or crabs must include the locations from which the organisms maybe harvested. The list of marine organisms prohibited from use as bait must include the locations from which harvesting is prohibited.

Committee Amendment "A" (H-690)

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

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Enacted Law Summary

Public Law 2011, chapter 475 allows the Commissioner of Marine Resources to maintain a list of freshwater organisms acceptable for and a list of marine organisms prohibited from use as bait to fish for or take lobster or crabs. The list of freshwater organisms acceptable for use as bait to fish for lobster or crabs must include the locations from which the organisms may be harvested. The list of marine organisms prohibited from use as bait must include the locations from which harvesting is prohibited.

Public Law 2011, chapter 475 was enacted as an emergency measure effective February 22, 2012.

LD 1654 An Act To Permit the Department of Marine Resources To Develop and Establish a Seafood Export Certification Program

**PUBLIC 567
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANGLEY	OTP-AM	S-449

This bill establishes the Seafood Export Certification Program in the Department of Marine Resources to allow the department, in conjunction with the United States Department of Commerce, National Oceanic and Atmospheric Administration, to inspect and certify seafood and issue certificates of compliance necessary to meet international export standards.

Committee Amendment "A" (S-449)

This amendment provides that the Commissioner of Marine Resources may enter into agreements with the United States Department of Commerce, National Oceanic and Atmospheric Administration and seafood producers for the issuance of certificates of compliance required by international regulations. The department may also seek reimbursement from the National Oceanic and Atmospheric Administration for the costs incurred by the Department of Marine Resources for the inspection and certification program. Such agreements would allow the department to perform inspections that are otherwise performed by the National Oceanic and Atmospheric Administration. The amendment also requires the commissioner to submit a report to the joint standing committee of the Legislature having jurisdiction over marine resources matters detailing the department's progress regarding a voluntary fishery product inspection program, including draft legislation if necessary to implement the program. It also gives the committee permission to report out a bill to the First Regular Session of the 126th Legislature.

Enacted Law Summary

Public Law 2011, chapter 567 authorizes the Commissioner of Marine Resources to enter into agreements with the United States Department of Commerce, National Oceanic and Atmospheric Administration and seafood producers for the issuance of certificates of compliance required by international regulations. The department may also seek reimbursement from the National Oceanic and Atmospheric Administration for the costs incurred by the Department of Marine Resources for the inspection and certification program. The agreements allow the department to perform inspections that are otherwise performed by the National Oceanic and Atmospheric Administration. Public Law 2011, chapter 567 also requires the commissioner to submit a report to the joint standing committee of the Legislature having jurisdiction over marine resources matters detailing the department's progress regarding a voluntary fishery product inspection program, including draft legislation if necessary to implement the program. It also gives the committee permission to report out a bill to the First Regular Session of the 126th Legislature.

Public Law 2011, chapter 567 was enacted as an emergency measure effective March 30, 2012.

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LD 1674 Resolve, Directing the Department of Marine Resources To Examine the Role of 3rd-party Laboratories in Conducting Testing for the Department ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO	ONTP	

This resolve directs the Department of Marine Resources to examine the role of 3rd-party laboratories in conducting testing for the department. The resolve also requires the department to report its findings to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15, 2013 and allows the committee to submit a bill to the First Regular Session of the 126th Legislature.

Although the Joint Standing Committee on Marine Resources voted ONTP, the Committee wanted to immediately address the role 3rd-party laboratories could play in water testing. The Committee sent a letter to the commissioner to convene the necessary parties to make a determination by February 24, 2012 of the feasibility of 3rd-party laboratories in helping to meet the needs of the department, protect public health and improve service to the State's shellfish industry.

LD 1709 An Act To Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area PUBLIC 486

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEAVER	OTP	

This bill changes the limited-entry program for taking lobsters in the Monhegan Lobster Conservation Area, including by:

1. Limiting the number of traps per registered individual to 400;
2. Allowing a person who holds a federal lobster permit and Monhegan Lobster Conservation Area trap tags to take lobsters from Lobster Management Area 3, as identified by the Atlantic States Marine Fisheries Commission;
3. Limiting the number of individuals that may be registered to obtain Monhegan Lobster Conservation Area trap tags to 17;
4. Allowing a person who does not hold a Monhegan Lobster Conservation Area trap tag to fish for lobster in the Monhegan Lobster Conservation Area as long as that person holds a noncommercial lobster and crab fishing license but does not hold a commercial lobster and crab fishing license;
5. Requiring the Commissioner of Marine Resources to maintain a waiting list of persons who have requested but not obtained a Monhegan Island limited-entry lobster and crab fishing license, instead of a registry of persons who have completed the Monhegan Lobster Conservation Area apprenticeship program. Persons on the waiting list may obtain Monhegan Lobster Conservation Area trap tags as they become available; and
6. Eliminating the Monhegan Lobster Conservation Area apprenticeship program.

Joint Standing Committee on Marine Resources

Enacted Law Summary

Public Law 2011, chapter 486 changes the limited-entry program for taking lobsters in the Monhegan Lobster Conservation Area, including by:

1. Limiting the number of traps per registered individual to 400;
2. Allowing a person who holds a federal lobster permit and Monhegan Lobster Conservation Area trap tags to take lobsters from Lobster Management Area 3, as identified by the Atlantic States Marine Fisheries Commission;
3. Limiting the number of individuals that may be registered to obtain Monhegan Lobster Conservation Area trap tags to 17;
4. Allowing a person who does not hold a Monhegan Lobster Conservation Area trap tag to fish for lobster in the Monhegan Lobster Conservation Area as long as that person holds a noncommercial lobster and crab fishing license but does not hold a commercial lobster and crab fishing license;
5. Requiring the Commissioner of Marine Resources to maintain a waiting list of persons who have requested but not obtained a Monhegan Island limited-entry lobster and crab fishing license, instead of a registry of persons who have completed the Monhegan Lobster Conservation Area apprenticeship program. Persons on the waiting list may obtain Monhegan Lobster Conservation Area trap tags as they become available; and
6. Eliminating the Monhegan Lobster Conservation Area apprenticeship program.

**LD 1721 An Act To Improve the Method of Classifying Shellfish Harvesting
Areas and Providing Notification of Changes**

**PUBLIC 527
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANGLEY	OTP-AM	S-415

This bill changes the method used by the Department of Marine Resources to manage contaminated or polluted shellfish resource areas to protect public health. It changes the classification method from the adoption of emergency rules to a classification by the Commissioner of Marine Resources of areas as open or closed through text descriptions and maps provided on the department's website and to affected municipalities and the Bureau of Marine Patrol.

Committee Amendment "A" (S-415)

This amendment adds an emergency preamble and emergency clause to the bill. It also clarifies that a person with a valid depuration certificate may take shellfish from an area classified as closed.

Enacted Law Summary

Public Law 2011, chapter 527 changes the method used by the Department of Marine Resources to manage contaminated or polluted shellfish resource areas to protect public health. It changes the classification method from the adoption of emergency rules to a classification by the Commissioner of Marine Resources of areas as open or closed through text descriptions and maps provided on the department's website and to affected municipalities and the Bureau of Marine Patrol. It also clarifies that a person with a valid depuration certificate may take shellfish from an area classified as closed.

Public Law 2011, chapter 527 was enacted as an emergency measure effective March 19, 2012.

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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.

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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.

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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.

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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

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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.

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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

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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

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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.

Joint Standing Committee on Marine Resources

SUBJECT INDEX

Clams, Quahogs, Oysters, and Mussels

Enacted

LD 1721	An Act To Improve the Method of Classifying Shellfish Harvesting Areas and Providing Notification of Changes	PUBLIC 527 EMERGENCY
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Not Enacted

LD 1674	Resolve, Directing the Department of Marine Resources To Examine the Role of 3rd-party Laboratories in Conducting Testing for the Department	ONTP
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Elvers

Enacted

LD 1765	An Act To Sustain the Elver Fishery	PUBLIC 549 EMERGENCY
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Lobsters

Enacted

LD 1709	An Act To Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area	PUBLIC 486
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Lobsters and Crabs

Enacted

LD 1609	An Act To Ensure the Safety of Bait Used in Maine's Fishery	PUBLIC 475 EMERGENCY
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Seafood Inspections

Enacted

LD 1654	An Act To Permit the Department of Marine Resources To Develop and Establish a Seafood Export Certification Program	PUBLIC 567 EMERGENCY
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Seafood Promotion

Not Enacted

LD 1579	An Act To Amend the Lobster Promotion Council	ONTP
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Technical Changes

Enacted

LD 1722

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

**PUBLIC 598
EMERGENCY**

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