



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 353

H.P. 240

House of Representatives, February 10, 2015

**An Act To Ensure Maine's Elver Fishermen Can Fully Access
Maine's Elver Resource**

(EMERGENCY)

Reference to the Committee on Marine Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PIERCE of Dresden.

Cosponsored by Representatives: BATTLE of South Portland, HAWKE of Boothbay Harbor,
McCREIGHT of Harpswell, SAWICKI of Auburn, TUELL of East Machias, Senators:
BAKER of Sagadahoc, LANGLEY of Hancock, MIRAMANT of Knox.

1 **Sec. 3. 12 MRSA §6505-A, sub-§2-B**, as amended by PL 2013, c. 301, §9, is
2 repealed.

3 **Sec. 4. 12 MRSA §6505-A, sub-§2-C** is enacted to read:

4 **2-C. Elver lottery.** The commissioner shall establish an elver fishing license lottery
5 under which a person who did not hold an elver fishing license in the previous calendar
6 year may become eligible to obtain that license.

7 A. The elver fishing license lottery must be held on or before February 15th of each
8 calendar year beginning in 2016.

9 B. In order to be eligible for the elver fishing license lottery, a person must submit a
10 lottery application together with a \$25 nonrefundable application fee no later than
11 January 15th of the same calendar year as the lottery.

12 C. A person may submit no more than one elver fishing license lottery application
13 per lottery year.

14 The commissioner shall adopt rules no later than December 31, 2015 to implement the
15 elver fishing license lottery. The rules must include provisions for the method and
16 administration of the lottery. Rules adopted under this subsection are routine technical
17 rules pursuant to Title 5, chapter 375, subchapter 2-A.

18 Application fees collected under this subsection must be deposited in the Eel and Elver
19 Management Fund established in section 6505-D.

20 **Sec. 5. 12 MRSA §6505-A, sub-§3-A, ¶¶B and C**, as enacted by PL 2013, c.
21 485, §7, are amended to read:

22 B. Establish the amount of the overall annual quota under paragraph A that is
23 allocated to persons licensed under this section and specify a formula to establish
24 individual quotas for persons licensed under this section. The formula may take into
25 account the amount of elvers a person licensed under this section lawfully harvested
26 in previous seasons based on final harvesting reports. The rules must specify the date
27 by which harvester reports are considered final for the purpose of determining
28 individual quotas; ~~and~~

29 C. Provide, in accordance with section 6302-B, that 21.9% of the overall annual
30 quota under paragraph A is allocated to the federally recognized Indian tribes in the
31 State and establish the amount of that portion of the overall annual quota allocated to
32 the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet
33 Indians and the Aroostook Band of Micmacs; ~~and~~

34 **Sec. 6. 12 MRSA §6505-A, sub-§3-A, ¶D** is enacted to read:

35 D. Provide for the transferability of individual quotas among persons licensed under
36 this section.

37 **Sec. 7. 12 MRSA §6575-B, sub-§2-B, ¶A**, as enacted by PL 1999, c. 534, §5, is
38 amended to read:

1 A. A person who is issued an elver fishing license pursuant to section 6505-A,
2 subsection 2, paragraph C may not immerse elver fishing gear other than the types
3 and amounts of gear the person was authorized to immerse during the previous elver
4 fishing season, ~~except that a person may surrender the authority to use an elver fyke~~
5 ~~net in order to use an elver dip net.~~ Beginning January 1, 2016, a person may select,
6 as part of that person's license application, which gear type the person will use for the
7 entire elver fishing season that calendar year.

8 **Sec. 8. Rulemaking to implement selection of gear type.** The Commissioner
9 of Marine Resources shall complete rulemaking to implement the allowance of selection
10 of gear type by elver fishermen pursuant to the Maine Revised Statutes, Title 12, section
11 6575-B by the start of the 2016 elver fishing season. Rules adopted to implement this
12 allowance are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

13 **Sec. 9. Rulemaking to implement transferable quotas.** The Commissioner
14 of Marine Resources shall complete rulemaking to implement transferability of individual
15 quotas for elvers pursuant to the Maine Revised Statutes, Title 12, section 6505-A,
16 subsection 3-A, paragraph D by the start of the 2016 elver fishing season. During the
17 rulemaking process, the commissioner shall consider, without limitation, the following:

- 18 1. Among which elver fishermen may individual quotas be transferred;
- 19 2. Whether new participants should enter the elver fishery by purchasing individual
20 quotas or if transfer should be limited to existing elver licensees only;
- 21 3. Whether transfers should be documented before the beginning of the elver fishing
22 season to support enforcement efforts by the Department of Marine Resources;
- 23 4. What type of ownership interests in individual quotas may be transferred;
- 24 5. Whether owner-operator restrictions should be imposed on transfers of individual
25 quotas; and
- 26 6. Whether caps on total individual quota ownership should be imposed to prevent
27 unfair concentration of ownership of individual quotas.

28 Rules adopted to implement the transferability of individual quotas for elvers are
29 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

30 **Emergency clause.** In view of the emergency cited in the preamble, this
31 legislation takes effect when approved.

32 SUMMARY

33 This bill amends Maine's elver licensing laws to provide for the selection of elver
34 gear types by elver fishermen, to be implemented via rulemaking before the 2016 elver
35 fishing season. Additionally, this bill amends Maine's individual elver quota system to
36 provide for transferability of individual quotas, to be implemented via rulemaking before
37 the 2016 elver fishing season.