

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.

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**LD 832      An Act To Enable Small-scale Cooperative Management of Sea Urchin Resources      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN LANGLEY	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

The purpose of the bill is to enable persons involved in the sea urchin fishery to increase economic return of sea urchin resources through resource enhancement and harvest control in designated areas.

**LD 1397      An Act To Create Equity and Fairness in the Elver Industry      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFISKY	ONTP	

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to improve the fairness of the elver licensing process by making the process more comparable to the licensing processes for other similar industries within the Department of Marine Resources.

See LD's 1625 and 1723.

**LD 1452      An Act To Protect Areas in Which Shellfish Conservation Gear Has Been Placed for Predator Control and Habitat Enhancement Purposes and Establish a Municipal Predator Control Pilot Program      PUBLIC 517 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFISKY PRIEST	OTP-AM	S-434

This bill allows a municipality with a shellfish conservation ordinance to apply to the Department of Marine Resources to request a prohibition on marine worm harvesting. It also makes it a civil violation to harvest marine worms from areas closed to the harvest and possession of marine worms.

**Committee Amendment "A" (S-434)**

This amendment replaces the bill. The amendment makes it a civil violation to disturb or molest predator protection gear that has been placed in the intertidal zone as part of a municipal shellfish conservation program. This amendment also establishes a municipal predator control pilot project within the Department of Marine Resources to evaluate the effectiveness of predator control strategies in increasing the survival rate of soft shell clams and marine worms. The amendment establishes that harvesting marine organisms from within pilot project predator control areas, except for municipal removal of green crabs, is prohibited and is a civil violation. The amendment adds an emergency preamble and an emergency clause.

**Enacted Law Summary**

Public Law 2013, chapter 517 makes it a civil violation to disturb or molest predator protection gear that has been

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placed in the intertidal zone as part of a municipal shellfish conservation program. This law also establishes a municipal predator control pilot project within the Department of Marine Resources to evaluate the effectiveness of predator control strategies in increasing the survival rate of soft shell clams and marine worms. The law prohibits and makes the harvesting of marine organisms from within pilot project predator control areas, except for municipal removal of green crabs, a civil violation. Finally, the law directs the Commissioner of the Department of Marine Resources to develop predator control strategies, which identify the needs of both the soft shell clam and marine worm industries and recognize that both industries have an economic interest in intertidal zone management to mitigate the effects of green crabs. The commissioner is required to report back to the joint standing committee having jurisdiction over marine resources matters no later than January 31, 2015. The committee is authorized to report out a bill related to the subject matter of the report to the First Regular Session of the 127th Legislature.

Public Law 2013, chapter 517 was enacted as an emergency measure effective April 5, 2014.

**LD 1602      Resolve, Establishing the Commission To Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast**

**RESOLVE 110  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN SAVIELLO	OTP-AM	H-725 S-529 HASKELL

This resolve establishes the Commission to Study the Effects of Ocean Acidification and Its Potential Effects on Commercial Shellfish Harvested and Grown along the Maine Coast.

**Committee Amendment "A" (H-725)**

This amendment replaces the resolve. Like the resolve, it establishes a commission to study ocean acidification, but changes the scope of the study to include the effects of coastal acidification. The amendment also changes the membership of the commission and its duties and reporting date.

**Senate Amendment "A" To Committee Amendment "A" (S-529)**

This amendment requires the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast to seek the amount of \$1,500 from outside sources for the costs of the study in this resolve. That amount must be raised by July 1, 2014 in order for the study to continue and the commission to hold meetings or to incur expenses in fiscal year 2014-15.

**Enacted Law Summary**

Resolve 2013, chapter 110 establishes the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast. It requires the Commission to seek the amount of \$1,500 from outside sources for the costs of the study in this resolve. That amount must be raised by July 1, 2014 in order for the study to continue and the commission to hold meetings or to incur expenses in fiscal year 2014-15.

Resolve 2013, chapter 110 was finally passed as an emergency measure effective April 30, 2014.

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**LD 1603     An Act Regarding Wet Storage Sites for Cultured Marine Organisms**

**Died Between  
Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEVIN JOHNSON C	ONTP OTP-AM	

This bill establishes a permit system to allow aquaculture leaseholders and licensees to conduct wet storage of cultured organisms. The permit system is similar to the permit system for dealers established by rule by the Department of Marine Resources.

**Committee Amendment "A" (H-768)**

This amendment, which is the minority report, replaces the bill and establishes a winter holding aquaculture lease to allow aquaculture lease and license holders to store shellstock from growing areas in order to access their product during winter months when rivers are frozen and lease sites are not accessible due to ice. The leasing process is similar to that established for standard and experimental aquaculture leases.

**LD 1604     An Act To Make Technical Changes to Marine Resources Laws**

**PUBLIC 492  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEAVER WOODBURY	OTP-AM	H-682

This bill makes technical changes to Maine's marine resources laws. It clarifies that an individual with an enhanced retail certificate may not designate a vehicle as the individual's establishment. It clarifies that rule violations are strict liability offenses. It changes the licensing year of the commercial green-crab-only license and lowers the cost of the license. Finally, it clarifies that a judgment of guilt is considered a conviction or adjudication during the pendency of appeal.

**Committee Amendment "A" (H-682)**

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

This amendment amends a provision in the bill to clarify that a conviction of a crime is considered a conviction and an adjudication of a civil violation is considered an adjudication during the pendency of appeal.

The amendment lowers the license surcharge for a nonresident lobster and crab landing permit beginning in 2014.

The amendment clarifies that licensed diving tenders may sell scallops to a wholesale seafood license holder regardless of whether the license holder holds a sea urchin buyer's or processor's permit.

The amendment adjusts the amount of shell scallops permitted in the personal use exemption in the scallop licensing laws from one bushel to one-and-a-half bushels.

The amendment allows the holder of a marine worm dealer's license and a wholesale seafood dealer's license to purchase and sell green crabs without a green crab only license. It also authorizes a holder of a Class I, Class II, Class III or student lobster and crab fishing license to fish for or take green crabs without a commercial green-crab-only license and to sell green crabs without a commercial green crab only license.

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Finally, the amendment sets February 1st as the deadline for issuing an elver dealer's license for the current licensing year. Currently, the law sets February 1st of the current year as the deadline for issuing an elver dealer's license for the following licensing year.

### **Enacted Law Summary**

Public Law 2013, chapter 492 makes the following changes to Maine's marine resources laws:

1. Clarifies that an individual with an enhanced retail certificate may not designate a vehicle as the individual's establishment;
2. Eliminates the provision of the bill that clarifies that rule violations are strict liability offenses;
3. Changes the licensing year of the commercial green-crab-only license and lowers the cost of the license;
4. Clarifies that a judgment of guilt is considered a conviction or adjudication during the pendency of appeal. Specifically, it clarifies that a conviction of a crime is considered a conviction and an adjudication of a civil violation is considered an adjudication during the pendency of appeal;
5. Lowers the license surcharge for a nonresident lobster and crab landing permit beginning in 2014;
6. Clarifies that licensed diving tenders may sell scallops to a wholesale seafood license holder regardless of whether the license holder holds a sea urchin buyer's or processor's permit;
7. Adjusts the amount of shell scallops permitted in the personal use exemption in the scallop licensing laws from one bushel to one-and-a-half bushels;
8. Allows the holder of a marine worm dealer's license and a wholesale seafood dealer's license to purchase and sell green crabs without a green-crab-only license. It also authorizes a holder of a Class I, Class II, Class III or student lobster and crab fishing license to fish for or take green crabs without a commercial green-crab-only license and to sell green crabs without a commercial green-crab-only license; and
9. Sets February 1st as the deadline for issuing an elver dealer's license for the current licensing year. Currently, the law sets February 1st of the current year as the deadline for issuing an elver dealer's license for the following licensing year.

Public Law 2013, chapter 492 was enacted as an emergency measure effective March 22, 2014.

**LD 1605      An Act To Amend Maine's Aquaculture Laws**

**PUBLIC 509**

Sponsor(s)

DEVIN

Committee Report

OTP-AM  
ONTP

Amendments Adopted

H-703

This bill makes a number of changes to Maine's aquaculture laws, including creating a violation provision for aquaculture leases and limited-purpose leases and clarifying that holders of limited-purpose aquaculture licenses may place marine organisms on the ocean bottom without gear and that the product associated with the license is protected. It creates a reporting requirement for limited-purpose aquaculture license holders. It provides that lease holders may sell their product from their lease sites in the retail trade. It creates an exemption from the requirement to have a cultchless American oyster growers license for those individuals who hold an aquaculture lease or limited-purpose aquaculture license.

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### **Committee Amendment "A" (H-703)**

This amendment, which is the majority report of the committee, corrects a cross-reference to the confidentiality of statistics.

This amendment clarifies that the prohibition against a person other than a marine patrol officer or a license holder taking products from an area designated by a limited-purpose aquaculture license applies only to those organisms being grown that are listed on the license.

This amendment clarifies that the exception to growing cultchless American oysters is specific to a person who holds a lease or license that authorizes the culture of American oysters.

The amendment removes the requirement in the laws concerning aquaculture leases that authorization to delete species or gear be consistent with findings made when the lease was approved and removes the requirement that notice of proposed changes in gear authorization be provided to the lessee.

Finally, the amendment removes duplicative language in the section on limited-purpose aquaculture leases regarding the commissioner's rulemaking authority regarding gear and species amendments.

### **Enacted Law Summary**

Public Law 2013, chapter 509 makes the following changes to Maine's aquaculture laws:

1. Creates a violation provision for standard and limited-purpose aquaculture leases and licenses and clarifies that holders of limited-purpose aquaculture licenses may place marine organisms on the ocean bottom without gear and that the product associated with the license is protected;
2. Creates a reporting requirement for limited-purpose aquaculture license holders;
3. Provides that lease holders may sell their product from their lease sites in the retail trade;
4. Creates an exemption from the requirement to have a cultchless American oyster growers license for an individual who holds an aquaculture lease or limited-purpose aquaculture license that is specific to the person who holds the lease or license that authorizes the culture of American oysters;
5. Corrects a cross-reference to the confidentiality of statistics;
6. Clarifies that the prohibition against a person other than a marine patrol officer or a license holder taking products from an area designated by a limited-purpose aquaculture license applies only to those organisms being grown that are listed on the license;
7. Removes the requirement in the laws concerning aquaculture leases that authorization to delete species or gear be consistent with findings made when the lease was approved and removes the requirement that notice of proposed changes in gear authorization be provided to the lessee; and
8. Removes duplicative language in the section on limited-purpose aquaculture leases regarding the commissioner's rulemaking authority regarding gear and species amendments.

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**LD 1625 An Act Concerning Maine's Elver Fishery**

**PUBLIC 485  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KUMIEGA	OTP-AM	H-686
BURNS	OTP-AM	H-700 BEAR

This bill provides that a license to take marine organisms issued to a member of the Passamaquoddy Tribe, Penobscot Nation, Aroostook Band of Micmacs or Houlton Band of Maliseet Indians by the tribe, nation or band is not valid until it has been submitted to the Department of Marine Resources and the license holder has received written confirmation that the license is valid. It creates a separate provision of law that describes the activities in which a person who holds an elver fishing license may engage. It clarifies that individuals who hold elver fishing licenses that authorize them to fish with elver fyke nets may assist each other in handling the nets, as long as the license holder to whom the elver fyke net tag has been issued is present and assisting. This bill criminalizes the violation of assisting in the illegal harvest of elvers. It removes the provision governing supplemental licenses for vehicles for elver dealers beginning with the 2015 elver fishing season.

**Committee Amendment "A" (H-686)**

This amendment, which is the majority report of the committee and replaces the bill, authorizes the Commissioner of Marine Resources to establish by rule an elver fishing weight quota for the State and allocate elver individual fishing quotas to elver harvesters licensed by the State by a formula that may take into account previous years' landings. This amendment also directs the commissioner to set aside a share of the overall quota and divide it among the federally recognized Indian tribes in Maine unless the tribes propose by March 1st of the calendar year in which the quota is allocated an alternate division of that portion of the quota that is allocated to them. The commissioner shall allocate that portion of the quota in accordance with that proposed division. This amendment makes it a Class D strict liability crime with a mandatory \$2,000 fine to violate prohibitions on possessing or selling elvers in excess of a person's elver individual fishing quota and on fishing after a person's elver individual fishing quota has been met.

**Committee Amendment "B" (H-687)**

This amendment, which is the minority report of the committee and replaces the bill, authorizes the Commissioner of Marine Resources to establish by rule an elver fishing quota for the State and to allocate elver individual fishing quotas to elver harvesters licensed by the State and Maine's federally recognized Indian tribes by a formula that may take into account previous years' landings. The majority report allocates a portion of the State's overall elver fishing quota to the tribes and directs each of the tribes to assign elver individual fishing quotas to its members. This amendment leaves in place the statute limiting the number of elver fishing licenses that may be issued by the Passamaquoddy Tribe to tribal members to 200 licenses. This amendment makes it a Class D strict liability crime with a mandatory \$2,000 fine for violating prohibitions on possessing, fishing for or selling elvers in excess of a person's elver individual fishing quota and on fishing after a person's elver individual fishing quota has been met.

**House Amendment "B" To Committee Amendment "A" (H-700)**

This amendment requires that a buyer of elvers post, at the point of sale, the price that the buyer will pay.

**Enacted Law Summary**

Public Law 2013, chapter 485 does the following.

1. It authorizes the Commissioner of Marine Resources to establish by rule an elver fishing weight quota for the State and allocate elver individual fishing quotas to elver harvesters licensed by the State by a formula that may take into account previous years' landings. If the overall annual quota that is allocated to elver fishing license holders is collectively exceeded, the number of pounds by which the license holders exceeded the overall annual quota must

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be deducted from the following year's overall annual quota allocated to license holders. If the overage exceeds the overall annual quota allocated to license holders for the following year, the overage must be deducted from the overall annual quota allocated to license holders in subsequent years until the entire overage has been accounted for.

2. If the commissioner adopts an elver individual fishing quota system for the State, the law directs the commissioner to set aside a share of the overall quota and divide it among the federally recognized Indian tribes in Maine unless the tribes propose by March 1st of the calendar year in which the quota is allocated an alternate division of that portion of the quota that is allocated to them. The commissioner shall allocate that portion of the quota in accordance with that proposed division.

3. It stipulates that if an elver individual fishing quota system is adopted for the State, the Passamaquoddy Tribe, Penobscot Nation, Aroostook Band of Micmacs and Houlton Band of Maliseet Indians shall allocate to each member of the tribe, nation or band to whom a license is issued a specific amount of the quota that is allocated to that tribe, nation or band and provide documentation to the Department of Marine Resources of that allocation for each individual license holder. The department will issue elver transaction cards to tribal members with elver fishing licenses once it has received documentation specifying the individual quota allocated to that person by the tribe, nation or band.

4. It adds a cross-reference to the section (above) establishing the elver quota for federally recognized Indian tribes in the State in the section of law enacted in Public Law 2013, chapter 468 (LD 1723) that established the elver transaction card that contains the license holder's name and license number and which must be used by elver fishing license holders to meet electronic reporting requirements.

5. It makes it a Class D strict liability crime with a mandatory \$2,000 fine to violate prohibitions on possessing or selling elvers in excess of a person's elver individual fishing quota and on fishing after a person's elver individual fishing quota has been met. A first offense is grounds for suspension and a second offense is cause for permanent revocation of one's elver fishing license.

6. It establishes an administrative procedure for assessing a penalty for pecuniary gain realized as a result of violations of the provisions of elver individual fishing quotas or for violations of the provisions governing elver dealer's licenses. Any payments for administrative penalties collected as a result of these infractions must be deposited into the existing Eel and Elver Management Fund.

7. It establishes resident and nonresident elver fishing licenses with crew, for either one or two devices.

8. It limits the Passamaquoddy Tribe to issue commercial elver fishing licenses that allow the taking of elvers with an elver fyke net to only six members of the tribe in any calendar year. A license that allows the taking of elvers with an elver dip net may be issued to any member of the tribe not authorized to use an elver fyke net.

9. It requires that a buyer of elvers post, at the point of sale, the price that the buyer will pay.

Public Law 2013, chapter 485 was enacted as an emergency measure effective March 18, 2014.

See also bill summary for LD 1397 and enacted law summary for LD 1723.

**LD 1687 An Act To Create Parity for Proprietary Information Submitted to the Department of Marine Resources**

**PUBLIC 512**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAVERS LANGLEY	OTP-AM	H-715

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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.

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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;

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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.

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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

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convening a working group to develop criteria to be used for designating areas closed to harvest or that are seasonally closed to harvest and to propose specific areas for those designations. The amendment leaves the working group's composition to the commissioner and clarifies that its purpose is to complete the work on developing criteria for areas that are to be seasonally or permanently closed to harvest as recommended by the Rockweed Fishery Management Plan and to determine a process for maintaining and adjusting those designations as necessary.

The amendment requires that the working group include scientists and experts with expertise relevant to this fishery and that each criterion adopted be supported by scientific or legal reasoning.

The amendment requires the update to identify:

1. The membership of the working group that is convened pursuant to the fisheries management plan;
2. The criteria and recommended process to define and designate areas closed to harvest or areas that are seasonally closed to harvest; and
3. The working group's progress in identifying areas closed to harvest or areas that are seasonally closed to harvest.

The amendment authorizes the joint standing committee of the Legislature having jurisdiction over marine resources matters to report out a bill related to the implementation of the Rockweed Fishery Management Plan.

### **Committee Amendment "B" (H-808)**

This amendment, which is the minority report, replaces the bill and differs from the majority report in that it makes major substantive the rules establishing areas closed to harvesting rockweed or areas that are seasonally closed to harvesting rockweed.

### **Enacted Law Summary**

Public Law 2013, chapter 558 designates seaweed harvesting rules for the allocation to sectors as major substantive rules. It also 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. As recommended in the Rockweed Fishery Management Plan, the commissioner is tasked with convening a working group whose purpose is to develop criteria to be used to designate areas that are to be seasonally or permanently closed to harvest and recommend a process for maintaining and adjusting those designations as necessary. The working group must include scientists and other experts in this fishery. Each criterion adopted by the working group must be supported by scientific or legal reasoning.

The commissioner's update on the plan must identify:

1. The membership of the working group that is convened pursuant to the fisheries management plan;
2. The criteria and recommended process to define and designate areas closed to harvest or areas that are seasonally closed to harvest; and,
3. The working group's progress in identifying areas closed to harvest or areas that are seasonally closed to harvest.

The joint standing committee of the Legislature having jurisdiction over marine resources matters is authorized to report out a bill related to the implementation of the Rockweed Fishery Management Plan.

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## SUBJECT INDEX

### *Aquaculture*

#### Enacted

LD 1605 An Act To Amend Maine's Aquaculture Laws PUBLIC 509

#### Not Enacted

LD 1603 An Act Regarding Wet Storage Sites for Cultured Marine Organisms Died Between Houses

### *Department of Marine Resources*

#### Enacted

LD 1604 An Act To Make Technical Changes to Marine Resources Laws PUBLIC 492  
EMERGENCY  
LD 1687 An Act To Create Parity for Proprietary Information Submitted to the Department of Marine Resources PUBLIC 512

### *Elvers*

#### Enacted

LD 1625 An Act Concerning Maine's Elver Fishery PUBLIC 485  
EMERGENCY

#### Not Enacted

LD 1397 An Act To Create Equity and Fairness in the Elver Industry ONTP

### *Elvers and Enforcement of Marine Resources Laws*

#### Enacted

LD 1723 An Act To Improve Enforcement of Marine Resources Laws PUBLIC 468  
EMERGENCY

### *Ocean Acidification*

#### Enacted

LD 1602 Resolve, Establishing the Commission To Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast RESOLVE 110  
EMERGENCY

### *Protecting Innovation in Fisheries, Aquaculture and Seafood Processing*

#### Enacted

LD 1689 An Act To Encourage and Protect Innovation in Fisheries, Aquaculture and Seafood Processing PUBLIC 518

### *Rockweed Fishery Management Plan*

#### Enacted

LD 1830 An Act To Further the Implementation of the Rockweed Fishery Management Plan PUBLIC 558

### *Sea Urchins and Sea Cucumbers*

#### Not Enacted

LD 832 An Act To Enable Small-scale Cooperative Management of Sea Urchin Resources ONTP

**Soft Shell Clams, Green Crabs and Marine Worms**

**Enacted**

**LD 1452**

**An Act To Protect Areas in Which Shellfish Conservation Gear Has Been  
Placed for Predator Control and Habitat Enhancement Purposes and  
Establish a Municipal Predator Control Pilot Program**

**PUBLIC 517  
EMERGENCY**

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