

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 240 - L.D. 353

An Act To Authorize a Temporary Medical Transfer of an Elver Individual Fishing Quota

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §6505-A, sub-§3-A, as enacted by PL 2013, c. 485, §7, is amended to read:

3-A. Elver fishing quotas. The commissioner may adopt rules to establish, implement and administer an elver individual fishing quota system in order to ensure that the elver fishery annual landings do not exceed the overall annual quota established by the Atlantic States Marine Fisheries Commission. ~~A~~ Except as provided in section 6575-L, a person issued a license under this section or section 6302-A, subsection 3, paragraph E, E-1, F or G may not take, possess or sell elvers in excess of the weight quota allocated to that person under the quota system. The rules must:

- A. Establish an overall annual quota for the State;
- B. Establish the amount of the overall annual quota under paragraph A that is allocated to persons licensed under this section and specify a formula to establish individual quotas for persons licensed under this section. The formula may take into account the amount of elvers a person licensed under this section lawfully harvested in previous seasons based on final harvesting reports. The rules must specify the date by which harvester reports are considered final for the purpose of determining individual quotas; and
- C. Provide, in accordance with section 6302-B, that 21.9% of the overall annual quota under paragraph A is allocated to the federally recognized Indian tribes in the State and establish the amount of that portion of the overall annual quota allocated to the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs.

If persons issued licenses under this section collectively exceed the overall annual quota allocated to those persons pursuant to paragraph B, the number of pounds by which the license holders exceeded that overall annual quota must be deducted from the following year's overall annual quota allocated to persons licensed under this section. If the overage

exceeds the overall annual quota allocated to persons licensed under this section for the following year, the overage must be deducted from the overall annual quota allocated to persons licensed under this section in subsequent years until the entire overage has been accounted for.

The commissioner may adopt or amend rules on an emergency basis if immediate action is necessary to establish and implement the elver individual fishing quota in advance of the beginning of the elver fishing season.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 12 MRSA §6575-K, sub-§§1 and 2, as enacted by PL 2013, c. 485, §9, are amended to read:

1. Prohibition on possession or sale of elvers in excess of elver individual fishing quota. A person may not possess or sell a weight of elvers that exceeds the elver individual fishing quota that person has been allocated for the fishing season pursuant to section 6505-A, subsection 3-A, plus any additional quota the person may be authorized to take under section 6575-L.

2. Prohibition on fishing after elver individual fishing quota has been reached. Except as provided in section 6575-L, this section applies to fishing after a person's elver individual fishing quota has been reached. A person who has sold a weight of elvers that meets or exceeds that person's elver individual fishing quota may not fish for or possess elvers for the remainder of the season, except that such a person who has been issued a license to fish for elvers may in accordance with section 6575-D assist another person who has been issued a license to fish for elvers who has not met or exceeded that person's elver individual fishing quota as provided in section 6505-A, subsection 3-A. All gear tagged by a license holder who has met or exceeded that person's elver individual fishing quota must be removed. A marine patrol officer may seize the elver transaction card of a license holder who has met or exceeded that person's elver individual fishing quota.

Sec. 3. 12 MRSA §6575-L is enacted to read:

§6575-L. Temporary medical transfer

The commissioner may authorize a temporary medical transfer of the elver individual fishing quota allocated to a person under section 6505-A in accordance with this section. The holder of an elver fishing license who requests a temporary medical transfer under this section must maintain a valid elver fishing license during the duration of the temporary medical transfer.

1. Temporary medical transfer requested prior to March 1st. Notwithstanding section 6505-A, subsection 3-A, the commissioner may authorize a temporary medical transfer that permits the holder of an elver fishing license issued under section 6505-A to transfer the entire annual quota allocated to that person to another person holding an elver fishing licence issued under section 6505-A if the following criteria are met:

A. The transferor reported elver landings in the prior fishing year;

B. The transferor is unable to fish the quota allocated to the transferor because the transferor has experienced a substantial illness or medical condition. The transferor shall provide the commissioner with documentation from a physician describing the substantial illness or medical condition; and

C. The transferor requests a temporary medical transfer in writing before March 1st of the fishing year for which it is being requested, except that the commissioner may adopt rules that provide a method for authorizing a temporary medical transfer requested after March 1st to address emergency medical conditions.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.