

STATE OF MAINE
129TH LEGISLATURE
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

**JOINT STANDING COMMITTEE ON
MARINE RESOURCES**

November 2020

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STATE OF MAINE
129TH LEGISLATURE
FIRST SPECIAL AND SECOND REGULAR SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

**SPECIAL NOTICE REGARDING
COVID-19 PANDEMIC**

As a result of the COVID-19 Pandemic, the Second Regular Session of the 129th Legislature adjourned on March 17, 2020, nearly a month prior to the statutory adjournment date of April 15, 2020. Before adjourning, the Legislature passed Joint Order, S.P. 788:

“ORDERED, the House concurring, that all matters not finally disposed of upon the adjournment sine die of the Second Regular Session of the 129th Legislature be carried over, in the same posture, to any special session of the 129th Legislature.”

The “matters not finally disposed of” were in many different postures upon adjournment. In this digest, at the end of each summary of a bill that was carried over by S.P. 788, there is an indication of the posture of the bill at the time of adjournment.

No special session has been held as of the publication of the Digest and none is anticipated, so all bills carried over are expected to die upon the conclusion of the 129th Legislature. However, after the Second Regular Session adjourned and in preparation for the possibility of a special session, a number of committees met and considered a number of bills in their possession. One hundred and sixty bills were acted upon in some way by committees (voted or reported out), among them several new bills that were printed and referred to committee, worked and reported out. **Appendix A** provides a list of the bills that were voted or reported out of committees after the Second Regular Session adjourned.

Joint Standing Committee on Marine Resources

LD 28 Resolve, Directing the Department of Marine Resources To Evaluate the Limited-entry Lobster and Crab Fishing Licensing System

RESOLVE 116

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J MIRAMANT D	OTP-AM ONTP	H-686

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill directs the Commissioner of Marine Resources to authorize new zone entrants for a limited-entry lobster zone who have been on a waiting list for 10 or more years and have met certain eligibility requirements. A person authorized as a new zone entrant under this bill must adhere to specific trap tag limits.

Committee Amendment "A" (H-686)

This amendment, which is the majority report of the committee, replaces the bill with a resolve and changes the title. It requires the Department of Marine Resources to provide the joint standing committee of the Legislature having jurisdiction over marine resources matters with a report that evaluates the limited-entry zone system by February 15, 2021. It requires the department to examine the long waiting period for entry to fish in a limited-entry zone. This amendment requires the department, in examining the waiting list, to consider several factors, including, but not limited to, the current biological status of the fishery, current exit-to-entry ratios in each limited-entry zone, latency of licenses and trap tags and the current policy for student lobster and crab fishing licenses. It requires the department to revisit the recommendations made in the report prepared for the department by the Gulf of Maine Research Institute pursuant to Resolve 2011, chapter 62. It requires the department to make recommendations regarding the long waiting period for entry into a limited-entry zone. It also requires the department to account for possible new federal regulations to address protections for endangered right whales when making any recommendations. Lastly, this amendment authorizes the joint standing committee of the Legislature having jurisdiction over marine resources matters to report out legislation to the First Regular Session of the 130th Legislature.

Enacted Law Summary

Resolve 2019, chapter 116 requires the Department of Marine Resources to provide the joint standing committee of the Legislature having jurisdiction over marine resources matters with a report that evaluates the limited-entry zone system by February 15, 2021. It requires the department to examine the long waiting period for entry to fish in a limited-entry zone and in examining the waiting list, to consider several factors, including, but not limited to, the current biological status of the fishery, current exit-to-entry ratios in each limited-entry zone, latency of licenses and trap tags and the current policy for student lobster and crab fishing licenses. It requires the department to revisit the recommendations made in the report prepared for the department by the Gulf of Maine Research Institute pursuant to Resolve 2011, chapter 62. It requires the department to make recommendations regarding the long waiting period for entry into a limited-entry zone. It also requires the department to account for possible new federal regulations to address protections for endangered right whales when making any recommendations. Lastly, Resolve 2019, chapter 116 authorizes the joint standing committee of the Legislature having jurisdiction over marine resources matters to report out legislation to the First Regular Session of the 130th Legislature.

Joint Standing Committee on Marine Resources

LD 936 *Resolve, Establishing a Commission To Study the Existing and Potential Effects of Freshwater and Marine Debris on Maine's Freshwater and Coastal Habitats and Species* **CARRIED OVER**

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

This resolve was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This resolve establishes the Commission To Study the Effects of Freshwater and Marine Debris, which is a 13-member commission tasked with studying freshwater and marine debris and how it has affected or potentially will affect Maine's freshwater and ocean and coastal ecosystems, habitats and species. The commission must submit a report, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over marine resources matters no later than December 4, 2019.

Committee Amendment "A" (H-733)

This amendment, which is the majority report of the committee, replaces the resolve, removes the emergency preamble and clause and changes the title. It requires the Department of Marine Resources to provide the joint standing committee of the Legislature having jurisdiction over marine resources matters with a report by February 1, 2021, detailing the status of action items identified in the 2019 Gulf of Maine Marine Debris Action Plan published by the National Oceanic and Atmospheric Administration Marine Debris Program. It requires the department to evaluate whether the activities in the action plan are sufficient to reduce marine debris in coastal waters and it also allows the department to make recommendations to reduce marine debris in coastal waters. The amendment authorizes the joint standing committee of the Legislature having jurisdiction over marine resources matters to report out a bill to the First Regular Session of the 130th Legislature based upon the report.

This resolve was carried over in the Senate to any special session of the 129th Legislature by joint order, S.P. 788.

LD 961 *An Act To Create the Shellfish Research Fund* **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J	OTP-AM	H-376

The bill was carried over from the First Regular Session of the 129th Legislature on the Special Appropriations Table by joint order, H.P. 1322.

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

This bill proposes to create a research fund for the clam fishing industry in the State.

Committee Amendment "A" (H-376)

This amendment replaces the bill which is a concept draft. It creates the Shellfish Research Fund as a nonlapsing fund administered by the Commissioner of Marine Resources for the purpose of funding shellfish research projects in the State. It provides ongoing funding of \$50,000 per fiscal year from the General Fund. It also allows the commissioner to accept and deposit into the fund any monetary gifts, donations or other contributions from public

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or private sources. It requires that the commissioner consult with the Shellfish Advisory Council before deciding upon research projects and awarding grants from the fund.

It also increases the membership of the Shellfish Advisory Council from 13 to 14 members. It directs the commissioner to appoint as a member of the Shellfish Advisory Council a person who has a demonstrated knowledge of a marine science and, at minimum, a bachelor's degree in a field of marine science.

This bill was again carried over, still on the Special Appropriations Table, to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 1882 An Act To Provide Noncommercial Lobster and Crab Fishing Licenses PUBLIC 575
and Scallop Licenses to Disabled Veterans at No Cost**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HEPLER A MOORE M	OTP-AM	H-672

This bill allows a resident disabled veteran to obtain upon application, at no cost, a noncommercial lobster and crab fishing license or a noncommercial scallop license.

Committee Amendment "A" (H-672)

This amendment replaces the bill. It clarifies that a qualified resident disabled veteran may obtain a noncommercial lobster and crab fishing license or a noncommercial scallop license at no cost, and it adds reservists to the definition of "qualified resident disabled veteran." It also exempts a qualified resident disabled veteran from paying the scallop license surcharge that is assessed on a noncommercial scallop license.

Enacted Law Summary

Public Law 2019, chapter 575 allows a qualified resident disabled veteran to obtain upon application, at no cost, a noncommercial lobster and crab fishing license or a noncommercial scallop license.

**LD 1906 An Act To Amend the Laws Governing the Composition of the Shellfish PUBLIC 600
Advisory Council**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUELL W	OTP-AM	H-697

This bill changes the composition of the Shellfish Advisory Council by:

1. Eliminating the requirement that three of the four members who are commercial shellfish license holders be soft-shell clam harvesters;
2. Expanding the representation from a member representing the interests of municipalities with wastewater treatment systems to a member who is a municipal official involved in pollution permitting or mitigation;
3. Changing the requirement that two members be municipal shellfish wardens to instead provide that two members must be municipal shellfish officials, including, but not limited to, a municipal shellfish conservation warden or a member of a municipal shellfish management committee;

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4. Allowing a person who is designated by the Department of Marine Resources as an authorized representative of the holder of a shellfish depuration certificate to be a member; and
5. Adding a nonvoting member who has a demonstrated knowledge of biological science and holds at least a bachelor's degree.

Committee Amendment "A" (H-697)

This amendment changes the member of the Shellfish Advisory Council with a demonstrated knowledge of biological science from a nonvoting member, as proposed in the bill, to a voting member. It also requires the Commissioner of Marine Resources to make a reasonable effort to appoint as this member a person who has a minimum of five years of relevant experience.

Enacted Law Summary

Public Law 2019, chapter 600 changes the composition of the Shellfish Advisory Council by:

1. Eliminating the requirement that three of the four members who are commercial shellfish license holders be soft-shell clam harvesters;
2. Expanding the representation from a member representing the interests of municipalities with wastewater treatment systems to a member who is a municipal official involved in pollution permitting or mitigation;
3. Changing the requirement that two members be municipal shellfish wardens to instead provide that two members must be municipal shellfish officials, including, but not limited to, a municipal shellfish conservation warden or a member of a municipal shellfish management committee;
4. Allowing a person who is designated by the Department of Marine Resources as an authorized representative of the holder of a shellfish depuration certificate to be a member; and
5. Adding a member who has a demonstrated knowledge of biological science. It also requires the Commissioner of Marine Resources to make a reasonable effort to appoint, as this member, a person who has a minimum of five years of relevant experience.

LD 1922 An Act To Create a Menhaden Fishing License

PUBLIC 640

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCDONALD G	OTP-AM	H-723

This bill removes the authority to fish for Atlantic menhaden from the commercial pelagic and anadromous fishing license and creates a new commercial menhaden fishing license with two license categories.

Committee Amendment "A" (H-723)

Like the bill, this amendment creates a menhaden fishing license system. The system set up in the amendment includes a resident commercial menhaden fishing license, a nonresident commercial menhaden fishing license and a noncommercial menhaden fishing license to begin in the 2021 licensing year. The amendment requires the Commissioner of Marine Resources to adopt routine technical rules to implement menhaden fishing license requirements and limitations.

Enacted Law Summary

Joint Standing Committee on Marine Resources

Public Law 2019, chapter 640 removes the authority to fish for Atlantic menhaden from the commercial pelagic and anadromous fishing license and creates a new commercial menhaden fishing license. The system set up in the law includes a resident commercial menhaden fishing license, a nonresident commercial menhaden fishing license and a noncommercial menhaden fishing license to begin in the 2021 licensing year. This law requires the Commissioner of Marine Resources to adopt routine technical rules to implement menhaden fishing license requirements and limitations.

LD 1925 An Act To Make Technical Changes to Maine's Marine Resources Laws

PUBLIC 642

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MIRAMANT D	OTP-AM	S-420

This bill makes technical changes to Maine's marine resources laws. It clarifies that it is the amount of quota, not the weight of elvers, sold through the elver transaction card system that is used to determine if an allocated quota has been exceeded. It clarifies that if a person holds a license in a limited entry fishery and that license has been suspended by the court, by the Department of Health and Human Services or by the Department of Administrative and Financial Services, Maine Revenue Services, the person, when the person becomes compliant, has the remainder of that calendar year and all of the following calendar year to purchase the license. It clarifies that a person who holds a wholesale seafood license with a lobster permit may remove lobster meat from the shell under either a lobster processor license or a lobster meat permit.

Committee Amendment "A" (S-420)

This amendment clarifies language related to the elver quota. Specifically, it does the following.

1. It allows the Commissioner of Marine Resources to use data collected from the elver transaction cards to determine whether the overall annual quota has been reached for federally recognized Indian tribes in the State.
2. It specifies that a person may not possess or sell elvers when that person's elver transaction card has been used to record transactions equal to or in excess of the elver quota allocation to that person.
3. It specifies that a person may not fish for or possess elvers for the remainder of the season when that person's elver transaction card has been used to record sales of elvers in an amount equal to or in excess of the elver quota allocation to that person.

Enacted Law Summary

Public Law 2019, chapter 642 makes technical changes to Maine's marine resources laws. Specifically, it:

1. Allows the Commissioner of Marine Resources to use data collected from the elver transaction cards to determine whether the overall annual quota has been reached for federally recognized Indian tribes in the State;
2. Specifies that a person may not possess or sell elvers when that person's elver transaction card has been used to record transactions equal to or in excess of the elver quota allocation to that person;
3. Specifies that a person may not fish for or possess elvers for the remainder of the season when that person's elver transaction card has been used to record sales of elvers in an amount equal to or in excess of the elver quota allocation to that person;
4. Clarifies that if a person holds a license in a limited entry fishery and that license has been suspended by the court, by the Department of Health and Human Services, by the Department of Administrative and Financial

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Services or Maine Revenue Services, the person, when the person becomes compliant, has the remainder of that calendar year and all of the following calendar year to purchase the license; and

5. Clarifies that a person who holds a wholesale seafood license with a lobster permit may remove lobster meat from the shell under either a lobster processor license or a lobster meat permit.

LD 1930 An Act To Amend Maine's Aquaculture Leasing and Licensing Statutes

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCREIGHT J		

This bill amends the aquaculture leasing and licensing statutes to:

1. Provide that the Department of Environmental Protection receives notices only of those lease applications that involve activities that have a discharge;
2. Expand the reasons under which the Commissioner of Marine Resources may initiate lease revocation proceedings to include operating in a manner substantially injurious to public health or violating minimum lease standards;
3. Reduce the number of days in advance of which an individual must apply for the renewal of a lease from 90 days prior to the expiration to 30 days prior to the expiration;
4. Clarify notice requirements when a standard lease is proposed for renewal;
5. Require the fee for a lease transfer to be paid upon application for the transfer instead of at the execution of the lease;
6. Specify that a person may not apply for an expansion of a lease until the person has held that lease for a minimum of two years;
7. Move the responsibility for notifying riparian landowners of an application for a lease expansion from the applicant to the Department of Marine Resources and move the responsibility for providing public notice in the newspaper from the department to the applicant;
8. Establish the rule-making authority for the commissioner to establish fees for services provided by the department to lease holders if they request testing or studies to ensure their products are safe for human consumption;
9. Broaden the language allowing changes to leases and require the commissioner to establish a fee for making changes to a lease;
10. Remove the commissioner's rule-making authority regarding changes to limited-purpose leases;
11. Limit the ability of the holder of a limited-purpose aquaculture license to have unlicensed individuals participate in the licensed activities by requiring their direct supervision by the license holder; and
12. Raise the fee for a limited-purpose aquaculture license from \$50 to \$100 for a resident and from \$300 to \$400 for a nonresident.

Joint Standing Committee on Marine Resources

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2098 An Act To Remove Nighttime Restrictions on Lobster Fishing in a
 Certain Area in the Bay of Fundy**

PUBLIC 568

Sponsor(s)

Committee Report

Amendments Adopted

This bill was reported out by the Joint Standing Committee on Marine Resources pursuant to Resolve 2019, chapter 23, section 2. The resolve directed the Commissioner of Marine Resources to allow a person to raise or haul any lobster trap from September 1, 2019, to October 31, 2019, during any time of the day in an area in the Bay of Fundy, referred to as "the gray zone," that encompasses approximately 210 square miles around Machias Seal Island where there are overlapping claims of sovereignty by the United States and Canada if that person is authorized to fish in the lobster management zone in which the area described is located. The resolve required the commissioner to submit a report to the committee describing the results of this limited allowance, and this bill implements the findings of that report.

This bill allows a person who holds a lobster and crab fishing license to raise or haul any lobster trap during any time of the day from September 1st to October 31st in the gray zone if that person is authorized to fish in that area. The bill also requires the commissioner to define this area in rule to ensure that the boundaries of this area are clearly delineated.

Enacted Law Summary

Public Law 2019, chapter 568 allows a person who holds a lobster and crab fishing license to raise or haul any lobster trap during any time of the day from September 1st to October 31st in the gray zone if that person is authorized to fish in that area. It also requires the commissioner to define the gray zone in rule to ensure that the boundaries of this area are clearly delineated.

**LD 2149 An Act To Protect the Lobster Industry by Providing to Consumers
 Information Regarding Live Lobsters Sold in the State**

CARRIED OVER

Sponsor(s)

Committee Report

Amendments Adopted

JACKSONT

This bill directs the Department of Marine Resources to implement a program to provide to consumers information regarding live lobsters sold in the State. The information, which may be conveyed through labeling, must convey to the consumer certain information regarding the location in which the lobster was landed and the method and length of time of storage.

This bill, which had been referred to committee but not yet heard, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

Joint Standing Committee on Marine Resources

**LD 2150 An Act To Amend the Laws Governing the Issuance of Wholesale
Seafood Licenses with Lobster Permits**

CARRIED OVER

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

This bill establishes a moratorium until April 1, 2023, on the issuance of new wholesale seafood licenses with lobster permits. Under this bill, the Commissioner of Marine Resources may not issue a wholesale seafood license with a lobster permit to an individual unless that individual landed at least 1,000 pounds of lobster under a wholesale seafood license with a lobster permit held by that individual at some point during the period of April 1, 2017, to March 31, 2020.

This bill, which had been referred to committee but not yet heard, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

Joint Standing Committee on Marine Resources

SUBJECT INDEX

Acquaculture

Not Enacted

LD 1930 **An Act To Amend Maine’s Aquaculture Leasing and licensing Statutes** **CARRIED OVER**

Commercial Fisheries Management

Enacted

LD 1922 **An Act To Create a Menhaden Fishing License** **PUBLIC 640**

Complimentary Licenses

Enacted

LD 1882 **An Act To Provide Noncommercial Lobster and Crab Fishing Licenses and Scallop Licenses to Disabled Veterans at No Cost** **PUBLIC 575**

Fisheries Management

Not Enacted

LD 1925 **An Act To Make Technical Changes to Maine’s Marine Resources Laws** **PUBLIC 642**

Lobsters and Crabs

Enacted

LD 28 **Resolve, Directing the Department of Marine Resources to Evaluate the Limited-entry Lobster and Crab Fishing Licensing System** **RESOLVE 116**

LD 2098 **An Act To Remove Nighttime Restrictions on Lobster Fishing in a Certain Area in the Bay of Fundy** **PUBLIC 568**

Not Enacted

LD 2149 **An Act To Protect the Lobster Industry by Providing Consumers Information Regarding Live Lobsters Sold in the State** **CARRIED OVER**

Marine Environment

Not Enacted

LD 936 **Resolve, Establishing a Commission To Study the Existing and Potential Effects of Freshwater and Marine Debris on Maine's Freshwater and Coastal Habitats and Species** **CARRIED OVER**

Shellfish

Enacted

LD 1906 **An Act To Amend the Laws Governing the Composition of the Shellfish Advisory Council** **CARRIED OVER**

Not Enacted

LD 961 **An Act To Create the Shellfish Research Fund** **CARRIED OVER**

Wholesale and Retail Licenses

Not Enacted

LD 2150 **An Act To Amend the Laws Governing the Issuance of Wholesale Seafood Licenses with Lobster Permits** **CARRIED OVER**