



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1625

H.P. 1197

House of Representatives, December 30, 2013

### **An Act To Clarify the Law Concerning Maine's Elver Fishing License**

(EMERGENCY)

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Submitted by the Department of Marine Resources pursuant to Joint Rule 204.

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Marine Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

Presented by Representative KUMIEGA of Deer Isle.  
Cosponsored by Senator BURNS of Washington and  
Representative: EVANGELOS of Friendship.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** the elver fishing season begins March 22, 2014 and changes made to elver  
4 fishing licensing laws by this legislation must be made prior to the beginning of this  
5 season; and

6           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
7 the meaning of the Constitution of Maine and require the following legislation as  
8 immediately necessary for the preservation of the public peace, health and safety; now,  
9 therefore,

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

11           **Sec. 1. 12 MRSA §6302-A, sub-§5,** as amended by PL 2013, c. 8, §1, is repealed  
12 and the following enacted in its place:

13           **5. Notification.** A license issued pursuant to subsection 1 or 2 to a member of the  
14 Passamaquoddy Tribe, Penobscot Nation, Aroostook Band of Micmacs or Houlton Band  
15 of Maliseet Indians is not valid until:

16           A. A copy of that member's tribal license or permit has been filed with the  
17 commissioner by the tribal licensing agency or its agent or a tribal official in  
18 accordance with section 6027; and

19           B. The license holder is in possession of written confirmation of the validity of the  
20 license in the form of either a letter sent by the department or a form provided by a  
21 marine patrol officer at the request of the license holder.

22           **Sec. 2. 12 MRSA §6505-A, sub-§1,** as amended by PL 2003, c. 452, Pt. F, §11  
23 and affected by Pt. X, §2, is further amended to read:

24           **1. License required.** A person may not ~~fish for or take elvers or possess, ship,~~  
25 ~~transport or sell elvers that the person has taken~~ engage in the activities authorized under  
26 subsection 1-A unless the person is issued one of the following elver fishing licenses  
27 under this section:

- 28           A. A resident elver fishing license for one device;
- 29           B. A resident elver fishing license for 2 devices;
- 30           C. A nonresident elver fishing license for one device; or
- 31           D. A nonresident elver fishing license for 2 devices.

32           **Sec. 3. 12 MRSA §6505-A, sub-§1-A** is enacted to read:

33           **1-A. Licensed activity.** The holder of an elver fishing license may fish for, take,  
34 possess, ship, transport and sell elvers that the license holder has taken.

35           **Sec. 4. 12 MRSA §6575-D,** as amended by PL 2013, c. 49, §14, is further  
36 amended to read:

1           **§6575-D. Molesting elver fishing gear**

2           **1. Prohibition.** A ~~Except as provided in subsection 1-A, a~~ person other than a  
3 marine patrol officer or the license holder issued a tag for an elver fyke net ~~or a Sheldon~~  
4 ~~eel trap~~ may not utilize, transfer, alter, possess or in any manner handle the net ~~or trap~~  
5 unless that person has been issued ~~an elver fishing~~ a license to fish for elvers with an  
6 elver fyke net under section 6302-A or 6505-A and: the license holder issued the tag for  
7 the elver fyke net is present and assisting in setting, tending or removing the net.

8           ~~B. Is issued written permission by a marine patrol officer to tend the net or trap of a~~  
9 ~~license holder issued a tag. A marine patrol officer may issue a person written~~  
10 ~~permission for the person to tend the license holder's net or trap only for the purpose~~  
11 ~~of releasing captured elvers into the waters of the State if the license holder can not~~  
12 ~~tend the net or trap because of a disability or personal or family medical condition. If~~  
13 ~~the license holder is unable to tend the net or trap for more than 2 weeks, the net or~~  
14 ~~trap must be removed from the water.~~

15           **1-A. Restriction on emptying net or trap; exception.** A person other than the  
16 license holder identified on the tag for an elver fyke net or a Sheldon eel trap may not  
17 empty that net or trap unless that person has been issued an elver fishing license for the  
18 same gear type and has been issued written permission by a marine patrol officer to tend  
19 that net or trap. A marine patrol officer may issue a person written permission for the  
20 person to tend the license holder's net or trap only for the purpose of releasing captured  
21 elvers into the waters of the State if the license holder is temporarily unable to tend that  
22 net or trap because of a disability or personal or family medical condition. If the license  
23 holder is unable to tend that net or trap for more than 2 consecutive weeks, the net or trap  
24 must be removed from the water.

25           **2. Violation.** A person who violates this section commits a Class D crime for which  
26 a fine of \$2,000 must be imposed, none of which may be suspended. Violation of this  
27 section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

28           **Sec. 5. 12 MRSA §6575-I, sub-§2,** as enacted by PL 2013, c. 301, §13, is  
29 amended to read:

30           **2. Violation.** A person who violates this section commits a ~~civil violation~~ Class D  
31 crime for which a fine of \$2,000 must be ~~adjudged imposed, none of which may be~~  
32 suspended. A court may not suspend any portion of a fine imposed under this subsection.  
33 Violation of this section is a strict liability crime as defined in Title 17-A, section 34,  
34 subsection 4-A.

35           **Sec. 6. 12 MRSA §6864, sub-§3,** as amended by PL 2011, c. 549, §9, is further  
36 amended to read:

37           **3. Supplemental license.** A supplemental license must be obtained for each vehicle  
38 or additional permanent facility. Beginning with the 2015 elver season, a supplemental  
39 license may only be obtained for a permanent facility.

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

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## SUMMARY

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