

## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FIFTEEN

—  
H.P. 710 - L.D. 1027

**An Act To Create an Elver Exporter's License**

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

**Whereas,** exporters of elvers caught in the State are not currently required to hold a license to do so; and

**Whereas,** the lack of an elver exporter's license provides opportunity for the transport of elvers that may have been caught in violation of state law, and the high value of elvers provides an incentive to engage in this practice; and

**Whereas,** the requirement that elver exporters hold an elver exporter's license will improve the ability of the Department of Marine Resources to better enforce all elver fishing laws; and

**Whereas,** this legislation must take effect before the expiration of the 90-day period in order to take effect before the end of the elver fishing season; and

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

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

**Sec. 1. 12 MRSA §6864, sub-§1,** as amended by PL 2011, c. 549, §9, is further amended to read:

**1. License required.** A person may not buy, possess, ~~ship,~~ transport within state limits or sell elvers without an elver dealer's license. It is unlawful for a person to possess elvers prior to the beginning of the elver season ~~and~~ or to possess elvers 5 days beyond the end of the elver season pursuant to section 6575.

**Sec. 2. 12 MRSA §6864, sub-§2**, as amended by PL 2013, c. 301, §21, is further amended to read:

**2. License limited.** An elver dealer's license authorizes the licensed activities at only one permanent facility. For the purposes of this section, "permanent facility" means a permanent building that is owned or legally leased by the license holder and is not a dwelling. A permanent facility must have holding tanks with water and aeration suitable to hold elvers.

**Sec. 3. 12 MRSA §6864, sub-§3**, as amended by PL 2013, c. 468, §36, is further amended to read:

**3. Supplemental license.** A supplemental license must be obtained for each vehicle or additional permanent facility. Beginning with the 2015 elver fishing season, a supplemental license authorizes a person to buy elvers from a person licensed under subsection 1 at the permanent facility identified on that person's license or to possess, ship, transport within state limits or sell elvers.

**Sec. 4. 12 MRSA §6864, sub-§7-B** is enacted to read:

**7-B. Use of elver dealer transaction card required.** The department shall issue to a dealer licensed under this section an elver dealer transaction card for each dealer license and for each supplemental license to record all sales, purchases and transportation of elvers. All transfers of elvers between any license type requires the use of an elver dealer transaction card, including all transactions between holders of elver dealer licenses and holders of elver dealer supplemental licenses. A person licensed in accordance with this section must have access to an operational Internet connection when using an elver dealer transaction card to buy, sell or transport elvers.

**Sec. 5. 12 MRSA §6864, sub-§§9 and 11**, as enacted by PL 2011, c. 549, §9, are amended to read:

**9. Authorized representatives.** A person who holds an elver dealer's license may identify authorized representatives to act on the license holder's behalf to purchase elvers at ~~locations other than~~ the permanent facility. The elver dealer's license holder must identify authorized representatives on forms provided by the department.

**11. Shipment or transport of elvers outside state limits.** A person who holds an elver dealer's license or the elver dealer's license holder's authorized representative under subsection 9 who is licensed under section 6865, subsection 9 must transport elvers to a permanent facility identified on the license holder's license prior to ~~shipping or transporting~~ the elvers being transported outside state limits.

**Sec. 6. 12 MRSA §6865** is enacted to read:

**§6865. Elver exporter's license**

**1. License required.** A person may not engage in the activities authorized under this section without an elver exporter's license.

**2. License activities.** A person who holds an elver exporter's license may buy elvers from a person licensed under section 6864 and transport elvers beyond the state limits.

**3. License limited.** An elver exporter's license authorizes the licensed activities on only one vehicle, owned, leased or rented by the license holder.

**4. Use of transaction card required.** The department shall issue to an exporter licensed under this section an electronic recording device that records the information on an elver dealer transaction card issued by the department under section 6864, subsection 7-B to record all sales and purchase transactions. A person licensed in accordance with this section may not buy or transfer elvers to or from another individual licensed in accordance with section 6864 without using an elver dealer transaction card. A person licensed in accordance with this section must have access to an operational Internet connection when using an elver dealer transaction card to buy or sell elvers.

**5. Fee.** The fee for an elver exporter's license is \$5,000.

**6. Disposition of fees.** All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D.

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

**8. Records.** An exporter licensed under this section shall maintain records as specified by the commissioner in rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**9. Authorized representatives.** A person who holds an elver exporter's license may identify authorized representatives to act on the license holder's behalf to transport elvers beyond state limits. The elver exporter's license holder must identify authorized representatives on forms provided by the department.

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