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MARINE RESOURCES

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STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 588, L.D. 1545, Bill, "An Act To Make Technical Changes to Maine's Marine Resources Laws and Elver Enforcement Mechanisms"

Amend the bill by striking out all of sections 1 and 2 and inserting the following:

Sec. 1. 12 MRSA §6072, sub-§13, ¶G, as amended by PL 2003, c. 660, Pt. A, §12, is further amended to read:

G. For adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site; and. The commissioner may grant authorization for a species or gear amendment under this paragraph only:

(1) After giving notice of the proposed amendment to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed amendment within 14 days; and

(2) Upon a determination by the commissioner that the amendment is consistent with the findings made under subsection 7-A when the lease was approved; and

Sec. 2. 12 MRSA §6072-A, sub-§1, as amended by PL 2003, c. 247, §9, is further amended to read:

1. Authority. The commissioner may issue a limited-purpose lease for areas in, on and under the coastal waters, including the public lands beneath those waters and portions of the intertidal zone, for commercial aquaculture research and development or for scientific research. The commissioner or the deputy commissioner acting on the commissioner's behalf may authorize in writing qualified professional department staff to issue a final decision and sign a lease document on an application for a limited-purpose lease. A decision issued by department staff pursuant to this subsection is a final agency action with respect to that lease application. The commissioner may adopt regulations for adding or deleting authorization for the holder of an aquaculture lease to grow specific

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1 species and use specific gear on the lease site. The commissioner may grant authorization  
2 for species or gear amendments under this subsection only:

3 A. After giving notice of the proposed amendment to the public, the owners of  
4 riparian land within 1,000 feet of the lease site and the municipal officers of the  
5 municipality within which the lease is located. The notice must provide an  
6 opportunity to submit written comments on the proposed amendment within 14 days;  
7 and

8 B. Upon a determination by the commissioner that the amendment is consistent with  
9 the findings made under subsection 13 when the lease was approved.'

10 Amend the bill in section 3 in subsection 1 in paragraph C in the 4th and 5th lines  
11 (page 1, lines 34 and 35 in L.D.) by striking out the following: ""scallop spat" means  
12 scallops less than 40 millimeters in the longest diameter" and inserting the following:  
13 'until September 1, 2015, "scallop spat" means scallops less than 40 millimeters in the  
14 longest diameter and, beginning September 1, 2015, "scallop spat" means scallops less  
15 than 25 millimeters in the longest diameter'

16 Amend the bill in section 4 in paragraph F in the last line (page 1, line 39 in L.D.) by  
17 inserting after the following: "program" the following: 'for educational purposes only'

18 Amend the bill by inserting after section 7 the following:

19 **'Sec. 8. 12 MRSA §6505-A, sub-§2-B,** as amended by PL 2013, c. 8, §2, is  
20 further amended to read:

21 **2-B. Elver lotteries.** The commissioner shall establish a dual lottery system under  
22 which the number of pieces of gear authorized does not exceed the number of pieces of  
23 gear authorized as of December 31, 2011, except that beginning in 2013 that number  
24 must be increased to include an additional 25 dip nets.

25 A. The commissioner shall establish an elver gear lottery under which gear  
26 authorizations for use under a license issued under subsection 1 that is not renewed  
27 become available to other license holders in the elver gear lottery.

28 (1) The elver gear lottery must be held on or before February 15th of each  
29 calendar year beginning in 2013.

30 (2) In order to be eligible for the elver gear lottery, a person must hold an elver  
31 fishing license pursuant to subsection 1 and must have authorization to use only a  
32 dip net.

33 (3) In order to be eligible for the elver gear lottery, a person must submit to the  
34 Commissioner of Marine Resources a lottery application together with a \$25  
35 nonrefundable application fee no later than January 15th for the lottery to be held  
36 by the following February 15th.

37 (4) A person may submit no more than one elver gear lottery application per  
38 lottery year.

39 (5) A person selected in the elver gear lottery must relinquish a dip net  
40 authorization that person holds in exchange for authorization to use an elver fyke  
41 net.

1 B. The commissioner shall establish an elver fishing license lottery under which a  
2 person who did not hold an elver fishing license in the previous calendar year may  
3 become eligible to obtain that license. The number of persons issued licenses under  
4 this paragraph may not exceed the number of individual gear authorizations  
5 remaining after the elver gear lottery.

6 (1) The elver fishing license lottery must take place after the elver gear lottery.

7 (2) The elver fishing license lottery must be held on or before February 15th of  
8 each calendar year beginning in 2013.

9 (3) In order to be eligible for the elver fishing license lottery, a person must  
10 submit a lottery application together with a \$25 nonrefundable application fee no  
11 later than January 15th of the same calendar year as the lottery.

12 (4) A person may submit no more than one elver fishing license lottery  
13 application per lottery year.

14 The commissioner shall adopt rules no later than December 31, 2012 to implement the  
15 elver gear lottery and the elver fishing license lottery. The rules must include provisions  
16 for the method and administration of the lotteries. The elver gear lottery must be set up so  
17 that gear authorizations associated with a license that is not renewed go into the elver  
18 gear lottery. If a person who held a license that is not renewed has 2 authorized pieces of  
19 gear, the gear authorizations must be divided and made available to 2 lottery entrants.  
20 Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter  
21 375, subchapter 2-A.

22 Application fees collected under this subsection must be deposited in the Eel and Elver  
23 Management Fund established in section 6505-D.

24 Notwithstanding any other provision of this section, the commissioner may not hold a  
25 lottery under this subsection.'

26 Amend the bill by striking out all of section 10 and inserting the following:

27 '**Sec. 10. 12 MRSA §6575-H, sub-§1**, as enacted by PL 2013, c. 49, §15, is  
28 repealed and the following enacted in its place:

29 **1. Sale of elvers.** A person may not sell elvers except as follows.

30 A. A person may not sell elvers except to a person who holds a valid elver dealer's  
31 license under section 6864 or a person who, pursuant to section 6864, subsection 9, is  
32 an authorized representative of a person holding a license issued under section 6864.

33 B. A person may not accept payment for elvers in any form other than a check or  
34 cashier's check that identifies both the buyer and the seller, unless the purchaser  
35 provides to the seller a written or electronic receipt that identifies both the seller and  
36 buyer, each of whom must be a person holding a license issued under section 6864, a  
37 person who, pursuant to section 6864, subsection 9, is an authorized representative of  
38 a person holding a license issued under section 6864 or a person holding a license  
39 issued under section 6505-A.'

40 Amend the bill by striking out all of section 20 and inserting the following:

