

**TESTIMONY OF THE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

BEFORE THE JOINT STANDING COMMITTEE ON INLAND FISHERIES AND WILDLIFE

In Opposition to L.D. 728

“An Act to Amend the Laws Regarding Smelt Fishing”

Sponsored by Representative DILL of Old Town.

Cosponsored by Representatives BRIDGEO of Augusta, DRINKWATER of Milford, HEPLER of Woolwich, MASON of Lisbon, THORNE of Carmel.

DATE OF HEARING: Monday, March 3, 2025

Good afternoon, Senator Baldacci, Representative Roberts and members of the Inland Fisheries and Wildlife Committee. I am Liz Latti, Fisheries and Hatcheries Director at the Department of Inland Fisheries and Wildlife (IFW), speaking on behalf of the Department in opposition to L.D. 728 An Act to Amend the Laws Regarding Smelt Fishing.

As proposed, this bill would allow a person to temporarily exceed the daily bag limits for smelts when actively fishing for smelt if the fish are alive and being held in a grader or other live containment device. The bill also specifies that when the person is done fishing for the day, they may measure their catch then shall immediately release live smelts that exceed the daily bag limit at the water's edge.

This bill would allow the temporary exceedance of smelt limits for all legal forms of smelt harvest, including recreational hook and line angling and recreational dip netting where allowed per rule under a traditional fishing license, as well as all commercial harvest methods allowed to those under a smelt wholesaler's license including use of a drop net, a lift net or hook and line through the ice on waters designated by the Commissioner. Holding smelt in a live containment device for an undetermined length of time while a person is actively fishing under either a recreational or commercial license as proposed within this bill, is a biological concern to the Department. The impacts of holding smelts over one's daily bag limit would cause undue stress on contained smelt, possibly resulting in increased mortality during the act of holding as well as post-release mortality and could ultimately lead to unintentional overharvest.

Different daily bag limits (2 quarts for recreational and 8 quarts for commercial harvest) as well as legal capture methodologies result in different levels of biological impact on smelt populations for recreational versus commercial harvest of smelt. For this reason, waters with smelt are prioritized by the Department in the following order: ensuring proper smelt forage for sportfish, then recreational harvest, and finally commercial harvest. The Commissioner designates specific waters open to commercial harvest during the commercial harvest season where potential overharvest does not threaten sportfish forage or recreational harvest opportunities. Recreational smelt waters are a highly valued and limited

opportunity, the potential for increased harvest through unintentional killing of smelts could negatively impact thousands of recreational smelt anglers as a result of smelt closures or reduction in daily bag limits.

Alongside the concern that the proposed language represents a potential biological threat, the current proposed language would be difficult to enforce. The bill states that smelts held alive in exceedance of the daily bag limit while actively fishing may be kept in a grader or "other live containment device." A grader is a device that must be used by a commercial harvester to separate undersized smelt and is specifically defined in Title 12, Section 12551-A, Subsection 7, Paragraph B (8). Retaining a daily bag limit of smelt in a grader in open water for commercial harvest is not a biological concern to the Department as the purpose of a grader is to allow smaller smelt to escape back into the water from which they came. However, increasing the time frame and the quantity of smelts over a bag limit generates significant law enforcement issues by creating an opportunity for circumventing the daily bag. In addition, "Other live containment device" is not defined in statute, leaving the language open to interpretation and nearly impossible to enforce. Live containment devices that do not provide adequate conditions for live smelt, particularly those that do not provide aeration to ensure oxygen availability, would lead to increased mortality of smelts.

Language referring to the release of smelt "at the water's edge" is also broad and creates challenges in enforcement. As mentioned, "at the water's edge" does not currently specify that this release must be done at the edge of the water from which the smelt originated and on original waters poses potential biological risks if released in unsuitable habitats.

The proposed bill leaves uncertainty in the language on "finished fishing for the day" at which time the person must release those smelts being temporarily kept that exceed the daily bag limit. As written, a person could move from one water with smelt in exceedance of daily bag limits to another water to continue smelt fishing, then release any smelt from either water at the edge of the second water. This movement of fish from one water to another represents a clear threat to fisheries through the spread of diseases and invasive species, and poses a risk that an angler could inadvertently or more easily intentionally introduce smelt to a new water. Any person stopped by warden service with smelts kept alive temporarily in exceedance of the limits could claim that they are not yet finished fishing for the day, simply moving locations or taking a break with the intent to return, leaving no practical time frame in which enforcement of smelt limits could occur.

In summary, fisheries management is a balance. The proposed measure could cause undue harm to smelt populations, impacting a valuable and limited resource. The proposed bill creates biological concerns and threats to the State's fisheries resources, the smelt and baitfish industry, and the Department's management of smelt. Lastly, this bill would create loopholes in which enforcement of daily bag limits for both recreational and commercial harvest of smelts becomes nearly impossible.

I would be glad to answer any questions at this time or during the work session.