

**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during  
the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON MARINE RESOURCES**

July 2009

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*Joint Standing Committee on Marine Resources*

**LD 32 An Act To Clarify the Disposition of Fines from Maine's Soft-shelled Clam Laws**

**PUBLIC 24**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON W	OTP-AM	H-7

LD 32 requires that a fine collected for a violation of soft-shelled clam laws be paid to the municipality in which the violation occurred.

**Committee Amendment "A" (H-7)**

This amendment replaces the bill and clarifies that fines issued pursuant to a violation of a municipal shellfish conservation ordinance must be paid to the municipality in which the violation occurred.

**Enacted Law Summary**

Public Law 2009, chapter 24 clarifies that fines issued pursuant to a violation of a municipal shellfish conservation ordinance must be paid to the municipality in which the violation occurred.

**LD 82 An Act To Create a Penalty for Harvesting Scallops in a Conservation Area**

**PUBLIC 72**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-28

LD 82 creates penalties for individuals who violate the rules creating scallop conservation areas. For the first offense, a mandatory \$1,000 fine is imposed and all scallops on board may be seized. For a second or subsequent offense, a mandatory \$1,000 fine is imposed, all scallops on board may be seized and a mandatory one-year license suspension is imposed.

**Committee Amendment "A" (S-28)**

The amendment removes the requirement that a judge impose a \$1,000 fine for a person's first offense involving scallop conservation areas and sets a minimum fine of \$1,000 for subsequent offenses. It also makes technical changes to the bill regarding civil penalties and statutory references.

**Enacted Law Summary**

Public Law 2009, chapter 72 creates penalties for an individual who violates rules creating scallop conservation areas. It provides that for the first offense, a \$1,000 fine may be imposed and all scallops on board may be seized and for a second or subsequent offense, a mandatory \$1,000 fine and a mandatory one-year license suspension is imposed and all scallops on board may be seized.

# Joint Standing Committee on Marine Resources

**LD 141 An Act To Allow a Person 65 Years of Age or Older To Obtain a Lobster License without Completing the Apprentice Program**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON W	ONTP	

LD 141 allows a person 65 years of age or older who previously held a Class I, Class II or Class III lobster and crab fishing license to be issued a Class I, Class II or Class III lobster and crab fishing license without completing the apprentice program. It limits the number of traps such a license holder may submerge to 300 traps.

**LD 151 An Act To Amend the Alewife Fishing Laws**

PUBLIC 17

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

LD 151 makes the following changes to the alewife fishing laws.

1. It removes a reference to January 1, 1974 so that municipal rights that were created at any point in time are subject to lapse after 3 consecutive years if they are not exercised.
2. It extends the prohibition on taking alewives, which is currently from 6 a.m. Saturday to 6 a.m. Sunday, to from 6 a.m. Thursday to 6 a.m. Sunday.
3. It clarifies that the Commissioner of Marine Resources may lease rights in any municipality where the municipality does not have those rights, not just those where municipal rights have existed in the past.
4. It expands the uses of the Migratory Fish Fund to include management measures necessary to maintain or enhance alewife populations or populations of other migratory fish.

**Enacted Law Summary**

Public Law 2009, chapter 17 makes the following changes to the alewife fishing laws.

1. It removes a reference to January 1, 1974 so that municipal rights that were created at any point in time are subject to lapse after 3 consecutive years if they are not exercised.
2. It extends the prohibition on taking alewives, which is currently from 6 a.m. Saturday to 6 a.m. Sunday, to from 6 a.m. Thursday to 6 a.m. Sunday.
3. It clarifies that the Commissioner of Marine Resources may lease rights in any municipality where the municipality does not have those rights, not just those where municipal rights have existed in the past.
4. It expands the uses of the Migratory Fish Fund to include management measures necessary to maintain or enhance alewife populations or populations of other migratory fish.

# Joint Standing Committee on Marine Resources

## LD 173 An Act To Restore Funding for a Fish Hatchery in Northern Maine

ONTP

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

LD 173 is a concept draft pursuant to Joint Rule 208 and proposes to restore funding for a fish hatchery in northern Maine.

## LD 246 An Act Regarding Violations of Lobster Conservation Laws

PUBLIC 394

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECTOR	OTP-AM	S-20

LD 246 amends the lobster conservation laws to:

1. Add theft to the list of offenses for which a marine resources license may be suspended;
2. Provide that for a 3rd or subsequent offense of lobster trap molesting the Commissioner of Marine Resources may permanently revoke a license holder's license;
3. Expand the types of illegal lobsters for which a 2nd offense will result in a mandatory suspension;
4. Create a requirement that a lobster and crab fishing license holder fishing for or taking lobsters may operate only the vessel listed on the license holder's license; and
5. Increase the monetary fines for conviction of violation of certain lobster conservation laws and provides that an individual is not eligible for election as a lobster management policy council member if that individual has been convicted of a lobster law violation within the past 7 years.

### Committee Amendment "A" (S-20)

This amendment adds a minimum fine of \$1,000 to the maximum fine of \$5,000 for certain violations of lobster laws in which the number of illegal lobsters cannot be determined. It adds a minimum fine of \$2,500 to the maximum fine of \$10,000 for possession of egg-bearing or v-notched lobsters in which the number of illegal lobsters cannot be determined. This amendment clarifies that the owner or operator provisions of the bill only apply to a person that holds a Class I, Class II or Class III lobster and crab fishing license.

### Enacted Law Summary

Public Law 2009, chapter 394 amends lobster conservation laws to:

1. Add theft to the list of offenses for which a marine resources license may be suspended;
2. Provide that for a 3rd or subsequent offense of lobster trap molesting the Commissioner of Marine Resources may permanently revoke a license holder's license;

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3. Expand the types of illegal lobsters for which a 2nd offense will result in a mandatory suspension;
4. Create a requirement that a Class I,II or III lobster and crab fishing license holder fishing for or taking lobsters may operate only the vessel listed on the license holder's license;
5. Increase the monetary fines for conviction of violation of certain lobster conservation laws and provides that an individual is not eligible for election as a lobster management policy council member if that individual has been convicted of a lobster law violation within the past 7 years;
6. Add a minimum fine of \$1,000 to the maximum fine of \$5,000 for certain violations of lobster laws in which the number of illegal lobsters cannot be determined; and
7. Add a minimum fine of \$2,500 to the maximum fine of \$10,000 for possession of egg-bearing or v-notched lobsters in which the number of illegal lobsters cannot be determined.

**LD 278      An Act To Bring Equity to the Sea Urchin License Fees**

**PUBLIC 396**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	OTP-AM	S-123

Under current law, the holder of a sea urchin fishing license pays the same license fee to fish for sea urchins in either Zone 1 or Zone 2 despite a significant difference between the zones in the number of days open to sea urchin fishing. LD 278 restructures the current annual fee for sea urchin fishing licenses to a fee based on the number of days available for the license holder to fish for sea urchins.

### **Committee Amendment "A" (S-123)**

This amendment replaces the bill and does the following.

1. It creates a temporary license fee structure for sea urchin harvesting in the area of the coast designated as Zone 1 by the Department of Marine Resources by reducing the fees for that zone from \$111 annually to \$25 annually for a handfishing sea urchin license and from \$161 annually to \$50 annually for the newly created handfishing sea urchin license with tender and repeals the reduced fee structure on December 31, 2011.
2. It authorizes the Commissioner of Marine Resources to establish safety training requirements by rule for someone engaged in sea urchin or scallop diving tender activities.
3. It creates a new category of hand fishing scallop license and handfishing sea urchin license that includes the tender activities so that a person who has completed the tender safety requirements will not need to possess a separate hand fishing scallop or sea urchin tender license to work with a harvester.
4. It repeals the language that allows a 30-day temporary sea urchin and scallop diving tender license and the language that makes it prima facie evidence of a violation of being a tender without the appropriate license when no one on board the boat being operated as a platform for scallop or sea urchin handfishing has the proper license for that activity.

### **Enacted Law Summary**

Public Law 2009, chapter 396 does the following.

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1. It creates a temporary license fee structure for sea urchin harvesting in the area of the coast designated as Zone 1 by the Department of Marine Resources by reducing the fees for that zone from \$111 annually to \$25 annually for a handfishing sea urchin license and from \$161 annually to \$50 annually for the newly created handfishing sea urchin license with tender and repeals the reduced fee structure on December 31, 2011.
2. It authorizes the Commissioner of Marine Resources to establish safety training requirements by rule for someone engaged in sea urchin or scallop diving tender activities.
3. It creates a new category of hand fishing scallop license and handfishing sea urchin license that includes the tender activities so that a person who has completed the tender safety requirements will not need to possess a separate hand fishing scallop or sea urchin tender license to work with a harvester.
4. It repeals the language that allows a 30-day temporary sea urchin and scallop diving tender license and the language that makes it prima facie evidence of a violation of being a tender without the appropriate license when no one on board the boat being operated as a platform for scallop or sea urchin handfishing has the proper license for that activity.

**LD 294      An Act To Require the Department of Marine Resources To Enforce  
Conditions in an Aquaculture Lease**

**ONTP**

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

LD 294 directs the Department of Marine Resources to enforce aquaculture lease conditions pursuant to its authority under law.

**LD 345      An Act To Regulate the Rockweed Harvest in Cobscook Bay**

**PUBLIC 283  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAYE	OTP-AM	S-225

LD 345 is a concept draft pursuant to Joint Rule 208 and proposes to regulate the rockweed harvest in Cobscook Bay.

**Committee Amendment "A" (S-225)**

This amendment replaces the bill, changes the title and does the following.

1. It creates a seaweed buyer license for a person who purchases more than 10 wet tons annually directly from seaweed harvesters who hold permits and allows the license holder to buy, possess, ship, transport and sell seaweed. The fee for the license is \$200 for a resident and \$500 for a nonresident. Fees collected accrue to the Seaweed Management Fund.
2. It creates a seaweed buyer's surcharge and directs the Commissioner of Marine Resources to establish the surcharge by rule, but it may not exceed \$5 per wet ton.

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3. It creates the Cobscook Bay Rockweed Management Area and requires the Commissioner of Marine Resources to identify areas within the Cobscook Bay Rockweed Management Area that are closed to the commercial harvest of rockweed including, but not limited, to areas around public and private conservation areas, state parks and federally owned lands and lobster nursery areas.
4. It directs the Commissioner of Marine Resources to identify and close to the commercial harvest of rockweed up to 30 acres within Cobscook Bay for the purpose of research.
5. It requires the Commissioner of Marine Resources to divide the Cobscook Bay Rockweed Management Area into at least 14 harvest management sectors.
6. It requires commercial harvesters to submit an annual harvest plan to harvest rockweed within the Cobscook Bay Rockweed Management Area.
7. It provides that the total biomass that may be removed from a harvest management sector within the Cobscook Bay Management Area may not exceed 17% of the harvestable biomass that is eligible to be harvested annually. The amendment provides that a report of the total biomass removed must be submitted by the harvester to the commissioner, and that after January 1, 2010 the harvester's report must be verified by a 3rd party.
8. It requires a person who harvests rockweed to make a reasonable effort to remove marine organisms harvested with the rockweed from the harvested seaweed and return those marine organisms alive back into Cobscook Bay as soon as practicable.
9. It makes violations of prohibitions related to the Cobscook Bay Management Area a Class E crime for which a fine of not less than \$1,000 must be adjudged and provides that each day a violation occurs it constitutes a separate violation.
10. It directs the commissioner to report to the Joint Standing Committee on Marine Resources by January 15, 2010 recommendations for a seaweed research plan for Cobscook Bay and on the 2009 seaweed harvest in Cobscook Bay.
11. It gives that committee the authority to submit legislation to the Second Regular Session of the 124th Legislature regarding the report.

### **Enacted Law Summary**

Public Law 2009, chapter 283 does the following.

1. It creates a seaweed buyer license for a person who purchases more than 10 wet tons annually directly from seaweed harvesters who hold permits and allows the license holder to buy, possess, ship, transport and sell seaweed. The fee for the license is \$200 for a resident and \$500 for a nonresident. Fees collected accrue to the Seaweed Management Fund.
2. It creates a seaweed buyer's surcharge and directs the Commissioner of Marine Resources to establish the surcharge by rule, but it may not exceed \$5 per wet ton.
3. It creates the Cobscook Bay Rockweed Management Area and requires the Commissioner of Marine Resources to identify areas within the Cobscook Bay Rockweed Management Area that are closed to the commercial harvest of rockweed including, but not limited, to areas around public and private conservation areas, state parks and federally owned lands and lobster nursery areas.
4. It directs the Commissioner of Marine Resources to identify and close to the commercial harvest of rockweed up to 30 acres within Cobscook Bay for the purpose of research.

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5. It requires the Commissioner of Marine Resources to divide the Cobscook Bay Rockweed Management Area into at least 14 harvest management sectors.
6. It requires commercial harvesters to submit an annual harvest plan to harvest rockweed within the Cobscook Bay Rockweed Management Area.
7. It provides that the total biomass that may be removed from a harvest management sector within the Cobscook Bay Management Area may not exceed 17% of the harvestable biomass that is eligible to be harvested annually. Public Law 2009, chapter 283 provides that a report of the total biomass removed must be submitted by the harvester to the commissioner, and that after January 1, 2010 the harvester's report must be verified by a 3rd party.
8. It requires a person who harvests rockweed to make a reasonable effort to remove marine organisms harvested with the rockweed from the harvested seaweed and return those marine organisms alive back into Cobscook Bay as soon as practicable.
9. It makes violations of prohibitions related to the Cobscook Bay Management Area a Class E crime for which a fine of not less than \$1,000 must be adjudged and provides that each day a violation occurs it constitutes a separate violation.
10. It directs the commissioner to report to the Joint Standing Committee on Marine Resources by January 15, 2010 recommendations for a seaweed research plan for Cobscook Bay and on the 2009 seaweed harvest in Cobscook Bay.
11. It gives that committee the authority to submit legislation to the Second Regular Session of the 124th Legislature regarding the report.

Public Law 2009, chapter 283 was enacted as an emergency measure effective June 8, 2009.

**LD 378      Resolve, To Direct the Department of Marine Resources To Study the Issues Surrounding the Harvest of Bait Fish within Territorial Waters**

**RESOLVE 23**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO	OTP-AM	H-51

LD 378 prohibits using a drag to catch bait fish within the first 2 miles of territorial waters, and requires the Department of Marine Resources to adopt rules to implement this prohibition.

**Committee Amendment "A" (H-51)**

This amendment replaces the bill with a resolve and directs the Commissioner of Marine Resources to study the issues surrounding the harvest of bait fish within the territorial waters of the State and to report the commissioner's findings and recommendations to the Joint Standing Committee on Marine Resources by January 4, 2010. The amendment also authorizes the committee to submit legislation related to the study to the Second Regular Session of the 124th Legislature.

**Enacted Law Summary**

Resolve 2009, chapter 23 directs the Commissioner of Marine Resources to study the issues surrounding the harvest of bait fish within the territorial waters of the State and to report the commissioner's findings and recommendations to the Joint Standing Committee on Marine Resources by January 4, 2010. It also authorizes that committee to submit legislation related to the study to the Second Regular Session of the 124th Legislature.

## *Joint Standing Committee on Marine Resources*

**LD 447      An Act To Allow the Direct Sale of Shellfish to Retailers**

**PUBLIC 217**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANGLEY	OTP-AM	H-216 H-277 PERCY

Current law does not allow the holder of a retail seafood license to buy shellstock directly from the commercial shellfish license holder that harvests the shellfish but instead must buy shellstock from a wholesale seafood license holder that purchases shellstock from the harvester. LD 447 allows a retail seafood license holder to purchase shellstock directly from the harvester.

**Committee Amendment "A" (H-216)**

This amendment replaces the bill and creates an enhanced retail seafood license that allows a holder to purchase mussels, clams, quahogs and oysters directly from the harvester. It also dedicates the revenue raised by this new license to the Department of Marine Resources to be used for annual inspections of license holders.

**House Amendment "A" To Committee Amendment "A" (H-277)**

This amendment removes the emergency preamble and clause and authorizes the holder of an enhanced retail seafood license to purchase shellstock from a wholesale seafood license holder and to purchase lobster, lobster parts and crayfish directly from the harvester.

**Enacted Law Summary**

Public Law 2009, chapter 217 creates an enhanced retail seafood license that allows a holder to purchase mussels, clams, quahogs, oysters, lobster and crayfish directly from the harvester and to purchase shellstock from a wholesale seafood license holder. It dedicates the revenue raised by this new license to the Department of Marine Resources to be used for annual inspections of license holders.

**LD 585      An Act To Protect Fishing Families by Authorizing Certain Transfers of Lobster and Crab Fishing Licenses**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLAHERTY BLISS	ONTP MAJ OTP-AM MIN	

LD 585 authorizes the transfer of a Class I, Class II or Class III lobster and crab fishing license by the license holder to that person's child, grandchild or spouse under certain circumstances. The relative who is receiving the license by transfer must have completed a Department of Marine Resources' apprentice program for entry into the lobster fishery, and the license holder and the transferee must notify the department in writing of the transfer. It also adds a provision to limit a recipient of a license by transfer to 300 traps in the initial year and an increase of 100 traps each subsequent year up to the trap limit, and it requires the Department of Marine Resources to review the transfer of licenses in 3 years, and annually thereafter, and to make recommendations on whether or not to continue allowing transfers.

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### **Committee Amendment "A" (H-156)**

This amendment is the minority report and limits the transfer of a Class I, Class II or Class III lobster and crab fishing license to the license holder's child. It provides that a person who would otherwise be ineligible to receive a lobster and crab fishing license may not be the recipient of a transferred lobster and crab fishing license and that a transferor may not receive any form of remuneration for the transfer. This amendment also adds a repeal date of October 1, 2012.

**LD 691      An Act To Lower the Cost of State Government in the Departments  
under the Purview of the Joint Standing Committee on Marine  
Resources**

**ONTP**

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

LD 691 deallocates \$54,482 in fiscal year 2009-10 and \$74,981 in fiscal year 2010-11 by eliminating a Public Service Coordinator II position.

**LD 836      An Act To Amend the Laws Governing the Scallop Season**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TILTON RAYE	ONTP	

LD 836 amends the laws governing the scallop season by:

1. Requiring that, prior to adopting or amending emergency rules that result in the closure or reduction of the scallop fishing season, the Commissioner of Marine Resources consult with the Scallop Advisory Council and the joint standing committee of the Legislature having jurisdiction over marine resources matters; and
2. Requiring that rules adopted to limit fishing during the scallop season may not lengthen the closed season or shorten the open season, but may only limit the total number of days during the open season that may be fished.

**LD 852      An Act To Clarify the Public Ownership of Marine Organisms within  
the Intertidal Zone**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	ONTP MAJ OTP-AM MIN	

LD 852 declares that the State owns and controls the harvesting of seaweed, shellfish and other marine organisms on or under lands within the intertidal zone.

## *Joint Standing Committee on Marine Resources*

### **Committee Amendment "A" (S-130)**

This committee amendment is the minority report and replaces the bill. It clarifies that the State owns and controls the living organisms within the intertidal zone.

### **LD 928      An Act To Permit the Landing of Draggd Crabs as Bycatch**

**PUBLIC 78  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECTOR	OTP-AM	S-41

LD 928 allows a person who is issued a commercial fishing license under the Maine Revised Statutes, Title 12, section 6501 to take, possess and sell crabs that have been taken as bycatch while using an otter trawl within the exclusive economic zone as shown on the most recently published Federal Government nautical chart.

### **Committee Amendment "A" (S-41)**

This amendment adds a repeal date of June 30, 2012.

#### **Enacted Law Summary**

Public Law 2009, chapter 78 allows a person who is issued a commercial fishing license under the Maine Revised Statutes, Title 12, section 6501 to take, possess and sell crabs that have been taken as bycatch while using an otter trawl within the exclusive economic zone as shown on the most recently published Federal Government nautical chart. This law is repealed on June 30, 2012.

Public Law 2009, chapter 78 was enacted as an emergency measure effective May 4, 2009.

### **LD 932      An Act To Establish Area Management of Maine's Scallop Fishery**

**Carried Over**

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

LD 932 is a concept draft pursuant to Joint Rule 208 and seeks to establish area management of the State's scallop fishery.

This bill was carried over to any special or regular session of the 124th Legislature by joint order H.P. 1053.

### **LD 1009      An Act To Allow Lobster License Exemptions to Persons with Certain Medical Criteria**

**PUBLIC 188**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE DAMON	OTP-AM MAJ ONTP MIN	H-217

## *Joint Standing Committee on Marine Resources*

Current law requires that to be eligible for a lobster license, a person must have had a lobster license in the previous year. An appeal of a denial of a license can be made to the Commissioner of Conservation if the person did not have a license in the previous year due to an illness or medical condition. LD 1009 strikes the language that requires a person to have had a license and make the appeal within one year of the onset of the illness or medical condition.

### **Committee Amendment "A" (H-217)**

This amendment allows a person that was diagnosed with muscular dystrophy between 1983 and 1988 that had harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the diagnosis but did not hold a Class I, Class II or Class III lobster and crab fishing license since the year following the diagnosis to be eligible for a medical waiver to obtain a lobster and crab fishing license and fish a maximum of 300 trap tags. Those trap tags expire when the person is no longer eligible to hold the license and could not be counted in the exit ratio system for a lobster management zone. It also provides that the provisions of this amendment are repealed October 1, 2010.

### **Enacted Law Summary**

Public Law 2009, chapter 188 allows a person that was diagnosed with muscular dystrophy between 1983 and 1988 that had harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the diagnosis but did not hold a Class I, Class II or Class III lobster and crab fishing license since the year following the diagnosis to be eligible for a medical waiver to obtain a lobster and crab fishing license and fish a maximum of 300 trap tags. It provides that those trap tags expire when the person is no longer eligible to hold the license and can not be counted in the exit ratio system for a lobster management zone. Public Law 2009, chapter 188 is repealed on October 1, 2010.

**LD 1128     An Act To Allow Family Members of an Island Community to Share a Lobster and Crab Fishing License**

**ONTP**

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

LD 1128 allows the holder of a current Class I, Class II or Class III lobster and crab fishing license who is a permanent resident on an island not connected to the mainland by a bridge to share that license with family members who are permanent residents of the same island or another nonbridged island within the same municipality. A family member sharing the Class I, Class II or Class III lobster and crab fishing license is subject to the same privileges and restrictions as the primary license holder. It provides that for each family member sharing a Class I, Class II or Class III lobster and crab fishing license, the number of trap tags the primary license holder is eligible to receive under that license is reduced by 20%. LD 1128 also provides that, if the primary license holder is deceased or retires from commercially fishing for lobster and crab, a family member sharing the license must be named as the primary license holder or the license lapses back to the State.

**LD 1211     An Act To Amend the Marine Resources Suspension Laws**

**PUBLIC 151**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WEAVER	OTP-AM	H-142

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LD 1211 amends the laws governing the notice requirements for a suspension or revocation of a marine resources license to do the following.

1. It amends the procedures for a hearing to appeal a suspension.
2. It changes the reference to a violation of the laws against molesting lobster gear to refer to an adjudication rather than a conviction, since it is now a civil offense.
3. It clarifies that an individual who has had the right to obtain a license suspended is subject to the same prohibitions as an individual who has had a license suspended.

### **Committee Amendment "A" (H-142)**

This amendment makes a technical change to clarify that the Commissioner of Marine Resources may give an opportunity for a hearing regarding a suspension or revocation.

### **Enacted Law Summary**

Public Law 2009, chapter 151 amends the laws governing the notice requirements for a suspension or revocation of a marine resources license to do the following.

1. It amends the procedures for a hearing to appeal a suspension.
2. It changes the reference to a violation of the laws against molesting lobster gear to refer to an adjudication rather than a conviction, since it is now a civil offense.
3. It clarifies that an individual who has had the right to obtain a license suspended is subject to the same prohibitions as an individual who has had a license suspended.

### **LD 1231     *An Act To Protect the Long-term Viability of Island Lobster Fishing Communities***

**PUBLIC 294**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE DAMON	OTP-AM	H-401

LD 1231 creates a limited-entry zone programs for islands in the coastal waters with year-round communities.

### **Committee Amendment "A" (H-401)**

This committee amendment replaces the bill and does the following.

1. It provides that a year-round island community on an island in the coastal waters that is not connected to the mainland by an artificial structure may petition the Commissioner of Marine Resources for the establishment of a limited-entry program for that island if a minimum of 5 Class I, Class II or Class III lobster and crab fishing license holders who are residents on the island or 10% of the island's resident Class I, Class II or Class III lobster and crab fishing license holders, whichever is greater, signs the petition.
2. It provides that if 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders who are residents of the island voting in a referendum support the establishment of an island limited-entry program, the commissioner may adopt rules to establish such a program.

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3. It requires that before establishing or amending the number of licenses available to island residents, the commissioner must determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders who are residents on the island but retains the discretion to accept or reject that preference.
4. It requires the commissioner to consult with the applicable lobster management policy council before making a decision on the number of licenses to be made available.
5. It authorizes the commissioner to adopt rules to implement the program to define residency and to provide exceptions to the island residency requirement for temporary absences from an island for medical or educational purposes and to allow, when appropriate, for an increase in the number of licenses available to an island community over time.
6. It provides that a person who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program and was a resident of the island for at least 8 years and harvested lobsters for each of those years and who no longer wishes to maintain residency on that island may fish elsewhere in the lobster management zone in which the island is located without having to go on the waiting list.

### **Enacted Law Summary**

Public Law 2009, chapter 294 does the following.

1. It provides that a year-round island community on an island in the coastal waters that is not connected to the mainland by an artificial structure may petition the Commissioner of Marine Resources for the establishment of a limited-entry program for that island if a minimum of 5 Class I, Class II or Class III lobster and crab fishing license holders who are residents on the island or 10% of the island's resident Class I, Class II or Class III lobster and crab fishing license holders, whichever is greater, signs the petition.
2. It provides that if 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders who are residents of the island voting in a referendum support the establishment of an island limited-entry program, the commissioner may adopt rules to establish such a program.
3. It requires that before establishing or amending the number of licenses available to island residents, the commissioner must determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders who are residents on the island but retains the discretion to accept or reject that preference.
4. It requires the commissioner to consult with the applicable lobster management policy council before making a decision on the number of licenses to be made available.
5. It authorizes the commissioner to adopt rules to implement the program to define residency and to provide exceptions to the island residency requirement for temporary absences from an island for medical or educational purposes and to allow, when appropriate, for an increase in the number of licenses available to an island community over time.
6. It provides that a person who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program and was a resident of the island for at least 8 years and harvested lobsters for each of those years and who no longer wishes to maintain residency on that island may fish elsewhere in the lobster management zone in which the island is located without having to go on the waiting list.

# Joint Standing Committee on Marine Resources

## LD 1331 An Act Regarding Saltwater Recreational Fishing

Carried Over

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

LD 1331 establishes a saltwater recreational fishing license, dedicates the fees from licensing to the Marine Recreation Fishing Conservation and Management Fund and gives the Commissioner of Marine Resources authority to make expenditures from the fund for purposes such as fisheries management research and education and outreach. The bill also removes the exemptions from the commercial license requirements for certain methods of fishing for personal use. LD 1331 establishes the Marine Recreational Fisheries and Habitat Advisory Council and repeals the Marine Recreational Fishing Advisory Council and the Sea Run Fisheries and Habitat Advisory Council.

This bill was carried over to any special or regular session of the 124th Legislature by joint order H.P. 1053.

## LD 1398 An Act To Amend the Aquaculture Laws

PUBLIC 229

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EATON	OTP-AM MAJ OTP-AM MIN	H-278

LD 1398 makes the following changes to Maine's aquaculture statutes.

1. Currently, aquaculture leases that are terminated or revoked are permanently lost and there is no option for a new lessee to continue under the same terms and conditions. This bill creates a mechanism for the Commissioner of Marine Resources to solicit proposals for continued operations at the site for the remainder of the original lease term and under the same terms and conditions and to choose the most suitable proposal. A 2-week public comment period is provided, and fees, not to exceed \$5,000, are set in rule.
2. It shortens the public comment period for transfer applications and removes the option of a hearing. The application fee is eliminated and a fee for transferring the lease is created in the case of a successful application.
3. It increases the limit on the size of an experimental lease from 2 acres to 4 acres.
4. It eliminates the prohibition on limited-purpose aquaculture licenses in intertidal waters as long as permission of the landowner is obtained and creates a nonresident limited-purpose aquaculture license. It establishes a \$300 annual fee for nonresident limited-purpose aquaculture license.
5. It allows a person to possess cultured marine organisms that do not meet the size or season requirements that wild product must meet. Appropriate documentation must be maintained and made available upon request of the Department of Marine Resources.
6. It eliminates a duplicative notice requirement regarding an aquaculture facility's use of antibiotics.
7. It creates a mechanism to assign lease options, which allow the holder to have first priority in applying for a lease

## *Joint Standing Committee on Marine Resources*

in a particular location. Some other coastal users such as local fishermen or adjacent landowners would still be able to claim preference under the law and nullify the option, but the option would prevent other potential applicants that are not specifically given priority in law from moving forward with a lease application in the area until the option has expired. The department must assess whether the application for the option is in good faith and whether it will likely result in an aquaculture application in the area. Fees are charged per acre and are capped at \$500 for the first acre and \$50 for each additional acre.

8. It authorizes the commissioner to refuse to issue or renew a marine resources license, such as a fishing or wholesale license, to the holder of an aquaculture lease or license who has not paid legally required fees.
9. It authorizes the commissioner to require a license for the land-based culture of marine organisms and allows the commissioner to set the fee at not more than \$1,000.
10. It authorizes the department to remove and sell abandoned aquaculture gear or stock after the lease or license holder and anyone who has previously claimed ownership of the gear or stock has been notified and has failed to remove the gear or stock.
11. It authorizes marine patrol officers to inspect aquaculture leases and associated vehicles, watercraft and buildings, except for residences.
12. It allows municipalities that choose to issue aquaculture permits to charge an application fee that reflects their costs. LD 1398 also clarifies the total acreage allowed under all permits in a municipality, requires municipalities to adopt ordinances to prevent speculative holding of permits, updates the maximum rental fee to match the department's lease fee and clarifies that it is an annual rental fee and requires municipalities to submit an annual report to the department.
13. It adds aquaculture lease and license holders to the group of persons that the department may authorize to take green crabs without a commercial license.

### **Committee Amendment "A" (H-278)**

This amendment incorporates a fiscal note.

### **Committee Amendment "B" (H-279)**

This amendment is the minority report and removes the provision from the bill that authorizes the Commissioner of Marine Resources to refuse to renew or issue a license or permit to the holder of an aquaculture lease that fails to pay related fees or charges. It also provides that any proceeds that are left over from the sale of abandoned equipment or stock after all debts are paid must be sent to the owner of the abandoned equipment or stock or that person's heirs.

### **Enacted Law Summary**

Public Law 2009, chapter 229 makes the following changes to Maine's aquaculture laws.

1. Currently, aquaculture leases that are terminated or revoked are permanently lost and there is no option for a new lessee to continue under the same terms and conditions. This law creates a mechanism for the Commissioner of Marine Resources to solicit proposals for continued operations at the site for the remainder of the original lease term and under the same terms and conditions and to choose the most suitable proposal. A 2-week public comment period is provided, and fees, not to exceed \$5,000, are set in rule.
2. It shortens the public comment period for transfer applications and removes the option of a hearing. The application fee is eliminated and a fee for transferring the lease is created in the case of a successful application.

## *Joint Standing Committee on Marine Resources*

3. It increases the limit on the size of an experimental lease from 2 acres to 4 acres.
4. It eliminates the prohibition on limited-purpose aquaculture licenses in intertidal waters as long as permission of the landowner is obtained and creates a nonresident limited-purpose aquaculture license. It establishes a \$300 annual fee for nonresident limited-purpose aquaculture license.
5. It allows a person to possess cultured marine organisms that do not meet the size or season requirements that wild product must meet. Appropriate documentation must be maintained and made available upon request of the Department of Marine Resources.
6. It eliminates a duplicative notice requirement regarding an aquaculture facility's use of antibiotics.
7. It creates a mechanism to assign lease options, which allow the holder to have first priority in applying for a lease in a particular location. Some other coastal users such as local fishermen or adjacent landowners are still be able to claim preference under the law and nullify the option, but the option prevents other potential applicants that are not specifically given priority in law from moving forward with a lease application in the area until the option has expired. The department must assess whether the application for the option is in good faith and whether it will likely result in an aquaculture application in the area. Fees are charged per acre and are capped at \$500 for the first acre and \$50 for each additional acre.
8. It authorizes the commissioner to refuse to issue or renew a marine resources license, such as a fishing or wholesale license, to the holder of an aquaculture lease or license who has not paid legally required fees.
9. It authorizes the commissioner to require a license for the land-based culture of marine organisms and allows the commissioner to set the fee at not more than \$1,000.
10. It authorizes the department to remove and sell abandoned aquaculture gear or stock after the lease or license holder and anyone who has previously claimed ownership of the gear or stock has been notified and has failed to remove the gear or stock.
11. It authorizes marine patrol officers to inspect aquaculture leases and associated vehicles, watercraft and buildings, except for residences.
12. It allows municipalities that choose to issue aquaculture permits to charge an application fee that reflects their costs. Public Law 2009, chapter 229 clarifies the total acreage allowed under all permits in a municipality, requires municipalities to adopt ordinances to prevent speculative holding of permits, updates the maximum rental fee to match the department's lease fee and clarifies that it is an annual rental fee and requires municipalities to submit an annual report to the department.
13. It adds aquaculture lease and license holders to the group of persons that the department may authorize to take green crabs without a commercial license.

**LD 1432      An Act To Create a Saltwater Recreational Fishing Registry**

**Carried Over**

Sponsor(s)

TRAHAN

Committee Report

Amendments Adopted

## *Joint Standing Committee on Marine Resources*

LD 1432 creates the saltwater recreational fishing registry to register persons engaged in saltwater recreational fishing to be administered by the Department of Inland Fisheries and Wildlife through the department's existing program to issue fishing licenses. It directs the Commissioner of Inland Fisheries and Wildlife to negotiate a memorandum of agreement with the United States Department of Commerce, National Oceanic and Atmospheric Administration to exempt the State from a federal registry if the State submits data from the saltwater recreational fishing registry created by this bill. LD 1432 deappropriates \$12,000 from the Department of Marine Resources recreational fishing program to fund the saltwater recreational fishing registry.

This bill was carried over to any special or regular session of the 124th Legislature by joint order H.P. 1053.

*Joint Standing Committee on Marine Resources*

SUBJECT INDEX

*Aquaculture*

Enacted

LD 1398      An Act To Amend the Aquaculture Laws      PUBLIC 229

Not Enacted

LD 294      An Act To Require the Department of Marine Resources To      ONTP  
Enforce Conditions in an Aquaculture Lease

*Clams, Mussels and Scallops*

Enacted

LD 32      An Act To Clarify the Disposition of Fines from Maine's      PUBLIC 24  
Soft-shelled Clam Laws

LD 82      An Act To Create a Penalty for Harvesting Scallops in a      PUBLIC 72  
Conservation Area

LD 447      An Act To Allow the Direct Sale of Shellfish to Retailers      PUBLIC 217  
EMERGENCY

Not Enacted

LD 836      An Act To Amend the Laws Governing the Scallop Season      ONTP

LD 932      An Act To Establish Area Management of Maine's Scallop  
Fishery

*Department of Marine Resources*

Enacted

LD 1211      An Act To Amend the Marine Resources Suspension Laws      PUBLIC 151

Not Enacted

LD 691      An Act To Lower the Cost of State Government in the      ONTP  
Departments under the Purview of the Joint Standing Committee  
on Marine Resources

*Diadromous Fish*

Enacted



**LD 852      An Act To Clarify the Public Ownership of Marine Organisms  
within the Intertidal Zone**

**ACCEPTED ONTP  
REPORT**

*Sea Urchins and Sea Cucumbers*

**Enacted**

**LD 278      An Act To Bring Equity to the Sea Urchin License Fees**

**PUBLIC 396**

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