

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



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

**JOINT STANDING COMMITTEE ON MARINE RESOURCES**

April 2010

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## *Joint Standing Committee on Marine Resources*

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

**ONTP**

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

LD 932 was carried over from the First Regular session. It is a concept draft pursuant to Joint Rule 208 and seeks to establish area management of the State's scallop fishery.

**LD 1331      An Act Regarding Saltwater Recreational Fishing**

**ONTP**

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

LD 1331 was carried over from the First Regular Session. The bill establishes a saltwater recreational fishing license, dedicate 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.

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

**PUBLIC 559**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN	OTP-AM   MAJ ONTP   MIN	S-464 S-479   BRYANT B

LD 1432 was carried over from the First Regular Session. The bill creates a saltwater recreational fishing registry to register persons engaged in saltwater recreational fishing that would be administered by the Department of Inland Fisheries and Wildlife through the department's existing licensing program. 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 the federal registry if the State submits data from the saltwater recreational fishing registry proposed in this bill. LD 1432 also deappropriates \$12,000 from the Department of Marine Resources recreational fishing program to fund the saltwater recreational fishing registry.

**Committee Amendment "C" (S-464)**

LD 1432 was recommitted to the Joint Standing Committee on Marine Resources. This committee amendment replaces the bill and:

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1. Creates a saltwater recreational fishing registry administered by the Department of Marine Resources to register persons engaged in saltwater recreational fishing;
2. Creates a striped bass endorsement and a commercial operator's license and require that individuals fishing for striped bass obtain an endorsement and captains of vessels licensed to carry passengers for hire for saltwater recreational fishing obtain a commercial operator's license;
3. Sets the striped bass endorsement fees for residents at \$5 and nonresidents at \$15 and creates a \$10 resident lifetime striped bass endorsement for a person 70 years of age or older. It also sets the fee for a commercial operator's license at \$50;
4. Directs that revenue raised from the striped bass endorsement and commercial operator's license be deposited in the Marine Recreation Fishing Conservation and Management Fund;
5. Directs clerks or other agents appointed by the Commissioner of Marine Resources to register people on the saltwater recreational fishing registry, issue striped bass endorsements or issue commercial operator's licenses to charge a fee of \$2 for each person registered, issued a striped bass endorsement or issued a commercial operator's license. It also requires the commissioner to charge a fee of \$1 for each registration taken, endorsement issued or commercial operator's license provided by department employees;
6. Makes a violation of the registration, endorsement or license requirements a civil violation for which a fine of not less than \$100 may be adjudged;
7. Provides that a person on the registry or who holds a striped bass endorsement or a license issued under this amendment would be subject to the applicable suspension provisions under marine resources laws;
8. Provides that members of a federally recognized Indian tribe in Maine recreationally fishing in salt water must register annually free of charge;
9. Provides an exemption to the registration and striped bass endorsement requirements for a person under 16 years of age, a person with a disability, a passenger on board a vessel captained by an individual who holds a commercial operator's license, a person renting a smelt fishing camp from a commercial operator that holds a commercial operator's license, a disabled veteran and a resident fishing on July 4th, Labor Day weekend or Memorial Day weekend;
10. Provides that a person holding a valid New Hampshire saltwater recreational fishing license may fish in salt water in the area from Maine's southern border to Cape Neddick;
11. Directs the commissioner to work with fishing and hunting groups and other interested parties to notify and educate the public about the saltwater recreational fishing registry;
12. Requires the commissioner to report registry information to the United States Department of Commerce, National Oceanic and Atmospheric Administration in a form and manner as required by the National Oceanic and Atmospheric Administration; and
13. Sets an effective date of January 1, 2011.

### **Senate Amendment "C" To Committee Amendment "C" (S-479)**

This amendment exempts a person from the saltwater recreational fishing registry if that person indicates on a valid fishing license that that person engaged in saltwater recreational fishing during the prior year or plans to engage in saltwater recreational fishing during the period covered by the license and exempts a resident of the State who

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makes that indication from having to obtain a striped bass endorsement. It also direct the Department of Inland Fisheries and Wildlife to provide this data to the federal or state agency responsible for monitoring saltwater recreational fishing at a time and manner as determined by that agency.

### **Enacted Law Summary**

Public Law 2009, chapter 559 does the following:

1. It creates a saltwater recreational fishing registry administered by the Department of Marine Resources to register persons engaged in saltwater recreational fishing;
2. It creates a striped bass endorsement and a commercial operator's license and requires that individuals fishing for striped bass obtain an endorsement and captains of vessels licensed to carry passengers for hire for saltwater recreational fishing obtain a commercial operator's license;
3. It sets the striped bass endorsement fees for residents at \$5 and nonresidents at \$15 and creates a \$10 resident lifetime striped bass endorsement for a person 70 years of age or older. It sets the fee for a commercial operator's license at \$50;
4. It exempts a person from the saltwater recreational fishing registry if that person indicates on a valid fishing license that that person engaged in saltwater recreational fishing during the prior year or plans to engage in saltwater recreational fishing during the period covered by the license. It also exempts a resident of the State who makes that indication from having to obtain a striped bass endorsement;
5. It provides an exemption to the registration and striped bass endorsement requirements for a person under 16 years of age, a person with a disability, a passenger on board a vessel captained by an individual who holds a commercial operator's license, a person renting a smelt fishing camp from a commercial operator that holds a commercial operator's license, a disabled veteran and a resident fishing on July 4th, Labor Day weekend or Memorial Day weekend;
6. It provides that members of a federally recognized Indian tribe in Maine recreationally fishing in saltwater must register annually free of charge;
7. It provides that a person holding a valid New Hampshire saltwater recreational fishing license may fish in saltwater in the area from Maine's southern border to Cape Neddick;
8. It directs that the revenue raised from the striped bass endorsement and commercial operator's license be deposited in the Marine Recreation Fishing Conservation and Management Fund;
9. It requires clerks or other agents appointed by the Commissioner of Marine Resources to register people on the saltwater recreational fishing registry, issue striped bass endorsements or issue commercial operator's licenses to charge a fee of \$2 for each person registered, issued a striped bass endorsement or issued a commercial operator's license. It also requires the commissioner to charge a fee of \$1 for each registration taken, endorsement issued or commercial operator's license provided by department employees;
10. It makes a violation of the registration, endorsement or license requirements a civil violation for which a fine of not less than \$100 may be adjudged;
11. It provides that a person on the registry or who holds a striped bass endorsement is subject to the applicable suspension provisions under marine resources laws;
12. It directs the commissioner to work with fishing and hunting groups and other interested parties to notify and educate the public about the saltwater recreational fishing registry;

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13. It requires the commissioner to report registry information to the United States Department of Commerce, National Oceanic and Atmospheric Administration in a form and manner as required by the National Oceanic and Atmospheric Administration; and

14. It becomes effective on January 1, 2011.

### **LD 1560     An Act To Eliminate the 3-trap Limit in the Waters of the State**

**PUBLIC 499**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-367

LD 1560 eliminates the limit in current law of 3 lobster traps per trawl in the waters off Hancock County.

#### **Committee Amendment "A" (S-367)**

This amendment eliminates the 3-trap limit in current law and adds an effective date of January 1, 2011.

#### **Enacted Law Summary**

Public Law 2009 chapter 499 eliminates the 3-trap limit in current law and becomes effective on January 1, 2011.

### **LD 1567     An Act To Correct Errors and Inconsistencies in Marine Resources Laws**

**PUBLIC 561**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERCY DAMON	OTP-AM	H-707

LD 1567 makes the following changes to the laws governing marine resources.

1. It amends the timing of issuance and renewal of the seaweed buyer's license, the enhanced retail seafood license and the wholesale shellfish harvester's license to expire on March 31st of each year making them consistent with other dealer licenses.
2. It adds the enhanced retail seafood license to the list of shellfish dealers who must allow access to their facilities for shellfish inspection.
3. It removes a conflict in the law regarding suspension and revocation of a lobster and crab fishing license created when two bills amending the same section were passed in 2009 (PL 2009, c 394, §3 and PL 2009, c 151 §5). The bill would incorporate both changes made by those two laws.
4. It makes a suspension of license laws for failure to appear, answer, pay or failure to comply with court order for support consistent.
5. It provides that a person's ability to obtain a license is suspended if that person fails to pay state tax obligations.

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6. It amends the "molesting lobster gear" statute to extend the "restitution" provision to persons other than those who hold a lobster and crab fishing license.
7. It allocates \$20 of each Class II lobster and crab fishing license for persons over 70 years of age to the Lobster Fund.
8. It increases the amount of money that must accrue to the General Fund for each eel harvesting license from \$33 to \$50.
9. It removes the prohibition against the commissioner to issue a sea urchin and scallop diving tender license or to allow a person to act as a tender without meeting certain requirements to making it illegal for a person to act as a tender without meeting those requirements.
10. It repeals and replaces the sea urchin and scallop diving tender license section and provide that as long as one person is present on a boat used as a platform for harvesting sea urchins and scallops by hand has met the tender safety requirements, all other persons present on the boat may operate the boat and handle the harvested product. It also sets the fee for a sea urchin and scallop diving tender license at \$133 to resolve an existing conflict in the law.
11. It repeals and replaces the scallop license handfishing sea urchin license section of the law and clarify that a person acting as a tender to an individual possessing an individual hand fishing scallop license must also possess a scallop or sea urchin tender license. It also provides that an unlicensed person that has met the required safety standards for a tender acting as a tender for an individual with a hand fishing scallop license with tender may possess, ship, transport and sell shucked scallops taken by the license holder. It increases the fee for a handfishing scallop license with tender from \$161 to \$193.
12. It makes a technical correction to a license name.
13. It adds a \$40 surcharge to the hand fishing scallop license with tender.
14. It provides that the surcharge collected for a sea urchin and scallop diving tender license is split equally between the Scallop Research Fund and the Sea Urchin Research Fund.
15. It repeals and replaces the handfishing sea urchin license section of law and provides that a person acting as tender to an individual possessing a individual handfishing sea urchin licenses must also possess a sea urchin and scallop diving tender license. It also increases the fee for a handfishing sea urchin license with tender from \$161 to \$202.
16. It adds a \$60 surcharge on a handfishing sea urchin license with tender.
17. It provides that a person who purchases dry seaweed in an amount that is equivalent to 10 wet tons or more must purchase a seaweed buyer's license.

### **Committee Amendment "A" (H-707)**

This amendment makes the following changes to the bill.

1. It eliminates the Atlantic Salmon Commission and the per diem reimbursement for commission members. The funding for the commission was eliminated in Public Law 2009, chapter 462.
2. It removes references to a person's "right" to obtain a license regarding suspensions for failure to pay taxes, comply with support orders or appear in court and replaces them with "eligibility to obtain or hold."
3. It corrects the proposed allocation of \$20 to \$10 from each Class II lobster and crab fishing license for persons

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over 70 years of age to the Lobster Fund.

4. It clarifies that it is prima facie evidence of possessing illegal scallops if a person licensed under the scallop laws is shucking scallops when the vessel has scallops onboard under the minimum size restriction.

5. It changes the license surcharge for a hand fishing scallop license with tender from \$40 to \$100 to correct a conflict created during the First Regular Session of the 124th Legislature.

6. It provides that the Commissioner of Marine Resources may not open a shellfish area that has been reclassified from a prohibited to a restricted classification after January 1, 2010 to depuration harvesting without the approval of the affected municipality. If a municipality fails to document to the commissioner within 4 weeks of the reclassification that it intends to take significant measures to be incorporated into its pollution abatement plan or if the municipality indicates it will not develop a pollution abatement plan, the commissioner may open that area to depuration harvesting without the consent of the municipality. A municipality needs to report its progress on the pollution abatement plan every 6 months.

7. It authorizes a wholesale seafood license with shrimp permit holder to process shrimp.

8. It makes a number of technical changes to existing statutes.

### **Enacted Law Summary**

Public Law 2009, chapter 561 does the following:

1. It amends the timing of issuance and renewal of the seaweed buyer's license, the enhanced retail seafood license and the wholesale shellfish harvester's license to expire on March 31st of each year making them consistent with other dealer licenses;

2. It adds the enhanced retail seafood license to the list of shellfish dealers who must allow access to their facilities for shellfish inspection;

3. It removes a conflict in the law regarding suspension and revocation of a lobster and crab fishing license created when two bills amending the same section were passed in 2009 (PL 2009, c 394, §3 and PL 2009, c 151 §5). Public Law 2009, chapter 561 incorporates both changes made by those two laws;

4. It makes a suspension of license laws for failure to appear, answer, pay or failure to comply with court order for support consistent;

5. It provides that a person's ability to obtain a license is suspended if that person fails to pay state tax obligations;

6. It amends the "molesting lobster gear" statute to extend the "restitution" provision to persons other than those who hold a lobster and crab fishing license;

7. It allocates \$10 of each Class II lobster and crab fishing license for persons over 70 years of age to the Lobster Fund;

8. It increases the amount of money that must accrue to the General Fund for each eel harvesting license from \$33 to \$50;

9. It removes the prohibition against the commissioner to issue a sea urchin and scallop diving tender license or to allow a person to act as a tender without meeting certain requirements to making it illegal for a person to act as a tender without meeting those requirements;

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10. It repeals and replaces the sea urchin and scallop diving tender license section and provides that as long as one person is present on a boat used as a platform for harvesting sea urchins and scallops by hand has met the tender safety requirements, all other persons present on the boat may operate the boat and handle the harvested product. It sets the fee for a sea urchin and scallop diving tender license at \$133 to resolve an existing conflict in the law.

11. It repeals and replaces the scallop license handfishing sea urchin license section of the law and clarifies that a person acting as a tender to an individual possessing an individual hand fishing scallop license must also possess a scallop or sea urchin tender license. It provides that an unlicensed person that has met the required safety standards for a tender acting as a tender for an individual with a hand fishing scallop license with tender may possess, ship, transport and sell shucked scallops taken by the license holder. It increases the fee for a handfishing scallop license with tender from \$161 to \$193;

12. It adds a \$100 surcharge to the hand fishing scallop license with tender;

13. It provides that the surcharge collected for a sea urchin and scallop diving tender license is split equally between the Scallop Research Fund and the Sea Urchin Research Fund;

14. It repeals and replaces the handfishing sea urchin license section of law and provides that a person acting as a tender to an individual possessing an individual handfishing sea urchin licenses must also possess a sea urchin and scallop diving tender license. It increases the fee for a handfishing sea urchin license with tender from \$161 to \$202;

15. It adds a \$60 surcharge on a handfishing sea urchin license with tender;

16. It provides that a person who purchases dry seaweed in an amount that is equivalent to 10 dry tons or more must purchase a seaweed buyer's license;

17. It eliminates the Atlantic Salmon Commission and the per diem reimbursement for commission members. The funding for the commission was eliminated in Public Law 2009, chapter 462;

18. It clarifies that it is prima facie evidence of possessing illegal scallops if a person licensed under the scallop laws is shucking scallops when the vessel has scallops onboard under the minimum size restriction;

19. It provides that the Commissioner of Marine Resources may not open a shellfish area that has been reclassified from a prohibited to a restricted classification after January 1, 2010 to depuration harvesting without the approval of the affected municipality. If a municipality fails to document to the commissioner within 4 weeks of the reclassification that it intends to take significant measures to be incorporated into its pollution abatement plan or if the municipality indicates it will not develop a pollution abatement plan, the commissioner may open that area to depuration harvesting without the consent of the municipality. A municipality would need to report its progress on the pollution abatement plan every 6 months; and

20. It authorizes a wholesale seafood license with shrimp permit holder to process shrimp.

### **LD 1584    An Act To Require That Marine Resources Dealers Purchase Only from Licensed Harvesters**

**PUBLIC 478**

Sponsor(s)

EATON

Committee Report

OTP

Amendments Adopted

## *Joint Standing Committee on Marine Resources*

This bill creates a requirement that seafood and marine worm dealers, when buying directly from a harvester, purchase marine organisms only from a properly licensed person. It also creates a requirement for harvesters, upon a dealer's request, to show their licenses to the dealer.

### **Enacted Law Summary**

Public Law 2009, chapter 478 requires that seafood and marine worm dealers, when buying directly from a harvester, purchase marine organisms only from a properly licensed person. It also requires harvesters, upon a dealer's request, to show their licenses to the dealer.

### **LD 1593    An Act To Amend the Lobster Meat Laws and Expand Economic Opportunity for Maine's Lobster Industry**

**PUBLIC 523  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE DAMON	OTP-AM	H-643

LD 1593 implements some of the recommendations of the Governor's Task Force on the Economic Sustainability of Maine's Lobster Industry. It changes existing laws governing the handling of lobster parts and tails in order to improve the markets for the lobster industry. It eliminates the lobster tail permit and fee and create a new lobster processor license to allow for increased market flexibility through the rule-making process.

### **Committee Amendment "A" (H-643)**

This amendment caps the fee the Department of Marine Resources can set for the lobster processor license by rule at \$750 and to change the effective date of the bill from April 1, 2010 to July 1, 2010.

### **Enacted Law Summary**

Public law 2009, chapter 523 implements some of the recommendations of the Governor's Task Force on the Economic Sustainability of Maine's Lobster Industry. It eliminates the lobster tail permit and fee and creates a new annual lobster processor license that authorizes the activities allowed under the lobster tail permit but also allows the holder to process lobsters and lobster meat in accordance with rules adopted by the commissioner. A person must have a wholesale seafood license with a lobster permit and the lobster processor license to conduct the activities authorized by the processor license. It also authorizes the commissioner to set the fee for the lobster processor license by rule.

Public Law 2009, chapter 523 authorizes the commissioner to grant waivers for specific lobster products not addressed in rules that are produced by holders of the lobster processor license. It also exempts hotels or restaurants from the license if the meat is removed within the establishment for serving on the premise as is currently provided under the lobster meat permit. It caps the fee the Department of Marine Resources can set for the lobster processor license by rule at \$750 and to change.

Public Law 2009, chapter 523 was enacted as an emergency measure effective on July 1, 2010.

# Joint Standing Committee on Marine Resources

## LD 1604 An Act To Clarify the Marine Resources Laws To Provide for the Protection of Public Safety and Welfare

PUBLIC 528

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-385

LD 1604 clarifies that the Commissioner of Marine Resources has the regulatory authority to close an area to fishing should it be necessary to protect the public safety and welfare.

### Committee Amendment "A" (S-385)

This amendment consolidates the existing rule-making authority of the Commissioner of Marine Resources with regard to gear conflicts, public health and the provisions proposed in the bill regarding the protection of public safety. It also authorizes the commissioner to adopt emergency rules to prevent property damage and provide that the commissioner must hold a public meeting within 48 hours of adopting an emergency rule regarding the protection of public safety or the protection of property. The amendment provides that the public meeting is not a public hearing for purposes of the Maine Administrative Procedure Act.

### Enacted Law Summary

Public Law 2009, chapter 528 provides that the Commissioner of Marine Resources has the regulatory authority to close an area to fishing should it be necessary to protect the public safety and welfare. It also consolidates the existing rule-making authority of the commissioner with regard to gear conflicts, public health and the protection of public safety. Public Law 2009, chapter 528 authorizes the commissioner to adopt emergency rules to prevent property damage and provides that the commissioner must hold a public meeting within 48 hours of adopting an emergency rule regarding the protection of public safety or the protection of property. It also provides that the public meeting is not a public hearing for purposes of the Maine Administrative Procedure Act.

## LD 1724 An Act To Create a Commercial Pelagic and Anadromous Fishing License and Establish the Pelagic and Anadromous Fisheries Fund

PUBLIC 527

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-393

LD 1724 creates a new license for commercial pelagic and anadromous fishing and a new dedicated fund to provide the revenue needed to conduct research related to pelagic and anadromous fisheries management and to gather fisheries landings information relative to the harvest of pelagic fish and anadromous fish. It also allows the licensing fund to be used for research and development programs that address restoration, development and conservation of pelagic and anadromous fish resources.

### Committee Amendment "A" (S-393)

This amendment authorizes the Commissioner of Marine Resources to determine by rule what crew members may fish under a commercial pelagic and anadromous fishing license that provides for crew members. It also amend the fees for a commercial pelagic and anadromous fishing license to reflect fee changes in other commercial finfish fishing licenses made last year. The amendment reduces the surcharge on a commercial pelagic and anadromous fishing license for resident operators without crew members from \$150 to \$50 and increases the amount for residents

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with crew members from \$100 to \$200 and for nonresidents with crew members from \$100 to \$400.

### **Enacted Law Summary**

Public Law 2009, chapter 527 creates a new license for commercial pelagic and anadromous fishing and a new dedicated fund to provide the revenue needed to conduct research related to pelagic and anadromous fisheries management and to gather fisheries landings information relative to the harvest of pelagic fish and anadromous fish. It allows the licensing fund to be used for research and development programs that address restoration, development and conservation of pelagic and anadromous fish resources.

Public Law 2009, chapter 527 authorize the Commissioner of Marine Resources to determine by rule what crew members may fish under a commercial pelagic and anadromous fishing license that provides for crew members. It amends the fees for a commercial pelagic and anadromous fishing license to reflect fee changes in other commercial finfish fishing licenses made last year. It sets the surcharge on a commercial pelagic and anadromous fishing license for resident operators without crew members at \$50 and residents with crew members at \$200 and for nonresidents with crew members at \$400.

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**SUBJECT INDEX**

*Dealers and Harvesters*

Enacted

LD 1584      **An Act To Require That Marine Resources Dealers Purchase  
Only from Licensed Harvesters**      **PUBLIC 478**

*Department of Marine Resources*

Enacted

LD 1604      **An Act To Clarify the Marine Resources Laws To Provide for the  
Protection of Public Safety and Welfare**      **PUBLIC 528**

*Lobsters*

Enacted

LD 1560      **An Act To Eliminate the 3-trap Limit in the Waters of the State**      **PUBLIC 499**

LD 1593      **An Act To Amend the Lobster Meat Laws and Expand Economic  
Opportunity for Maine's Lobster Industry**      **PUBLIC 523  
EMERGENCY**

*Omnibus*

Enacted

LD 1567      **An Act To Correct Errors and Inconsistencies in Marine  
Resources Laws**      **PUBLIC 561**

*Pelagic and Anadromous Fish*

Enacted

LD 1724      **An Act To Create a Commercial Pelagic and Anadromous  
Fishing License and Establish the Pelagic and Anadromous  
Fisheries Fund**      **PUBLIC 527**

*Recreational Saltwater Fishing*

Enacted

LD 1432      **An Act To Create a Saltwater Recreational Fishing Registry**      **PUBLIC 559**

Not Enacted

LD 1331      **An Act Regarding Saltwater Recreational Fishing**      **ONTP**

*Scallops*

**Not Enacted**

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

**ONTP**

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