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Date: (Filing No. H-)

MARINE RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 240, L.D. 353, Bill, “An Act To Ensure Maine's Elver Fishermen Can Fully Access Maine's Elver Resource”

Amend the bill by striking out the title and substituting the following:

'An Act To Authorize a Temporary Medical Transfer of an Elver Individual Fishing Quota'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

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

Sec. 1. 12 MRSA §6505-A, sub-§3-A, as enacted by PL 2013, c. 485, §7, is amended to read:

3-A. Elver fishing quotas. The commissioner may adopt rules to establish, implement and administer an elver individual fishing quota system in order to ensure that the elver fishery annual landings do not exceed the overall annual quota established by the Atlantic States Marine Fisheries Commission. ~~A~~ Except as provided in section 6575-L, a person issued a license under this section or section 6302-A, subsection 3, paragraph E, E-1, F or G may not take, possess or sell elvers in excess of the weight quota allocated to that person under the quota system. The rules must:

- A. Establish an overall annual quota for the State;
- B. Establish the amount of the overall annual quota under paragraph A that is allocated to persons licensed under this section and specify a formula to establish individual quotas for persons licensed under this section. The formula may take into account the amount of elvers a person licensed under this section lawfully harvested in previous seasons based on final harvesting reports. The rules must specify the date by which harvester reports are considered final for the purpose of determining individual quotas; and
- C. Provide, in accordance with section 6302-B, that 21.9% of the overall annual quota under paragraph A is allocated to the federally recognized Indian tribes in the

COMMITTEE AMENDMENT

1 State and establish the amount of that portion of the overall annual quota allocated to
2 the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet
3 Indians and the Aroostook Band of Micmacs.

4 If persons issued licenses under this section collectively exceed the overall annual quota
5 allocated to those persons pursuant to paragraph B, the number of pounds by which the
6 license holders exceeded that overall annual quota must be deducted from the following
7 year’s overall annual quota allocated to persons licensed under this section. If the overage
8 exceeds the overall annual quota allocated to persons licensed under this section for the
9 following year, the overage must be deducted from the overall annual quota allocated to
10 persons licensed under this section in subsequent years until the entire overage has been
11 accounted for.

12 The commissioner may adopt or amend rules on an emergency basis if immediate action
13 is necessary to establish and implement the elver individual fishing quota in advance of
14 the beginning of the elver fishing season.

15 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
16 chapter 375, subchapter 2-A.

17 **Sec. 2. 12 MRSA §6575-K, sub-§§1 and 2,** as enacted by PL 2013, c. 485, §9,
18 are amended to read:

19 **1. Prohibition on possession or sale of elvers in excess of elver individual fishing**
20 **quota.** A person may not possess or sell a weight of elvers that exceeds the elver
21 individual fishing quota that person has been allocated for the fishing season pursuant to
22 section 6505-A, subsection 3-A, plus any additional quota the person may be authorized
23 to take under section 6575-L.

24 **2. Prohibition on fishing after elver individual fishing quota has been reached.**
25 Except as provided in section 6575-L, this section applies to fishing after a person's elver
26 individual fishing quota has been reached. A person who has sold a weight of elvers that
27 meets or exceeds that person's elver individual fishing quota may not fish for or possess
28 elvers for the remainder of the season, except that such a person who has been issued a
29 license to fish for elvers may in accordance with section 6575-D assist another person
30 who has been issued a license to fish for elvers who has not met or exceeded that person's
31 elver individual fishing quota as provided in section 6505-A, subsection 3-A. All gear
32 tagged by a license holder who has met or exceeded that person's elver individual fishing
33 quota must be removed. A marine patrol officer may seize the elver transaction card of a
34 license holder who has met or exceeded that person's elver individual fishing quota.

35 **Sec. 3. 12 MRSA §6575-L** is enacted to read:

36 **§6575-L. Temporary medical transfer**

37 The commissioner may authorize a temporary medical transfer of the elver individual
38 fishing quota allocated to a person under section 6505-A in accordance with this section.
39 The holder of an elver fishing license who requests a temporary medical transfer under
40 this section must maintain a valid elver fishing license during the duration of the
41 temporary medical transfer.

1 **1. Temporary medical transfer requested prior to March 1st.** Notwithstanding
2 section 6505-A, subsection 3-A, the commissioner may authorize a temporary medical
3 transfer that permits the holder of an elver fishing license issued under section 6505-A to
4 transfer the entire annual quota allocated to that person to another person holding an elver
5 fishing licence issued under section 6505-A if the following criteria are met:

6 A. The transferor reported elver landings in the prior fishing year;

7 B. The transferor is unable to fish the quota allocated to the transferor because the
8 transferor has experienced a substantial illness or medical condition. The transferor
9 shall provide the commissioner with documentation from a physician describing the
10 substantial illness or medical condition; and

11 C. The transferor requests a temporary medical transfer in writing before March 1st
12 of the fishing year for which it is being requested, except that the commissioner may
13 adopt rules that provide a method for authorizing a temporary medical transfer
14 requested after March 1st to address emergency medical conditions.

15 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
16 chapter 375, subchapter 2-A.

17 **Sec. 4. Report.** The Commissioner of Marine Resources shall provide rules
18 adopted, or a written justification for not adopting rules, under the Maine Revised
19 Statutes, Title 12, section 6575-L, subsection 1, paragraph C to the Joint Standing
20 Committee on Marine Resources no later than January 31, 2016. After receiving the rules
21 or the written justification for not adopting rules, the committee may report out a bill
22 related to temporary medical transfers of elver individual fishing quotas to the Second
23 Regular Session of the 127th Legislature.'

24 **SUMMARY**

25 This amendment provides that the Commissioner of Marine Resources may authorize
26 a temporary transfer of the elver individual fishing quota allocated to the holder of an
27 elver fishing license to another holder of an elver fishing license. In order to be eligible
28 to transfer quota, the transferor of the quota must have experienced a substantial illness or
29 medical condition, must request the transfer in writing prior to March 1st of the fishing
30 year and must have reported elver landings in the prior fishing year. The Commissioner
31 of Marine Resources is authorized to adopt rules that would allow a temporary medical
32 transfer requested after March 1st to address emergency medical conditions and must
33 submit the rules or a written justification for not adopting rules to the Joint Standing
34 Committee on Marine Resources by January 31, 2016.

35 **FISCAL NOTE REQUIRED**

36
37 **(See attached)**
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