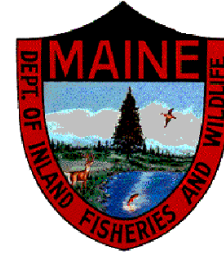




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John Elias Baldacci, Governor

Roland Martin, Commissioner

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November 30, 2005

Dear Commercial Smelt Dealer,

As many of you are aware, the Maine Department of Inland Fisheries and Wildlife spent a fair amount of time last year reviewing, discussing, and revising our existing recreational and commercial smelting laws. As you can imagine, this was no easy task given all the different user groups and the importance of this resource to Maine's anglers. Our primary intention was to build more conservation into our existing smelt management program, as well as, to address a few key conflict areas among the user groups. While the changes may not be perfect, they are certainly a step in the right direction and hopefully we can all work together in the future to further modify smelt regulations as needed to enhance the State's smelt fisheries.

The remainder of the letter provides a brief summary of the statute changes enacted by the legislature that may affect or interest you as a commercial dealer. In addition, I have attached a copy of the actual statute changes for you to review.

- Recreational and commercial anglers are restricted to a 24" diameter dip-net when dipping in or within 100 feet of the mouth of a tributary. Larger diameter nets can still be used in the lake.
- Recreational and commercial anglers are not allowed to dip smelts after 2:00 AM.
- Commercial smelt dealers are only allowed to dip 2 quarts of smelt during the spring dipping season, 8 quarts harvests are no longer allowed during the time on frame.
- Recreational anglers are only allowed to keep five dozen smelt alive, and the remainder of the daily limit must be killed.
- Commercial dealers are only allowed to use artificial light to attract smelt, the use of food particles can no longer be used.
- Commercial smelt dealers must now use a commercially manufactured grader with the following specifications: (1) #14 (14/64") minimum grader spacing, and (2) grader must allow smelts to pass through at least 2 sides and the bottom of the grader.
- Commercial smelt dealers must report their fishing and catch information to the Maine Department of Inland Fisheries and Wildlife by May 31st each year. Additional information is provided in this packet regarding reporting requirements.

Sincerely,

James Pellerin  
Fishery Biologist  
MDIFW

**CHAPTER 237**  
**H.P. 518 - L.D. 723**

**An Act To Amend Laws Pertaining to Commercial Fishing and Baitfish**

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

**Sec. 1. 12 MRSA §10001, sub-§12-A**, as enacted by PL 2003, c. 552, §1 and affected by §15 and c. 655, Pt. C, §§2 and 6, is repealed and the following enacted in its place:

**12-A. Dip net.** "Dip net" means:

A. Except when taking smelts in a tributary or within 100 feet of the mouth of a tributary, a device consisting of a rigid frame filled with netting, firmly attached to a rigid handle and manually operated by a single person; and

B. When used to take smelts in a tributary or within 100 feet of the mouth of a tributary, a device consisting of a rigid circular frame that is not more than 24 inches in diameter as measured at any point on the hoop, filled with netting, firmly attached to a rigid handle and manually operated by a single person.

**Sec. 2. 12 MRSA §12456, sub-§2, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed and the following enacted in its place:

A. A person who holds a valid Maine fishing license may take smelts for recreational purposes only from the inland waters or portions of inland waters that are naturally free of ice with a dip net in the usual and ordinary way from noon to 2:00 a.m. in accordance with bag limits established by rule. Bag limits established by rule under this paragraph are for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day. The commissioner may prohibit the taking of smelts under this section or shorten the noon to 2:00 a.m. smelt fishing timeframe by rule for enforcement or conservation purposes.

(1) A person may not keep more than 5 dozen smelts alive as part of that person' s daily bag limit pursuant to this paragraph.

(2) A person may not take smelts with a dip net unless that dip net meets the requirements under section 10001, subsection 12-A.

Each day a person violates subparagraph (1) or (2) that person commits a Class E crime;

**Sec. 3. 12 MRSA §12551-A, sub-§7, ¶¶A and B**, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, are amended to read:

A. The holder of a smelt wholesale dealer' s license may:

(1) Take live smelts for resale from ~~any inland water~~ waters or private ~~pond~~ ponds. The taking of live smelts from inland waters must be in accordance with general rules adopted by the commissioner in regard to the taking of smelts. Except as provided in paragraph B, the holder of a smelt wholesaler' s license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers and is subject to the same penalties for violations of those limits and restrictions. This subparagraph does not apply to a holder of a fish cultivator license as provided under section 12507;

(2) ~~Use a baitfish trap, a dip net,~~ From ice-in to ice-out, use a drop net, a lift net, a bag net or hook and line to take up to 8 quarts of smelts in a 24-hour period, beginning at noon on a given day, from specific inland waters designated by the commissioner. A dip net may be used in conjunction with the above methods to assist with the handling and transporting of smelts. A licensee may keep the daily bag limit alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day;

(2-A) In waters naturally free of ice, take smelts from noon to 2:00 a.m. by the use of a dip net in the usual and ordinary way. The commissioner may establish the daily bag limit by rule and a licensee may keep the daily bag limit of smelts alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day. The commissioner may shorten the noon to 2:00 a.m. smelt fishing timeframe by rule for enforcement or conservation purposes;

~~(3) May use particles of food~~ Use artificial light for the purpose of luring smelts to a ~~baitfish trap, a dip net, a drop net, or a lift net or a bag net;~~

(4) Transport or possess at the holder' s business facility more than the daily bag limit of smelts provided that the smelts were taken by the license holder in accordance with this section or acquired from a person licensed under this section to deal in live smelts;

(5) Designate others to assist in selling live smelts at the holder' s business facility; and

(6) Transport or designate others to transport on the license holder' s behalf live smelts in accordance with this subsection.

B. The holder of a smelt wholesale dealer' s license may not:

(1) When engaged in taking, or assisting in taking, live smelts for resale from inland waters, fail to exhibit the license to any agent of the commissioner upon request;

(2) Take multiple bag limits from waters governed by general rules regulating the taking of smelts in order to attain the 8-quart limit of smelts described in paragraph A, subparagraph ~~2~~ (2);

(3) Use a seine to take smelts;

(4) Transport or possess at the holder' s business facility more than the daily bag limit of smelts at any time unless the smelts were acquired in accordance with paragraph A, subparagraph ~~4~~ (4). If the smelts were purchased from another person, the license holder must present a receipted invoice, bill of lading or bill of sale to any agent of the commissioner upon request;

(5) Transport from an inland water source to the licensee' s place of business more than 8 quarts of live smelts;

(6) Permit any person to transport live smelts on the license holder' s behalf directly from an inland water source;

(7) Attempt to take from the inland waters of the State live smelts for resale using drop nets through the ice unless the license holder marks all holes made in the ice by that license holder for that purpose. The holes must be marked either by evergreen boughs placed around the hole or by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides;

(8) Take smelts ~~during the winter months, except by hook and line,~~ unless the holder ~~has a~~ uses an operable commercially manufactured number 14 fish grader ~~in operable condition in that holder' s immediate proximity~~ to sort smelts by size during the taking of smelts ~~and uses that grader during the smelt harvesting activity.~~ The holder shall liberate immediately all undersized smelts alive into the waters from which they were taken. For the purpose of this subparagraph, a commercially manufactured number 14 grader is a grader having a minimum grate size of 14/64 inches and that allows smelts to pass through at least 2 sides and the bottom of the grader. The commissioner may adopt rules to amend the grate size restrictions under this subparagraph if the commissioner determines such rules are necessary for conservation or enforcement purposes ~~This subparagraph does not apply to a license holder who fishes with a hook and line~~

~~only; or~~

(9) Possess at that person' s place of business any species of fish that may not legally be sold as bait;

(10) Use particles of food or any other type of bait or lure except light to lure smelts to a drop net or a lift net; or

(11) Use a dip net to take smelts unless that dip net meets the requirements under section 10001, subsection 12-A.

Each day a person violates this paragraph that person commits a ~~class~~ Class E crime.

**Sec. 4. 12 MRSA §12551-A, sub-§10** is enacted to read:

**10. Reports required.** A person licensed under this section must submit a report on forms provided by the department with the following information: name and location, including the town and county of waters fished; date fished; total catch; gear type; and number of nets used. The report must be submitted by May 31st of each year. A person who has not submitted this report may be prohibited from obtaining a license under this section. A person who is prohibited from obtaining a license under this section may submit an appeal to the commissioner. All data submitted as part of the report are for scientific purposes only and are confidential and not a public record within the meaning of Title 1, chapter 13, subchapter 1, except that the commissioner may disclose data collected under this subsection if that data are released in a form that is statistical or general in nature.

Effective September 17, 2005.