

Maine  
Food Strategy  
Initiative

Pulse Check:  
**Food & Fisheries Policy Report**  
126<sup>th</sup> Maine Legislature



**Compiled by:**

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Sara Randall

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[www.mainefoodstrategy.org](http://www.mainefoodstrategy.org)

## Background on the Report

*In the fall of 2013, Gianna Short and Sara Randall undertook the task of reviewing food-related agriculture and commercial fisheries bills that were considered during the 1<sup>st</sup> Session of the 126<sup>th</sup> Legislature (December 5, 2012 through July 10, 2013) as part of their participation in Maine's Sustainable Food Systems Leadership Institute coordinated by the Maine Association of Nonprofits. For future analysis, the authors have recommended including bills pertaining to recreational fishing and hunting as well. A summary version of this report was reviewed by the Maine Food Strategy's Research Committee in December 2013 and presented at the Maine Food Summit, University of Maine, Orono, on December 10, 2013.*

*The report was updated by Tanya Swain, Co-Director, Maine Food Strategy in February 2014 with input from the public, authors and the Maine Food Strategy Research Committee.*

**For more information about the Maine Food Strategy:**

[www.mainefoodstrategy.org](http://www.mainefoodstrategy.org).

**For more information on the Sustainable Food Systems Leadership Institute:**

[www.nonprofitmaine.org](http://www.nonprofitmaine.org).

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## About the Authors

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**Access to the database of cataloged bills available here:** <http://bit.ly/1bElOZX>

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**Cover Photos:** *Used with permission, courtesy of the Eat Local Foods Coalition of Maine ([www.eatmainefoods.org/photo](http://www.eatmainefoods.org/photo)), featuring photo submissions by Lisa Fernandes (Produce), Roger Doiron (Mussels), Shawn Saindon (Cheese) & Barbi Ives (Bees).*

## Maine Agriculture/Food Policy Summary

The first session of the 126<sup>th</sup> Legislature dealt with dozens of bills with significance to farming and food policy in the state. The issues that arose ranged across the spectrum of Maine agriculture, and the summary that follows is an attempt to provide highlights of the 2013 session with some context. Fifty bills are categorized here with those bills in **bold** receiving the most explanation.<sup>1</sup> In each section that follows, bills are listed with a short description of the bill, the LD number,<sup>2</sup> and the outcome. Bill titles are not included here because they are often long and fail to communicate the actual substance of a bill. The accompanying spreadsheet provides extended summaries, titles, and information for all bills listed.

Top issues include: labeling of genetically modified organisms (GMO); poultry slaughter regulations and local food sovereignty; the merging of the Department of Agriculture with the Department of Conservation and Forestry; pesticides use and regulations; milk pricing; and local food in schools and other institutions. These topics will be reviewed in greater depth, however, there were many other important bills on subjects that did not garner as much attention or died. The Legislature delayed decisions on a selection of bills by carrying them over to the 2014 session.

### **Genetically Modified Organisms (GMO) Labeling - 2 bills**

Labeling of Agricultural Products	LD 718 (law without the Governor’s signature)
Labeling of Marine Products	LD 898 (dead)

Genetically modified organisms have DNA that has been spliced with that of an unrelated plant, animal, bacterium or virus. The GMO Labeling bill introduced in the last session was the fifth bill introduced to label GMOs since 1993<sup>3</sup> and attracted significant press coverage and public participation in hearings.

Sponsored by Sen. Chris Johnson (D-Somerville) and Rep. Lance Harvell (R-Farmington), the bill, if implemented, will require that products made with genetically engineered ingredients be labeled “Produced with Genetic Engineering.” It will also restrict use of the label “natural” on products with GMOs included. Several categories of food are not required to have labeling by LD 718, including food served in restaurants, animal products (unless the animals themselves have been engineered in which case they would be labeled), and alcohol. Additionally, the bill will not go into effect unless four other contiguous states pass comparable labeling laws. Connecticut has already passed and signed a bill into law. New Hampshire and Vermont are currently considering laws. A more comprehensive description of what the bill does can be found on

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<sup>1</sup> The goal is to catalogue all relevant bills, but highlights are the author’s opinion. Please direct any comments or questions to [mfs@mainefoodstrategy.org](mailto:mfs@mainefoodstrategy.org), including if a bill has been overlooked.

<sup>2</sup> LD is short for Legislative Document. If interested, one can use the LD number to search for bills on Maine’s legislative website: <http://www.mainelegislature.org/LawMakerWeb/search.asp>

<sup>3</sup> Heather Spalding MOFGA Autumn 2013  
<http://www.mofga.org/Publications/MaineOrganicFarmerGardener/Fall2013/SpaldingEditorial/tabid/2676/Default.aspx>

MOFGA's website.

LD 718 had strong support from MOFGA and its allies. Opponents included the Maine State Chamber of Commerce, the Maine Farm Bureau and the Grocery Manufacturers Association who said the bill would stigmatize genetically modified foods despite scientific research proving that GMO products are no less healthful than those grown conventionally.<sup>4</sup> Questions about the constitutionality of the bill were also raised and Attorney General Janet Mills has said that Maine is likely to face a legal challenge over the legislation from industry interests.<sup>5</sup>

The bill ended up with unanimous support in both the House and the Senate and was signed into law by the Governor in January 2014 after being carried over from the 2013 session.<sup>6</sup>

Since LD 718 addressed animal products including fish, the other GMO labeling bill, which dealt with only marine GMO labeling was abandoned as momentum built around 718. For more detailed information on LD 898, refer to the Fisheries Policy Summary.

**Food Regulation - 7 bills**

<b>Flexibility for small-scale poultry processing</b>	<b>LD 218 (signed into law)</b>
<b>Allow poultry processing for other farms</b>	<b>LD 259 (signed into law)</b>
Deregulate custom (not-for-resale) livestock processors	LD 271 (dead)
Establishment of a Maine Food Sovereignty Act	LD 475 (dead)
<b>Allow licensing of mobile poultry processing</b>	<b>LD 836 (law without signature)</b>
<b>Allow unlicensed farm-gate sale of raw milk</b>	<b>LD 1282 (passed, but vetoed)</b>
Allow unlicensed sale of homemade food	LD 1287 (carried over)

Maine is currently home to a burgeoning food sovereignty movement whose advocates assert that government and big agribusiness are making it increasingly difficult for small farms to succeed due to one-size-fits-all regulations. At the heart of debate on these issues is a tension between the ability to sell or purchase farm products with no or minimal regulations/licensing and public health concerns.

The state of Maine already has a few areas in which the state assumes responsibility for food safety rather than defaulting to national oversight. Raw milk is one such case. In testimony about LD 1282, the Director of Quality Assurance & Regulations for Maine agriculture stated, “[Maine takes] responsibility for implementing numerous programs to prevent food borne illnesses and to inform consumers of potential food allergens by focusing on food safety

<sup>4</sup> Mistler, Steve, “GMO labeling bill clears legislative hurdle, but industry fight foreseen,” Portland Press Herald, June 13, 2013, <http://www.kjonline.com/news/Maine-House-gives-first-nod-to-GMO-labeling-bill-in-landslide-vote.html?pagenum=full>

<sup>5</sup> Mistler, Steve, “LePage: I’ll sign bill requiring labels for genetically modified foods,” Portland Press Herald, July 9, 2013, <http://www.kjonline.com/news/Maine-House-gives-first-nod-to-GMO-labeling-bill-in-landslide-vote.html?pagenum=full>

<sup>6</sup> Mistler, “LePage: I’ll sign bill requiring labels for genetically modified foods,” July 9, 2013.

practices, sanitation and labeling requirements.”<sup>7</sup> As such, whenever new legislation is introduced that could shift the regulatory balance, people watch closely to ensure that the state does not upset federal standards which could jeopardize the state’s right to self-regulation.

The recent flurry of activity surrounding food sovereignty issues has been traced back to 2009 when the Maine Department of Agriculture implemented facilities requirements for small-scale poultry processing.<sup>8</sup> Small farmers who were processing less than 1,000 birds each year in an open-air manner were no longer allowed to do so, and were required to use licensed facilities on their farm to meet the new regulations.<sup>9</sup>

The three successful bills amending poultry slaughter regulations in 2013 relate to that issue directly and suggest that there is a hospitable climate for the expansion of local meat production in Maine.

LD 218 gives farmers more options with regards to the number of birds they can process without an inspector present, including in open-air scenarios, alleviating the problem brought to light in 2009. LD 259 allows farmers who have poultry processing facilities to process small quantities of birds for other farmers, reducing the need for redundant, costly facilities. LD 836 defines what “a mobile poultry processing unit” is; adds operators of such units to those required to be licensed and permits a poultry producer to sell products exempt from inspection to locally owned restaurants and grocery stores.

Food safety remains a concern with legislation that changes regulations governing how food is inspected and processed. The laws have explicit directions for farmers and processors to ensure food safety. One bill states: “It is the intent of the Legislature to provide maximum flexibility to Maine’s poultry processors while still maintaining compliance with federal requirements. It is the intent of the Legislature that Maine’s meat and poultry inspection program continue to attain its high standards while allowing for maximum flexibility.”<sup>10</sup>

Returning to the subject of raw milk sales, a perennially controversial topic, the bill to allow small-scale producers to sell raw milk without a license passed both the House and the Senate but was vetoed by Governor LePage. The Governor said he agreed with the spirit of the bill, if not the letter,<sup>11</sup> but had concerns with allowing unlicensed raw milk producers to sell their products at farmers’ markets. He said he would support an amended bill that restricted sales to take place only at the producer’s farm, where the consumer would be able to hold the producer directly accountable for food borne illness. In a letter to the legislature, the Governor said he

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<sup>7</sup> Ron Dyer, Director of Quality Assurance & Regulations Maine DACF, in testimony on LD 1282 <http://www.mainelegislature.org/legis/bills/getFestimonyDoc.asp?id=11963>

<sup>8</sup> O’Brien, Andy, “Eye on Augusta: Food Sovereignty Movement Takes Root in Maine,” *The Free Press*, August 28, 2013, <http://freepressonline.com/main.asp?ArticleID=28063&SectionID=50&SubSectionID=72>

<sup>9</sup> Chapter 348, State of Maine rule Chapters for the Department of Agriculture, Conservation and Forestry. <http://www.maine.gov/sos/cec/rules/01/chaps01.htm>

<sup>10</sup> LD 218 [http://www.mainelegislature.org/legis/bills/bills\\_126th/chapters/PUBLIC323.asp](http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC323.asp)

<sup>11</sup> Correspondence from Gov. LePage to the Legislature, July 8, 2013, <http://www.maine.gov/tools/whatsnew/attach.php?id=559417&an=1>

would support an amended bill that restricted sales of raw milk to take place only at the producer’s farm. The Governor noted that “the ‘on Farm only’ approach would reduce risk to overall public health because consumers would know the farmer who produced the milk, see and inspect the farm and hold the producer accountable for food borne illnesses that are associated with unpasteurized milk. It would at the same time, encourage more on Farm sales of raw mile without requiring a state license.”<sup>12</sup>

**Funding and Administrative Policies – 7 bills<sup>13</sup>**

Reducing departmental reporting responsibilities	LD 286 (law without signature)
Improving funding of agricultural development projects	LD 287 (signed into law)
Elimination of technical services for direct marketing	LD 289 (signed into law)
<b>Funding for soil and water conservation districts</b>	<b>LD 377 (passed)</b>
Governance of Potato Marketing Improvement Fund	LD 5 (signed into law)
<b>Departmental merger guidelines</b>	<b>LD 837 (signed into law)</b>
<b>Support for small food processors</b>	<b>LD 1521 (carried over)</b>

The legislature considered seven bills pertaining to funding and administrative issues of the Maine Department of Agriculture, Forestry and Conservation and agriculture development programs. These included LD 377 which will provide \$50,000 for soil and water conservation districts and LD 1521 which would direct DACF to create a pilot program modeled on the Maine Farm for the Future Program for small food processors.

In 2012, the Legislature directed the Department of Agriculture to merge with the Department of Conservation and Forestry to become the Dept. of Agriculture, Conservation and Forestry (DACF). In 2013, they wrote the guidelines for that merger via the bill LD 837.

The Commissioner of the new department, Walter Whitcomb, explained in a Portland Press Herald op-ed: “Maine’s unique alignment of Agriculture, Conservation and Forestry staff -- there is no other state with an agency quite like it -- very well matches our unique landscape. We have many more trees than people, and we have natural places that should not be disrupted. But we also have a tremendous, barely tapped capacity to grow healthy food to feed an entire region.”<sup>14</sup>

LD 837 was supported by the Natural Resources Network, an alliance of organizations whose members depend on Maine’s natural resources for business and recreation. The network is comprised of the Maine Forest Products Council, Sportsman’s Alliance of Maine, Maine Potato Board, Small Woodland Owners Association of Maine, Maine Aquaculture Association, Maine

<sup>12</sup> Correspondence from Gov. LePage to the Legislature, July 8, 2013. <http://www.maine.gov/tools/whatsnew/attach.php?id=559417&an=1>

<sup>13</sup> LD 5 transferred administration of the Potato Marketing Improvement Fund from the ACF Commissioner to the Potato Board. The Commissioner will continue to approve all grants and loans.

<sup>14</sup> Whitcomb, Walter, “Maine Voices: New state department’s responsibilities as big as all outdoors,” Portland Press Herald, April 20, 2013, [http://www.pressherald.com/opinion/new-state-departments-responsibilities-as-big-as-all-outdoors\\_2013-04-20.html](http://www.pressherald.com/opinion/new-state-departments-responsibilities-as-big-as-all-outdoors_2013-04-20.html)



Dairy Industry Association, Maine Snowmobile Association, Maine Lobsterman's Association, Wild Blueberry Commission, Maine Trappers Association, Maine Farm Bureau, Maine Professional Guides Association and Independent Energy Producers Association.

A motivator behind the merger, however, was also departmental financing. Part of the reasoning for the merger, according to Commissioner Whitcomb, was “a nearly 40 percent reduction in General Fund dollars available to the former Agriculture Department in the last 10 years.”<sup>15</sup> This fact concerned some conservation groups, including Maine Audubon and the Natural Resources Council of Maine because of the potential for funds to be diverted from conservation programs towards agricultural programs. Not all conservation groups were opposed. LD 837 received bipartisan support: it was enacted with large margins and signed by the Governor into law.

**Pesticides – 9 bills**

Rule change re: notification and schools	LD 33 (law without signature)
<b>Create a plan for mosquito-borne illnesses</b>	<b>LD 292 (signed into law)</b>
Enhancement of integrated pest management	LD 903 (signed into law)
Restrict pesticides on school grounds	LD 961 (dead)
<b>Create a pesticide spraying notification process</b>	<b>LD 1391 (dead)</b>
Clarify permitted use of aquatic pesticides	LD 1430 (signed into law)
Pesticide use on medical marijuana	LD 1531 (law without signature)
Rule change re: power equipment application	LD 1567 (carried over)
Rule change re: aerial pesticide application	LD 1569 (carried over)

Pest management is a perennially important issue for farmers. Regulations governing where, when, and which pesticides can be used are numerous and are constantly being tweaked. Maine’s Board of Pesticides Control also plays a significant role in this process.<sup>16</sup> Opinions differ widely on the safety and environmental implications of pesticide use, and this topic can be divisive. One issue of growing concern for public health is the threat of mosquito-borne illness such as West Nile Virus and Eastern Equine Encephalitis. While this is a public health issue rather than an agricultural one, the potential need to use widespread spraying of pesticides to control mosquito populations means that any laws on this issue could impact agriculture, especially sectors that are sensitive to pesticide use such as organic farming and specialty crops like lowbush blueberries.

<sup>15</sup> Whitcomb, “Maine Voices: New state department’s responsibilities as big as all outdoors,” April 20, 2013.

<sup>16</sup> The Board of Pesticides Control (BPC) is Maine's lead agency for pesticide oversight and falls administratively under the Maine Department of Agriculture, Conservation and Forestry. Policy decisions are made by a seven-member, public board whose representation required by Maine statute to include “three persons knowledgeable about pesticides in agriculture, forestry or commercial applications. One person must have a medical background and another must hold a faculty position at the University of Maine with expertise in integrated pest management. The two remaining members are chosen to represent the public and must come from different geographic areas of the state. All members are nominated by the Governor and approved by the Legislature. Members serve for alternating four-year terms and are eligible for re-nomination.” <http://www.maine.gov/dacf/php/pesticides/contact.shtml>

## Dairy Industry – 3 bills

<b>Ensuring the continuation of dairy farming</b> <b>Establishment of milk pricing “Task Force”</b> Milk promotion	<b>LD 368 (carried over)</b> <b>LD 789 (law without signature)</b> LD 813 (dead)
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The high cost of fuel and feed and the low cost of milk in the marketplace are making it increasingly difficult for dairy farmers in Maine to make a profit. Many agree that something needs to be changed, but farms of varying sizes have different bottom lines and it is difficult to create a system that is fair to large and small dairy farms alike. The state has its own dairy price-stabilization program<sup>17</sup> and arguably has been more successful in supporting the industry than other New England states.<sup>18</sup>

Policy-making in the dairy industry generally revolves around the subject of milk pricing, in which a price floor is set in a series of different tiers by fairly complicated formulas.<sup>19</sup> This issue could be the “sleeper hit” for food policy in the 126th session. One of the bills introduced (LD 789) became a resolve to establish a “Task Force on Milk Tier Pricing” to study the current structure and another got carried over to be dealt with during the second session in 2014, it is likely that we will see more debate on milk pricing. The Task Force is to report to the ACF Committee by December 4th of 2013.<sup>20</sup>

## Maine Food in Schools & Institutions

Teach agricultural studies in schools Promote sustainable food policies Increase Maine foods in state institutions <b>Promote school nutrition and local foods</b> <b>Promote local food in schools</b>	LD 668 (law without signature) LD 745 (vetoed) LD 1254 (vetoed January 2014) <b>LD 1431 (carried over)</b> <b>LD 1185 (carried over)</b>
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<sup>17</sup> Maine Milk Commission, [http://www.maine.gov/dacf/about/boards/milk\\_commission/established](http://www.maine.gov/dacf/about/boards/milk_commission/established).

<sup>18</sup> Mack, Sharon Kiley, “Maine dairy farmers closely watch fate of tier payment program,” Bangor Daily News, April 3, 2012, <http://bangordailynews.com/2012/04/03/business/maines-dairy-farmers-closely-watch-fate-of-tier-payment-program/>.

<sup>19</sup>For instance, one aspect of LD 368 “simplifies the process of calculating dairy stabilization tier program payments by eliminating additions to the statistical uniform blend price when determining the base price for comparison with the so-called tier safety net levels.”

<sup>20</sup>A 2010 UMaine Cooperative Extension survey on production costs for dairy farms concluded that “purchased feed costs remain the single largest expense on most farms and reflect the higher cost of ingredients in Maine. Labor efficiency is another benchmark for Maine farms that is below other states (CDFBS and Farm Credit studies).” [http://www.umaine.edu/mafes/elec\\_pubs/bulletins/b853.pdf](http://www.umaine.edu/mafes/elec_pubs/bulletins/b853.pdf)

The legislature entertained several bills focused on encouraging increased procurement of locally produced foods in Maine schools and institutions. These included two bills aimed at requiring public schools to increase procurement of Maine produced foods. LD 1185, carried over from the first session, would require school administrative units to determine and report at least annually the percentage of food purchased, grown or otherwise acquired that is grown, raised or caught in Maine. LD 1431, also still pending, would fund feasibility studies for food hubs and funding to support food hubs to supply Maine schools.

LD 1254, which was vetoed in the second session, would have required state or school purchasers, except for a school purchaser at a school that participates in the National School Lunch Program, to purchase increasing percentages Maine harvested and produced foods. LD 745, also vetoed, would have created a state commission on statewide food sustainability to study issues related to establishing food sustainability policies and reducing food insecurity, and to consider the need for a statewide food sustainability plan.

## Other Legislation

- |   |  |
|---|--|
| • Rule review re: seed potatoes                         | LD 2 (law without signature) <sup>21</sup> |
| • Governance of Potato Marketing Improvement Fund       | LD 5 (signed into law) <sup>22</sup>       |
| • Potato tax info to Maine Potato Board                 | LD 9 (law without signature)               |
| • Brucellosis Vaccines for Cattle                       | LD 288 (signed into law)                   |
| • Transfer bottle bill responsibility from ACF to DEP   | LD 291 (dead)                              |
| • Prohibit unauthorized wild harvesting                 | LD 421 (dead)                              |
| • Reduce food waste in state funded institutions        | LD 476 (dead)                              |
| • Promote industrial hemp                               | LD 525 (dead)                              |
| • Tax credit for charitable agricultural food donations | LD 561 (dead)                              |
| • Clarify agriculture within shoreland zoning           | LD 641 (signed into law)                   |
| • Review maple syrup licensing                          | LD 657 (law without signature)             |
| • Update maple syrup grade standards                    | LD 658 (signed into law)                   |

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<sup>21</sup> LD 2 authorized final adoption of portions of Chapter 252 of rules and statues related to Agriculture, Forestry and Conservation. Chapter 252 outlines procedures and standards governing the certification of seed potatoes in Maine. FMI on the Maine seed potato certification program: [http://www.maine.gov/dacf/php/seed\\_potato/index.shtml](http://www.maine.gov/dacf/php/seed_potato/index.shtml)

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<sup>22</sup> Under LD 5, the Potato Board will assume administration of the Potato Marketing Improvement fund from the ACF Commission. The Commissioner will continue to approve all grants and loans. The mission of the Maine Potato Board is “to provide a competitive environment for potato growers, processors, and dealers creating stability and the infrastructure for future growth, while promoting the economic importance to the state and quality of the product,” [www.maineptatoes.com](http://www.maineptatoes.com). The Potato Marketing Improvement Fund is funded through DCAF and provides low-interest financing to help potato growers and packers improve the quality and marketing of Maine potatoes, and to fund programs and activities that improve the economic viability of the potato industry. such improvements include irrigation equipment and water source development projects. The fund is managed by the Finance Authority of Maine, [http://www.famemaine.com/files/Pages/business/businesses/direct\\_loans/Potato\\_Marketing\\_Fund.aspx](http://www.famemaine.com/files/Pages/business/businesses/direct_loans/Potato_Marketing_Fund.aspx).

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|--|---------------------------|
| • Study liability of apiary owners and operators | LD 838 (dead)             |
| • Study availability of BPA-free food packaging  | LD 844 (dead)             |
| • Add biosolids as a fertilizer category         | LD 1009 (signed into law) |
| • Label food packaging with BPA                  | LD 1050 (dead)            |
| • Prohibit horse slaughter for human consumption | LD 1286 (dead)            |
| • Establish a livestock damage compensation fund | LD 1307 (dead)            |

## Maine Commercial Fisheries Policy Summary

There were 36 bills related to commercial fisheries in the first regular session of Maine’s 126<sup>th</sup> legislature. The bills were heard by the Joint Standing Committee on Marine Resources, which has jurisdiction over issues related to the Maine Department of Marine Resources (DMR); commercial marine fisheries management, licensing and enforcement; marine fish species; diadromous fish, mollusks; crustaceans; seaweed; sea urchins; sea cucumbers; processing and sale of marine fish and shellfish; and aquaculture.

The bills heard in the first session of 126<sup>th</sup> by the Joint Standing Committee encompassed the major fisheries of the state, including lobster, elver, shellfish, groundfish, river herring (alewife), seaweed, urchin, and scallop. Other subjects addressed by legislation in the first session of the 126<sup>th</sup> Legislature regarded guiding principles for state fishery management plans, reduced license fees for certain citizens, tribal fishing rights, and Genetically Engineered (GE) fish labeling.

Below is a policy summary of the bills, by subject, including the topics of the legislation introduced, information on each bill, the context for the bill’s introduction, and status.

### Lobster – 8 bills

<b>Lobster Marketing Collaborative</b>	<b>LD 486</b> (enacted), LD 182 (carried over)
Price Fixing	LD 469 (dead)
Tax incentive for increased processing	LD 643 (dead)
Reduce traps in F&G	LD 810 (dead)
<b>Swan Is. Lobster Conservation Area</b>	<b>LD 1020</b> (emergency signed & enacted)
<b>New entrants</b>	LD 1544 (emergency signed & enacted)
Non-comm., Nondomiciled	
Res. Lob. & Crab License	LD 899 (dead)

Legislation related to the lobster industry generated the highest number of commercial fisheries-related bills in the first session of the 126<sup>th</sup> Legislature. Most of these bills fit into two

general categories: **marketing/promotion** and **Lobster Zone regulations**. The high number of lobster- related bills is not surprising considering lobster is the most valuable fishery in Maine and is the fishery that employs the greatest number of fishermen. In 2012, lobster made up 65% of the value of Maine’s commercial species. In comparison, the second highest valued fishery, elvers, provided only 7% of the value of Maine’s fisheries.<sup>23</sup>

Currently, most of Maine’s coast relies solely on the lobster fishery. This was not always the case however, as Maine has traditionally enjoyed a diverse portfolio of fisheries. This current dependence on the lobster fishery raises concern about the resiliency and sustainability of Maine’s fishing communities. If lobster populations sudden experience decline – for example, because of disease or invasive green crab predation- Maine’s fishing and broader economy would be devastated.<sup>24</sup>

The lobster fishery is probably the oldest, continuously operated industry on the North American continent<sup>25</sup>. Maine lobstermen can fish year-round, though most lobsters are landed in the summer and fall.

In the category of marketing and promotion, many of the bills introduced related to interest in raising the price fishermen receive (referred to as a “boat price” or “ex-vessel”) for their catch. In the past few years, Maine lobster landings have experienced “unparalleled growth” (DMR 2013). However, while landings have increased, the market value of lobster has declined. For example, lobstermen landed 18 million more pounds in 2012 than they did in 2011, but the 2012 lobster catch declined in value by 3.7 million dollars. For all of 2012, Maine lobstermen on average earned \$2.63 per pound for their catch, which is the lowest annual average statewide boat price since 1994.<sup>26</sup>

Prices that low make it hard for a fisherman to make a profit lobster fishing. The low lobster prices are influenced by the concurrent increase in Canadian lobster landings, and Canadian lobstermen have experienced decreased prices as well. In an effort to increase market demand and boat prices, two of the lobster bills introduced addressed the increased marketing of lobster nationally and internationally. LD 486, which was signed into law, will generate about \$9,000,000 over the next 5 years for the marketing of lobster through the Maine Lobster Marketing Collaborative. The Collaborative intends to transition the Maine Lobster “brand” into a new and more aggressive era to target increased state, regional, national and global demand. LD 486 increased the license surcharge fee on the Lobster & Crab harvester license and certain dealer licenses to fund the Collaborative. Another bill, LD 182, was carried over to the next

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<sup>23</sup> See “Preliminary 2012 Commercial Maine Landings By Ex-vessel Value,” Maine Department of Marine Resources website: <http://www.maine.gov/dmr/commercialfishing/documents/2012ValueBySpecies.Pie.pdf>

<sup>24</sup> Wee, Heesun, “Something fishy is going on in the nation’s lobster capital,” CNBC, Aug. 13, 2013, <http://www.cnn.com/id/100987863>

<sup>25</sup> “Preliminary 2012 Lobster Landings Show an Increase of 18 Percent Over 2011 While Value Declines by \$3.7 Million,” Maine Department of Marine Resources, 2013, <http://www.maine.gov/dmr/news/2013/2012LobsterLandings.htm>

<sup>26</sup> Trotter, Bill, “High lobster landings in Canada keep dockside prices low in Maine,” Bangor Daily News, June 14, 2013, <http://bangordailynews.com/2013/06/14/news/hancock/high-lobster-landings-in-canada-keep-dockside-prices-low-in-maine/>

session and proposes an immediate general fund appropriation of \$1 million in the 2013-2014 fiscal year to immediately jump-start the lobster marketing effort.

Another bill related to price, LD 469, which would have empowered the DMR commissioner to investigate price-fixing by lobster dealers, was voted “ought-not-to-pass” and died. According to DMR, the state attorney general already has the power to investigate price fixing.<sup>27</sup>

LD 643, a bill to provide incentives to establish more lobster processing in Maine, also died. This bill arose over concern stemming from the fact that less than 10% of Maine's lobster catch is processed in Maine. Instead, much of Maine's lobsters go to Canada for processing.<sup>28</sup> The recent increased lobster landings and corresponding low prices caused a market glut of lobsters in both Canada and Maine. The economic instability caused by the low prices resulted in Canadian fishermen blockading trucks carrying Maine lobsters to stop them from reaching Canadian processing facilities<sup>29</sup>. It is hoped that the creation of more in-state lobster processing businesses will increase lobster boat prices, prevent international conflict, and keep more of the economic value of Maine's lobster inside the state.

Three of the bills dealt with management within the Lobster Management Zones. There are seven Lobster Management Zones in Maine, governed by an elected council of fishermen that determine best harvest practices. Zone councils determine the maximum number of traps each license holder is permitted to fish, the number of traps that may be fished on a single line, as well as the maximum number of fishermen in their zone<sup>30</sup>. LD 1020, which was passed into law, established in statute the Swans Island Lobster Conservation Area and increased the trap limit for Swan's Island fishermen from 475 to 550. Most lobstermen in Maine are limited to 800 traps.<sup>31</sup>

Another bill that was signed into law, LD 1544, addressed how to accommodate new entrants into the fishery, which is a concern among most fishermen and has become an increasingly hot-button issue in Maine.<sup>32</sup> The bill was introduced as an emergency measure by the Governor's office, and expands the authority of the lobster zone councils to allow councils to make a recommendation to the Commissioner of Marine Resources regarding the methodology used to calculate the number of new entrants into a lobster management zone. This bill would allow a council to recommend using the number of licenses retired, instead of basing the calculation on the number of trap tags retired. It also creates a temporary medical allowance so

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<sup>27</sup> Gilbert, Deidre, director of state marine policy for the Department of Marine Resources, is attributed with providing this information in Working Waterfront, “New marketing collaborative aims to grow demand,” July 24, 2013.

<sup>28</sup> Canfield, Clarke, “Maine Moves to Capture Lobster-Processing Market,” Associated Press, July 5, 2013. <http://abcnews.go.com/m/story?id=19586548&sid=81>

<sup>29</sup> Trotter, Bangor Daily News, June 14, 2013.

<sup>30</sup> FMI on Maine Lobster Zone Councils: <http://www.maine.gov/dmr/council/lobsterzonecouncils/>

<sup>31</sup> Trotter, Bill, “State raises lobster trap limit on Swan's Island,” Bangor Daily News, June 29, 2013.

<https://bangordailynews.com/2013/06/29/news/hancock/state-raises-lobster-trap-limit-on-swans-island/>

<sup>32</sup> Schreiber, Laurie, “Limited Entry, Young Want In, Seniors Out,” Fishermen's Voice, Volume 17, No. 5, May 2012. <http://www.fishermensvoice.com/archives/201205Index.html>.

that a lobsterman who is unable to fish due to a temporary medical condition can allow his child or spouse to operate under the license for up to one year.

LD 810, which concerned reducing the number of lobster traps a lobsterman may fish in the limited entry zone in fishing Zones F and G, died. LD 899, would have created a noncommercial, nondomiciled resident lobster and crab fishing license, and also died.

**Elver – 7 bills**

Sustainability	LD 497 (dead)
Fairness & Equity	LD 1397 (dead)
Increase licenses and conservation	LD 731 (dead)
<b>Strengthened enforcement</b>	<b>LD 632 (emergency enacted w/o Gov. signature)</b>
	LD 1545 (Gov. bill- enacted)
<b>Tribal fishing rights</b>	<b>LD 604 (emergency signed and enacted)</b>
	LD 451 (emergency signed and enacted)

The emergent Maine elver (eel) fishery was the source of the second greatest amount of bills in the first session of the 126<sup>th</sup> Legislature. This is because of the elvers recent dramatic price increase, which makes this fishery very lucrative for those fishermen with licenses. High prices, coupled with high demand, have recently made this fishery the second highest valued in Maine. Over the past decade, prices for the eel have fluctuated, once dropping as low a \$25/lb. However, in 2010 Europeans placed a moratorium on exporting eels and the Japanese eel stock was negatively impacted by the 2011 tsunami. After that, eel prices in Asian markets have soared and in 2012 Maine elver fishermen were being paid as much as \$2,600 a pound.<sup>33</sup> The high value of the fishery, combined with limited license availability (limited entry) and uncertain stock status caused the abundance of introduced elver legislation.

Maine is one of only two states to have an elver fishery.<sup>34</sup> Elvers are baby American eels, also known as “glass eel”. The catadromous elvers are caught by fyke, or dip nets, as they return to their home rivers after ocean spawning during a short two-month commercial fishing season. The Atlantic States Marine Fisheries Commission<sup>35</sup> manages the elvers in territorial seas and inland waters along the Atlantic coast from Maine to Florida and has assessed elver stocks as being "depleted in U.S. waters," due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxics and contaminants and disease. <sup>36</sup> The U.S. Fish & Wildlife Service is considering listing the species under the Endangered Species Act.<sup>37</sup> Maine has been told this year by the Atlantic States Marine

<sup>33</sup> McKim, Jenifer, “Eel fishing has been a boon to many in Maine,” The Boston Globe, May 19, 2013. <http://www.bostonglobe.com/business/2013/05/18/baby-american-eels-providing-huge-profits-and-big-headachesmaine/2MIpT1TNgztsJFm1sh8ION/story.html>

<sup>34</sup> McKim, “Eel fishing has been a boon to many in Maine,” May 19, 2013.

<sup>35</sup> Atlantic States Marine Fisheries Commission, American Eel, <http://www.asafc.org/species/american-eel>, (accessed Feb. 28, 2014).

<sup>36</sup> Atlantic States Marine Fisheries Commission, American Eel, <http://www.asafc.org/species/american-eel>, (accessed Feb. 28, 2014).

<sup>37</sup> Trotter, Bill, “Maine agrees to reduce lucrative elver landings,” Bangor Daily News, Oct. 31, 2013,

Fisheries Commission to reduce its statewide catch total in 2014 by 25 to 40 percent from the 18,253 total pounds that were caught statewide last spring.<sup>38</sup> The Commission limits Maine to a maximum of 744 licenses and gear restrictions that only allow either one or two large, funnel-shaped fyke nets, or a single hand-held dip net. The commission’s current elver fishery plan does not allow Maine to adjust its gear restrictions but adjustments could be made with the next commission-approved fishery plan, which would be implemented prior to Maine’s 2015 elver season.<sup>39</sup>

Poaching is a major problem in the elver fishery because of the high price of elvers combined with fact that the fishery is limiting entry for fishermen. Two bills addressing the need for increased elver poaching enforcement were enacted into law in the first session of the 126<sup>th</sup> Legislature. LD 1545, “Technical Changes to Maine's Marine Resources Laws and Elver Enforcement Mechanisms” was the Governor’s bill. Not exclusive to elvers, this bill made changes in the laws governing many marine resources, including aquaculture. Specific to the elver fishery, it implemented changes designed to improve enforcement mechanisms. Another bill, LD 632, “An Act To Enact Measures To Improve Enforcement Mechanisms in the Elver Industry” passed the Legislature on an emergency basis. Most notably, it criminalizes all elver fishery violations. Among other changes, this bill authorizes the seizure of a bulk pile that contains illegally harvested elvers and prohibits the possession of elvers outside of the open season.

Concern about both limited entry and sustainability of the elver fishing also prompted the introduction of several bills aimed at changing licensing processes. None of the bills succeeded. LD 1397, “An Act To Create Equity and Fairness in the Elver Industry” proposed making the elver licensing process more comparable to the licensing processes for other similar industries within the Department of Marine Resources to improve fairness. LD 497, “An Act To Move Maine's Elver Fishery towards Sustainability,” would have restricted elver harvesting to Maine residents and limited harvest to dip nets. LD 731, “An Act To Increase the Number of Elver Harvesting Licenses and Preserve the Fishery through Conservation”, would have established special elver fishing license lotteries in 2014 and 2015 to open the licensing process to new entrants.

**Shellfish– 2 bills**

Truth in advertising/depuration	LD 1224 (dead)
<b>Municipalities prohibit worm harvesting</b>	<b>LD 1452</b>

Shellfish encompasses soft-shell clams, quahogs (hard-shell clams), oysters, whelks, periwinkles, and mussels. Soft-shell clams are Maine’s third most valuable fishery and employ the second highest (after Lobster & Crab) number of active harvesters in the state (DMR “Number of Active Commercial Harvesters in Maine” 2013). The soft-shell fishery is co-managed in partnership with individual municipalities and the state through each town’s Municipal Shellfish Program. Two bills pertaining to the shellfish industry were introduced in the first session.

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<http://bangordailynews.com/2013/10/31/business/maine-to-reduce-lucrative-elver-landings/>

<sup>38</sup> Trotter, Bill, “Elver fishermen split on derby-vs-quota proposals to cut harvest,” Bangor Daily News, Jan. 7, 2014.

<sup>39</sup> Trotter, “Maine agrees to reduce lucrative elver landings,” Oct. 31, 2013.



LD 1452, “An Act To Allow Municipalities with Shellfish Conservation Ordinances To Request Permission To Prohibit Marine Worm Harvesting” as originally written would have allowed a municipality with a shellfish conservation ordinance to apply to the Department of Marine Resources to request a prohibition on marine worm harvesting. This is because, while each clammer that wishes to clam in a town’s intertidal habitat must procure a license from that town, worm diggers are only licensed by the state and therefore can travel from town to town digging worms. The original language was meant to give municipalities more control over the harvesting activities taking place in their intertidal habitat. The bill was amended to focus on protecting predation control gear used by towns to combat invasive European green crabs.

Green crabs feed on shellfish resources, including soft-shell clams. An exponential increase in the green crab population is correlated with warming temperatures and is having a devastating impact on shellfish in Maine. Municipalities, which manage the soft-shell clam resource in Maine, are just beginning to address the green crab’s devastation through instigating resource protection measures such as installing netting or fencing in order to minimize the ability of crabs to access the shellfish habitat and enable baby shellfish to mature.<sup>40</sup> The language of the amended legislation arose out of the need to protect the financial investments made by municipalities to protect their intertidal habitat. LD 1452 drew interest from hundreds of clammers and worm diggers whose livelihoods are affected by closures of the same resource areas to protect young clams from the green crab. Worm diggers were concerned that they would be excluded from digging in certain areas<sup>41</sup> The legislation as amended will establish fines of \$300 to \$1,500 for destroying or molesting fencing or other devices placed by marine resources committees around areas that have been seeded with clams. It was voted “ought to pass as amended” by the Marine Resources Committee in February.

A second shellfish related bill, LD 1224, “An Act Regarding Advertising of Maine Shellfish,” died in the first session. The bill would have ensured truth in advertising and labeling of clams by requiring wild clams harvested fresh out of the flats, and clams that have gone through the depuration process (cleansed in sterile seawater under strict controls and tested before they are released to the market) to be differentiated from those that have not. According to Chad Coffin, President of the Maine Clammers Association this legislation was introduced in response to the marketing activities of shellfish processor, Spinney Creek, which advertised Florida grown oysters sold through its Maine facility as “Maine oysters”.

**River Herring- 3 bills**

<b>Fish passage on the St. Croix River</b>	<b>LD 72 (emergency signed and enacted)</b>
	LD 584 (dead)
	LD 748 (dead)
Take of alewife as bait on own property	LD 1171 (dead)

River herring (alewives and blueback herring) are anadromous fish, which spend the majority

<sup>40</sup> <http://www.maine.gov/dmr/rm/invasives/GreenCrabs.htm>

<sup>41</sup> Brogan, Beth, “Bill to regulate worm digging in Maine inches forward,” Bangor Daily News, Jan. 22, 2014. <http://bangordailynews.com/2014/01/22/politics/bill-to-regulate-worm-digging-in-maine-inches-forward/>

of their adult lives at sea, and return to freshwater in the spring to spawn. River herring (and shad) once supported the largest and most important commercial and recreational fisheries along the Atlantic coast<sup>42</sup>. As with most other species of anadromous fish, alewife and blueback herring populations are depleted from their historic levels in part due to habitat loss from dams and other human uses, and as such are the focus of habitat restoration efforts coast wide in Maine.<sup>43</sup>

No commercial distinction is made between the blueback and the more abundant alewife and they are often simply referred to as “alewives”. Alewives are harvested and marketed in a similar fashion, and are used for both human food and bait, with adult alewives being the preferred bait for the Maine spring lobster fishery. The river fishery is managed by Department of Marine Resources (DMR) and select coastal municipalities that have been granted rights to the river herring resources. To be approved, towns must submit an annual harvesting plan to DMR for approval that includes a three-day per week escapement period to assure conservation of the resource. In this way, the runs provide revenue to the towns, many of which lease their fishing privileges to independent fishermen.<sup>44</sup> There are 35 Maine municipalities that have commercial harvesting rights to alewives on 39 streams and rivers. The Atlantic States Marine Fisheries Commission (ASMFC) oversees management of the coast wide river herring population.

River herring fish passage on the St. Croix River was a popular topic in the first session with three bills introduced to address an issue stemming from concern that alewives compete with sport fishing in the region. Sport fishermen have long contended that alewives negatively impact small bass and other sport fisheries and in the 1980s successfully passed legislation to block fishways on the Woodland Dam and Grand Falls on the St. Croix River.<sup>45</sup>

In the last session, tribal representatives, lobstermen and environmentalists argued that alewives do not threaten sport fish and that the Grand Fall barrier blocked traditional alewife migrations and impacts alewife populations.<sup>46</sup> LD 72 was passed in the first session and mandated the removal of the Grand Fall fishway barrier by May 1, 2013.

The other bill concerning river herring, LD 1171, “To Allow Certain Holders of Lobster and Crab Fishing Licenses To Harvest River Herring for Personal Use as Bait” died. It was a resolve that would have required DMR to allow a person holding a Lobster & Crab fishing license to take

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<sup>42</sup> Atlantic States Marine Fisheries Commission, *River Herring and Shad*, <http://www.asmfc.org/species/shad-river-herring>, (accessed Feb. 28, 2014).

<sup>43</sup> Catherine Schmidt, “Alewives – Feast of the Season,” *Maine Boats, Homes & Harbors*, April / May 2008, Issue 99, <http://www.seagrant.umaine.edu/files/pdf-global/08CSalewivesMBHH.pdf>

<sup>44</sup> Maine Department of Marine Resources, *Maine River Herring Fact Sheet*, <http://www.maine.gov/dmr/searunfish/alewife/>, (accessed Feb. 28, 2014).

<sup>45</sup> Long, Robert, “Legislature sends St. Croix restoration bill to Lepage,” *Bangor Daily News*, April 10, 2013, <http://bangordailynews.com/2013/04/10/news/state/legislature-sends-st-croix-alewife-restoration-bill-to-lepage/?ref=inline>

<sup>46</sup> Cousins, Christopher, “Alewives win full passage in St. Croix River watershed without Lepage’s signature,” *Bangor Daily News*, April 23, 2013. <http://bangordailynews.com/2013/04/23/news/augusta/alewives-win-full-passage-to-st-croix-river-watershed-without-lepages-signature/?ref=search>

river herring on property that the licensee owns or rents for use as bait by the licensee.

**Groundfish- 3 bills**

Purchase federal permits	LD 939 (carried over)
Keep lobsters as bycatch	LD 1097 (dead)
	LD 1549 (dead)

Three bills concerning groundfishing were introduced in the first session. Groundfishing, which encompasses the harvest of a complex of bottom dwelling fish such as cod, haddock, hake and pollock, is historically a very important and valuable Maine fishery. Since the 1990s, groundfish stocks have been decreasing and numerous management methods have been unsuccessful in restoring the fishery.

In 2010, the New England Fisheries Management Council, the body charged with managing Maine’s and New England’s fishery resources,<sup>47</sup> began using a form of catch share management, called sectors, that uses quotas to control fish harvesting. The new system measures pounds of fish caught instead by effort expended, making it possible to lease fish, and for fishermen to fish most of the year as long as they either own or lease the fish they are landing.<sup>48</sup> The new system left many fishermen in Maine – who tended to be smaller-scale and diversified – with little quota allocation.<sup>49</sup> Today, there are fewer than 50 groundfish vessels left in Maine, compared to an estimated 350 Maine-based groundfish vessels in 1990.<sup>50</sup> In fact, under the new management system, if groundfish do return, the permitting process will have left whole regions of Maine without access to the resource. For example, despite its historic dependence on the groundfish resource, eastern Maine now holds only 1% (20) of the 1,200 groundfish permits in the northeast.<sup>51</sup>

In response to these threats, the state and NOAA entered a Memorandum of Understanding in 2010 to create a Maine Groundfish Permit Bank. The Groundfish Permit Bank was created by the state to “secure continued access to fishery resources for local, small-scale fishermen from small fishing communities throughout Maine, to create and protect sustainable local fisheries, to supplement existing access rights held by fishermen in small Maine communities; and to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine” (DMR “Maine Groundfish Permit Bank” 2013)<sup>52</sup>.

<sup>47</sup> The New England Fisheries Management Council is one of eight regional councils established by the Magnuson Fishery Conservation and Management Act of 1976 (since renamed the Magnuson-Stevens Act). The Council manages fishery resources within the federal 200-mile limit off the coasts of Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut. FMI: <http://www.nefmc.org/>.

<sup>48</sup> [http://www.islandinstitute.org/icif\\_permitbank.php](http://www.islandinstitute.org/icif_permitbank.php)

<sup>49</sup> Jennifer F. Brewer, “Paper Fish and Policy Conflict : Catch Shares and Ecosystem Based Management in Maine’s Groundfishery,” *Ecology and Society*, 16(1), 8, 2011.

<sup>50</sup> Miller, Kevin, “New England groundfish industry at crossroads,” *Portland Press Herald*, May 10, 2013, [http://www.pressherald.com/news/groundfish-industry-at-crossroads\\_2013-05-08.html?pagenum=full](http://www.pressherald.com/news/groundfish-industry-at-crossroads_2013-05-08.html?pagenum=full)

<sup>51</sup> Trotter, Bill, “Groundfish access must be protected Down East, fishermen say,” *Bangor Daily News*, August 30, 2012. <http://bangordailynews.com/2012/08/30/news/hancock/groundfish-access-must-be-protected-down-east-fishermen-say/>.

<sup>52</sup> <http://www.maine.gov/dmr/rm/groundfish/bank/>. FMI on permit banks in Maine:

<http://www.islandinstitute.org/publications/Permit-Banks-A-Strategy-for-Viable-and-Sustainable-Fisheries/15359/>

Despite different management efforts, groundfish have not recovered. In 2012, the New England groundfish fishery was declared a federal disaster by the Commerce Department.<sup>53</sup> In 2013, quotas for the species that hold the most market value – cod, haddock, and flounder – were severely reduced.<sup>54</sup> Though quota for redfish, white hake, and pollock did increase, those fish species have not historically been commercially popular, and therefore have fetched very low ex-vessel prices for fishermen. Dependence on lower valued groundfish stocks is a major problem for fishermen who must pay boat expenses to go on fishing trips. Non-profits such as the Northwest Atlantic Marine Alliance and Gulf of Maine Research Institute are attempting to create more market value for these fish by educating consumers and institutional purchasers about other available groundfish options<sup>55</sup>.

With recent further quota cuts and consolidation pressure, Maine is in danger of losing its groundfish fleet altogether. The bills that were introduced in the first session were meant to address that issue. LD 939, “An Act To Restore Maine’s Groundfishing Industry”, which would provide ongoing annual funding of \$3,500,000 to purchase federal groundfishing permits for the Maine Groundfish Permit Bank, was carried over.

The second set of bills, both of which were defeated, asked for permission for groundfish vessels to land lobster caught as bycatch (“incidentally caught”) in their trawl nets. LD 1097 specifically related to landing lobsters caught by groundfish boats in Portland (area 3) and LD 1549 pertained to the whole groundfish industry.

By allowing groundfishermen to land the state’s highest valued species, these bills would have provided extra revenue to the struggling groundfish fleet, perhaps strengthening their ability to stay in business. The bills had the support of the LePage administration and Portland Mayor Michael Brennan.<sup>56</sup> However, the bills faced strong opposition from lobstermen, who worried that under these bills groundfishermen would target the more abundant lobster, and thus would undue conservation efforts related to size and sex restrictions, and damage lobsters in the nets.<sup>57</sup> In the end, the concerns of the lobstermen won out, and lobsters are not allowed to be incidentally caught by groundfishermen.

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<sup>53</sup> Bidgood, Jess, “U.S. Declares a Disaster for Fishery in Northeast,” New York Times, September 13, 2012. [http://www.nytimes.com/2012/09/14/us/commerce-dept-declares-northeast-fishery-a-disaster.html?\\_r=0](http://www.nytimes.com/2012/09/14/us/commerce-dept-declares-northeast-fishery-a-disaster.html?_r=0).

<sup>54</sup> NOAA Northeast Regional Office. 2013. “2013 Groundfish Measures”. Press Release, April 30. <http://www.nero.noaa.gov/mediacenter/index.html>.

<sup>55</sup> Gulf of Maine Research Institute’s “Out of the Blue” program seeks to build markets for underused Gulf of Maine seafood species by working with local restaurants and chefs to feature less popular species and encourage consumer interest and demand. FMI: [http://www.fishwatch.gov/features/out\\_of\\_the\\_blue\\_10\\_12.htm](http://www.fishwatch.gov/features/out_of_the_blue_10_12.htm)

<sup>56</sup> Mistler, Steve, “Maine lawmakers unanimously reject lobster bycatch bill,” Portland Press Herald, April 24, 2013, <http://www.pressherald.com/news/Lawmakers-reject-bill-to-allow-lobster-bycatch-.html>.

<sup>57</sup> Mistler, “Maine lawmakers unanimously reject lobster bycatch bill,” Portland Press Herald, April 24, 2013.

**Scallop** – 2 bills

License transfer	LD 583 (dead)
<b>Dive-only areas in mooring fields</b>	<b>LD 946 (signed and enacted)</b>

The scallop fishery made up 1% of the ex-vessel value of Maine’s commercial landings in 2012. Two bills pertaining to the scallop fishery were introduced into the 126<sup>th</sup> Legislature, with one being signed into law.

LD 946, “An Act To Allow Municipalities To Petition the Department of Marine Resources To Establish Dive-only Areas for Scallops in Mooring Fields” passed and gives the Commissioner of Marine Resources authority to establish by rule, at the written request of a municipality, “dive-only” areas in harbors that establish areas near moorings within that municipality in which scallops can only be taken by hand. This bill provides that dragging for scallops in a dive-only area is prohibited as a civil violation and comes with mandatory fines.

The bill that died, LD 583, “An Act To Allow the Exchange of Scallop Licenses”, would have allowed a holder of a hand fishing scallop license and a holder of a scallop dragging license to exchange licenses.

**Sea Urchin** – 2 bills

Small-scale cooperatives	LD 832 (dead)
Urchin draggers allowed sea cucumber	LD 935 (dead)

Two bills related to the urchin fishery failed. “An Act To Enable Small-Scale Cooperative Management of Sea Urchin Resources”, LD 832, was a concept draft that would have encouraged resource enhancements and harvest control through small-scale cooperative management of sea urchin resources. LD 935 also died and would have both permitted the harvesting of sea cucumbers as a bycatch of sea urchin dragging and allowed areas to be closed to sea cucumber dragging.

**Seaweed** – 1 bill

<b>Statewide harvest plan</b>	<b>LD 585 (signed and enacted)</b>
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The Governor signed LD 585, “An Act To Require the Development of a Statewide Approach to Seaweed Management”, into law. This legislation tasked DMR with developing a statewide approach to seaweed harvest management and presenting a plan to the Marine Resources Committee before Jan. 31, 2014. It also repealed laws that established the Cobscook Bay Rockweed Management Area.

LD 585 re-energized years of debate over whether cutting rockweed and other species of seaweed is sustainable.<sup>58</sup> In 2011, the seaweed harvest in Maine totaled 15.3 million pounds, up from 12.9 million pounds in 2010, with rockweed accounting for about 90% of the seaweed taken. Harvesters were paid \$0.03 cents a pound in 2011. Though ex-vessel prices are low, only a small fraction of the harvest is sold raw. The majority of the harvest is dried, ground and sold as components of wholesale and retail products that include food supplements, fertilizers and animal feed products. Collectively those value-added products are worth \$20 million per year, making rockweed and other seaweed species “one of Maine’s most valuable marine resources” (DMR 2013)<sup>59</sup>.

**Licenses/Fee Reduction - 2 bills**

Crab/lobster elderly fee reduction	LD 557 (dead)
<b>No fees for military on active duty</b>	<b>LD 1448 (emergency signed and enacted)</b>

Two bills dealt with commercial fishing license fees. Governor LePage signed LD 1448, “An Act To Preserve Marine Resources Licenses for Active Duty Service Members” which makes a valid license issued by DMR inactive with no fee due for a holder who is a member of the United States Armed Forces (including the National Guard and the Reserves of the United States Armed Forces and the United States Coast Guard) who is under orders for active duty.

LD 557, “An Act To Change the Age at Which a Person Qualifies for a Fee Reduction for a Lobster and Crab Fishing License” died. It would have changed the age at which an applicant qualifies for a fee reduction for a lobster and crab fishing license from 70 years of age to 65 years of age.

**Maine Fisheries Management – 2 bills**

Guiding Principles	LD 778 (dead)
<b>Requirements for FMPs</b>	<b>LD 811 (signed and enacted)</b>

LD 811, “An Act To Provide Guidance for the Development of Marine Fisheries Management Plans” was signed into law. It establishes general requirements for the development of fisheries management plans (FMPs) by the Commissioner of Marine Resources. Plans must address certain objectives, as well as the management of resources and scientific content. The bill also allows commissioner to adopt a management plan or other policy on the conservation or regulation of marine organisms only after prior notice and public hearing and with the advice and consent of the Marine Resources Advisory Council. The bill requires that a FMP be

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<sup>58</sup> Walsh, Tom, “Bill pulls sustainability, legality of seaweed harvesting into spotlight,” Bangor Daily News, February 23, 2013, <http://bangordailynews.com/2013/02/23/news/state/bill-pulls-sustainability-legality-of-seaweed-harvesting-into-spotlight/>

<sup>59</sup> “Fact Sheet: “Rockweed Ecology, Industry and Management,” *Maine Sea Grant* in partnership with Maine Department of Marine Resources, Jan. 2013, [http://www.seagrant.umaine.edu/files/RockweedFactsheet\\_011113.pdf](http://www.seagrant.umaine.edu/files/RockweedFactsheet_011113.pdf), (accessed Feb. 28, 2014).

developed with advice and input from the advisory council for the species for which the plan is developed, if such an advisory council exists.

LD 778 died in the first session. The bill, “An Act To Develop Principles To Guide Fisheries Management Decisions,” was a concept draft that would have established a means of determining the long-term goal of fisheries management in the state, including developing a method of outcome-testing proposed legislation and rules; and requiring periodic review of fisheries management laws and goals in order to ensure that they remain pertinent and applicable.

**GMO (GE Salmon) – 1 bill**

Labeling	<b>LD 898 (dead)</b>
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LD 898, “An Act To Require Labeling of *Genetically Engineered* Marine Organisms” died. It would have required clear and conspicuous labeling of marine fish and organisms that are produced using genetic engineering (GE). Interest in labeling of GE salmon was spurred by concerns over AquaBounty’s GE Atlantic Salmon which is still pending approval by the Federal Drug Administration.

If approved, the GE salmon would be the first GE (or transgenic) animal approved for human consumption. AquaBounty plans to farm GE Salmon for human consumption. Opponents of FDA approval of the fish have argued that the FDA is relying on information provided by AquaBounty, the company petitioning for approval, and that insufficient research exists on the GE Salmon’s potential impacts on wild salmon populations, the environment and human health.<sup>60</sup> During the FDA’s public comment period, nearly 2 million people petitioned against approval of the salmon. Human health concerns include the FDA’s decision to consider GE salmon as a “new animal drug,” so the approval process isn’t focused on the effects of consuming GE animals on people.<sup>61</sup>

**Tribal Fishing Rights – 3 bills**

<b>Elver tribal fishing rights</b>	<b>LD 604 (emergency signed and enacted)</b>
<b>Elver &amp; Scallop</b>	<b>LD 451 (emergency sign and enacted)</b>
<b>Maliseet</b>	<b>LD 953 (signed and enacted)</b>

Three bills in the first session were successful in expanding tribal fishing rights in Maine. Two of the bills concerned elver harvesting, and both were signed into law in March, right before the start of the elver fishing season.

<sup>60</sup> FMI on GE Salmon and GMO labeling in Maine: <http://www.workingwaterfront.com/articles/Wild-to-Transgenic-Salmon-in-Maine/14105/> and <http://www.mofga.org/Publications/MaineOrganicFarmerGardener/Winter20132014/GMOLabelingEffortsDrawCrowd/tabid/2703/Default.aspx>.

<sup>61</sup> “Nearly 2 Million People Tell FDA Not To Approve GE Salmon,” *Center for Food Safety*, April 30, 2013. <http://www.centerforfoodsafety.org/press-releases/2151/nearly-2-million-people-tell-fda-not-to-approve-ge-salmon> - . (accessed Feb. 28, 2014).

LD 604 increased the Penobscot Nation’s number of commercial elver licenses from 8 to 48. LD 451 issued 200 elver licenses with three classifications of restrictions to the Passamaquoddy tribe, and 16 elver licenses to the Houlton Band of Maliseet. In addition to elver licenses, LD 451 also gave the Passamaquoddy the rights to 20 scallop licenses. After the passage of the legislation, the Passamaquoddy exceeded the elver license caps established by the legislation and stated that the state did not have jurisdiction to impose license restrictions.<sup>62</sup> The issue of tribal rights and sovereignty continues to be a contentious issue in Maine.<sup>63</sup>

The third bill that was enacted was LD 953, “An Act To Provide for and Recognize the Right of the Houlton Band of Maliseet Indians To Fish for Marine Organisms.” It provides the Houlton Band of Maliseet Indians the same rights regarding the taking of marine organisms as are provided to the other federally recognized Indian tribes in this State. This included the right to issue certain commercial licenses and permits for the taking of marine organisms and the right of members of the band to take, possess, transport and distribute marine organisms for sustenance and ceremonial uses. The bill concerns licenses related to lobster and crab, sea urchin, scallop and elvers. The bill also increased the number of elver licenses allowed to be issued by the Penobscot Nation and the number that may be issued by the Aroostook Band of Micmacs.

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<sup>62</sup> “Tribe, state officials at odds over elver licenses,” WMTV interview, April 2, 2013, [http://www.wmtv.com/news/maine/Tribe state-officials-at-odds-over-elver-licenses/-/8792012/19556484/-/tf0p4tz/-/index.html#ixzz2hpGr5RSu](http://www.wmtv.com/news/maine/Tribe%20state-officials-at-odds-over-elver-licenses/-/8792012/19556484/-/tf0p4tz/-/index.html#ixzz2hpGr5RSu)

<sup>63</sup> An article in Wabanaki Legal News, a newsletter of Pine Tree Legal Assistance, associates the problem over fishing rights as related to the question of whether the state has jurisdiction to limit subsistence practices in open waters and whether the regulation of fishing on Indian lands is a internal tribal matter that falls outside the state’s jurisdiction. Egan, Jennifer, “Controversial and jurisdictional disputes regarding Elvers,” Wabanaki Legal News, Fall 2013, <http://www.ptla.org/sites/default/files/wabanaki-news-fall-2013.pdf>



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