CHAPTER 601

GENERAL PROVISIONS

§6001. Definitions

For the purposes of this Part, the following words shall have the following meanings, unless a different meaning is required by the context. [PL 1977, c. 661, §5 (NEW).]

1. Aquaculture. "Aquaculture" means the culture or husbandry of marine organisms by any person.
[PL 1977, c. 661, §5 (NEW).]

1-A. Alewives.
[PL 2011, c. 598, §2 (RP).]

2. Atlantic salmon. "Atlantic salmon" means the anadromous fish species Salmo salar that customarily migrates from inland waters to the ocean as part of its life cycle.
[PL 1999, c. 401, Pt. BB, §2 (AMD).]

3. Bulk pile. "Bulk pile" means any pile or the contents of any box, barrel or other container.
[PL 1977, c. 661, §5 (NEW).]

4. Buy. "Buy" means to buy or purchase and includes offering to buy.
[PL 1977, c. 661, §5 (NEW).]

5. Car. "Car" means a lobster car, crate, box or other contrivance, whether sunken or floating, that may be used in coastal waters to hold live lobsters.
[PL 1977, c. 661, §5 (NEW).]

6. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide out to the limits of the exclusive economic zone as shown on the most recently published Federal Government nautical chart, but it does not include areas above any fishway or dam when the fishway or dam is the dividing line between tidewater and fresh water.
[PL 2001, c. 272, §1 (AMD).]

6-A. Commercial fisheries business. "Commercial fisheries business" means an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives; [PL 2011, c. 266, Pt. B, §4 (NEW).]

B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and [PL 2011, c. 266, Pt. B, §4 (NEW).]

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives. [PL 2011, c. 266, Pt. B, §4 (NEW).]
[PL 2011, c. 266, Pt. B, §4 (NEW).]

7. Commissioner. "Commissioner" means Commissioner of Marine Resources.
[PL 1977, c. 661, §5 (NEW).]

8. Common carrier. "Common carrier" means a vehicle that is:

A. Operating under authority granted by either the Federal Government or the carrier's home state; and [PL 2007, c. 615, §1 (NEW).]

B. Transporting goods for hire and the carrier does not own the marine organisms being transported. [PL 2007, c. 615, §1 (NEW).]

[PL 2007, c. 615, §1 (RPR).]

9. Conservation. "Conservation" means providing for the development and wise utilization of the state's marine resources, protecting the ultimate supply for present and future generations, preventing waste and implementing sound management programs.

[PL 1977, c. 661, §5 (NEW).]

10. Crayfish. "Crayfish" means all species from either fresh or salt water including, but not limited to, the family Palinuridae, including the representative genera Jasus and Palinurus, which have been called by such terms including, but not limited to, rock lobster, spiny lobster, sea crawfish, red lobster, thorny lobster, langoust, langoustini, langostino, crayfish, Sidney crawfish, kreef, Cuban rock lobster, African lobster or African crawfish.

[PL 1989, c. 348, §2 (AMD).]

11. Crew member. "Crew member" means any person assisting in operating or attending gear or operating a boat while fishing.

[PL 1977, c. 661, §5 (NEW).]

12. Dealer. "Dealer" means any person who buys, sells or distributes any marine organism.

[PL 1977, c. 661, §5 (NEW).]

13. Department. "Department" means the Department of Marine Resources.

[PL 1977, c. 661, §5 (NEW).]

13-A. Engage. "Engage" means engage or attempt to engage.

[PL 1979, c. 541, Pt. B, §13 (NEW).]

13-B. Equipment. "Equipment" means a box, trap, crate, net or other device or machinery used to harvest or store marine organisms.

[PL 1989, c. 742, §1 (NEW).]

13-C. Dip net. "Dip net" means a device consisting of a rigid frame filled with netting, firmly attached to a rigid handle and manually operated by a single person.

[PL 1995, c. 536, Pt. A, §1 (NEW).]

13-D. Eel. "Eel" means a member of the species Anguilla rostrata in that stage of its life cycle when it is 6 inches or more in length.

[PL 1995, c. 536, Pt. A, §1 (NEW).]

13-E. Eel pot. "Eel pot" means a cylindrical or rectangular trap with funnels that is baited and used to harvest eels. An eel pot is 50 cubic feet or less in total volume and utilizes wire or slatting no smaller than 1/2 inch square measure.

[PL 1995, c. 536, Pt. A, §1 (NEW).]

13-F. Elver. "Elver" means a member of the species Anguilla rostrata in that stage of its life cycle when it is less than 6 inches in length.

[PL 1995, c. 536, Pt. A, §1 (NEW).]

13-G. Elver fyke net. "Elver fyke net" means a fyke net that is 30 feet or less in length from cod end to either wing tip, is fitted with netting that measures 1/8-inch bar mesh or less, contains a 1/2-inch or less bar mesh excluder panel that covers the entrance of the net, and consists of not more than one funnel end, one cod end and 2 wings.

[PL 1997, c. 575, §1 (AMD).]

13-H. Elver dip net. "Elver dip net" means a dip net with a hoop of not more than 30 inches in diameter and fitted with netting that measures 1/8 inch bar mesh or less.
[PL 1999, c. 7, §1 (AMD).]

13-I. Established base of operations. "Established base of operations" means the location where a vessel has its primary relationship. Among the factors identifying a primary relationship are the locations at which the vessel is primarily moored or docked, where it prepares for expeditions and hires a crew and to which it regularly returns for repairs, supplies and activities relating to its business or trade. The fact that a vessel carries on one or more of these activities at more than one location within this State or at a location or locations outside this State does not prevent the vessel from being considered to have an established base of operations within the State if a substantial portion of these activities are carried on at a location or locations within this State. For purposes of this subsection, "substantial portion" means a period exceeding 30 days in any calendar year.
[PL 2019, c. 225, §2 (AMD).]

14. Establishment. "Establishment" means the premises, buildings, structures, facilities and equipment, including vehicles, used in the buying, selling or processing of marine organisms.
[PL 1977, c. 661, §5 (NEW).]

15. Finfish. "Finfish" means any cold-blooded marine animal having permanent gills and fins.
[PL 1977, c. 661, §5 (NEW).]

15-A. Fishway. "Fishway" means a manmade device, including fish elevators, fishlocks and fish ladders, that is used to enable fish to migrate upstream past dams, waterfalls, rapids or other obstacles.
[PL 1993, c. 498, §1 (NEW).]

16. Fish, the noun. The noun "fish" means all finfish, squid and shrimp, or other marine animal, except lobsters, crabs, shellfish, scallops and marine worms.
[PL 1977, c. 661, §5 (NEW).]

17. Fish, the verb. The verb "fish" means to take or attempt to take any marine organism by any method or means.
[PL 1977, c. 661, §5 (NEW).]

17-A. Freshwater fish. "Freshwater fish" means the following fish species, when found in coastal waters as defined in subsection 6: Brown trout; largemouth bass; smallmouth bass; black crappie; rainbow trout; brook trout; chain pickerel; and landlocked salmon.
[PL 1987, c. 312, §1 (NEW).]

17-B. Fork length. "Fork length" means the greatest dimension between the most anteriorly projecting part of the head and the apex of the V formed by the caudal fin. The measurement is a straight line and is not taken over the curve of the body.
[PL 1987, c. 690, §1 (NEW).]

17-C. Fyke net. "Fyke net" means a funnel-shaped net designed to intercept moving marine organisms and retain marine organisms in a confined space.
[PL 1995, c. 536, Pt. A, §2 (NEW).]

18. Handline. "Handline" means a single line with no more than 5 hooks attached which is hand held.
[PL 1977, c. 661, §5 (NEW).]

19. Hermetically sealed. "Hermetically sealed" means a container which has been made airtight by fusion so that no air, gas or spirits can either enter or escape, whether or not the container is sterilized by heat. It does not include friction cover containers or containers requiring refrigeration.
[PL 1981, c. 433, §1 (AMD).]

20. Hook and line. "Hook and line" means a single line with no more than 5 hooks, including the commonly called rod and reel and handline.
[PL 1977, c. 661, §5 (NEW).]

20-A. Hoop net. "Hoop net" means a stationary cylindrical net fitted with mesh measuring 1/2 inch or greater stretch measure, that is placed at the bottom of a body of water and has a diameter of 6 feet or less as measured at its widest point and has a length of 18 feet or less as measured from the cod end to the hoop that forms the mouth of the net. "Hoop net" includes wings or leads attached to the mouth of the hoop net.
[PL 1995, c. 536, Pt. A, §2 (NEW).]

21. Intertidal zone. "Intertidal zone" means the shores, flats or other land between high and low water mark.
[PL 1977, c. 661, §5 (NEW).]

22. License. "License" means a document issued by the State to a named person authorizing that person to engage in particular activities. License includes a permit, but does not include a certificate or lease.
[PL 1977, c. 661, §5 (NEW).]

23. Lobster. "Lobster" means a crustacean of the genus Homarus americanus.
[PL 1977, c. 661, §5 (NEW).]

24. Lobster trap. "Lobster trap" means a lobster trap, pot or other stationary contrivance or device that may be set on the ocean bottom and used for taking lobsters or crabs.
[PL 1977, c. 661, §5 (NEW).]

24-A. Mahogany quahog. "Mahogany quahog" means a marine mollusk, Artica icelandica.
[PL 1981, c. 297, §1 (NEW).]

25. Marine mollusk. "Marine mollusk" means any marine invertebrate animal of the phylum Mollusca, but shall not include squid or octopi.
[PL 1977, c. 661, §5 (NEW).]

26. Marine organism. "Marine organism" means any animal, plant or other life that inhabits waters below head of tide.
[PL 1997, c. 123, §1 (AMD).]

27. Marine resources. "Marine resources" means all renewable marine organisms and the entire ecology and habitat supporting those organisms.
[PL 1977, c. 661, §5 (NEW).]

28. Marine resources' laws. "Marine resources' laws" means chapter 419 and Part 9 or any other statute authorizing the commissioner or department to undertake any activity, and any regulation authorized by these statutes.
[PL 1977, c. 661, §5 (NEW).]

29. Marine species. "Marine species" means all marine animals except lobster, shellfish, marine worms and elvers.
[PL 1995, c. 536, Pt. A, §3 (AMD); PL 1995, c. 536, Pt. A, §13 (AFF).]

30. Marine worms. "Marine worms" means sand, blood and clam worms.
[PL 1977, c. 661, §5 (NEW).]

30-A. Pacific salmon. "Pacific salmon" means all species of the genus Onchorhynchus.
[PL 1983, c. 662, §1 (NEW).]

31. Parlor section. "Parlor section" means that part of a lobster trap designed or intended to hold or detain lobsters until they are removed by the fisherman.

[PL 1977, c. 661, §5 (NEW).]

32. Permit. "Permit" means license.
[PL 1977, c. 661, §5 (NEW).]

33. Person. "Person" means any individual, firm, corporation or agency or political subdivision of government.
[PL 1977, c. 661, §5 (NEW).]

34. Personal use. "Personal use" means for consumption or use by oneself, by members of the immediate family or by invited guests.
[PL 1977, c. 661, §5 (NEW).]

34-A. Possession. "Possession" means to have in one's custody or control, either personally or by another who is under one's control.
[PL 1985, c. 24, §1 (NEW).]

35. Process, the verb. The verb "process" means handling, storing, cooking, preparing, producing, manufacturing, preserving, packing or other activity which could change the condition or form.
[PL 1977, c. 661, §5 (NEW).]

35-A. Quahog. "Quahog" means a marine mollusk, Mercenaria mercenaria, commonly called hard shelled clams, and Artica icelandica, commonly called mahogany quahogs.
[PL 1981, c. 297, §2 (NEW).]

36. Registered vessel. "Registered vessel" means:

A. A vessel that is owned or operated by a person licensed under this Part; [PL 2005, c. 26, §2 (NEW).]

B. A vessel that is used to bring a marine organism into the State or its territorial waters; [PL 2005, c. 26, §2 (NEW).]

C. A vessel that is registered or has been issued a certificate of number under chapter 935; [PL 2005, c. 26, §2 (NEW).]

D. A vessel documented in accordance with 46 United States Code, Chapter 121 that has designated a Maine port of hail; [PL 2005, c. 26, §2 (NEW).]

E. A vessel that has been issued a certificate of number by the United States Coast Guard under 46 United States Code, Chapter 123 that has identified Maine as the state of principal use; or [PL 2005, c. 26, §2 (NEW).]

F. A vessel that has an established base of operations within this State. [PL 2005, c. 26, §2 (NEW).]
[PL 2005, c. 26, §2 (RPR).]

37. Retail. "Retail" means sale, trade or service directly to the consumer for his personal use.
[PL 1977, c. 661, §5 (NEW).]

37-A. Rigged. "Rigged" means to have on board the equipment necessary to undertake the activity. The commissioner shall determine by rulemaking what equipment is necessary to undertake the activity. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 26, §3 (AMD).]

37-B. River herring. "River herring" means the species Alosa pseudoharengus, commonly called alewife, and Alosa aestivalis, commonly called blueback herring.
[PL 2011, c. 598, §3 (NEW).]

38. Scallop. "Scallop" means sea scallop, placopecten magellanicus.

[PL 1977, c. 661, §5 (NEW).]

38-A. Seaweed. "Seaweed" means all marine algae.
[PL 1983, c. 116, §1 (NEW).]

39. Sell. "Sell" means to sell, offer to sell or expose for sale.
[PL 1977, c. 661, §5 (NEW).]

40. Serve. "Serve" means the preparation of a marine organism for retail sale or consumption, but does not include shucking shellfish.
[PL 1977, c. 661, §5 (NEW).]

40-A. Sheldon eel trap. "Sheldon eel trap" means a box trap with a netted wing 10 feet or less in length used to intercept and direct elvers into the trap.
[PL 1997, c. 91, §3 (AMD).]

41. Shellfish. "Shellfish" means clams, quahogs, oysters and mussels and includes shellstock and shucked shellfish.
[PL 1977, c. 661, §5 (NEW).]

42. Shellstock. "Shellstock" means shellfish which have not been removed from their shells.
[PL 1977, c. 661, §5 (NEW).]

43. Ship, the verb. The verb "ship" means to send by a common carrier.
[PL 1977, c. 661, §5 (NEW).]

44. Shucked shellfish. "Shucked shellfish" means shellfish or parts thereof which have been removed from their shells.
[PL 1977, c. 661, §5 (NEW).]

44-A. Single hook. "Single hook" means a hook with no more than one eye and one shank to which one or more points is attached.
[PL 1993, c. 498, §1 (NEW).]

45. Sunrise. "Sunrise" means the time given for sunrise as computed and established for Augusta, Maine, by the Nautical Almanac Office of the United States Naval Observatory for the particular day involved, converted to the legal standard of time in force in the State on that day.
[PL 1977, c. 661, §5 (NEW).]

46. Sunset. "Sunset" means the time given for sunset as computed and established for Augusta, Maine, by the Nautical Almanac Office of the United States Naval Observatory for the particular day involved, converted to the legal standard of time in force in the State on that day.
[PL 1977, c. 661, §5 (NEW).]

47. Suspension. "Suspension" means the revocation of a license, the right to obtain a license and the privilege to undertake the licensed activity, whether the suspension is temporary or permanent.
[PL 1977, c. 661, §5 (NEW).]

48. Take, the verb. The verb "take" means to remove or attempt to remove a marine organism from its natural habitat.
[PL 1977, c. 661, §5 (NEW).]

48-A. Total length. "Total length" means the greatest dimension between the most anteriorly projecting part of the head and the farthest tip of the caudal fin when the caudal rays are squeezed together. The measurement is a straight line and is not taken over the curve of the body.
[PL 1987, c. 690, §1 (NEW).]

48-B. Territorial waters. "Territorial waters" means all waters of the State within the rise and fall of the tide seaward to the 3-nautical-mile line as shown on the most recently published Federal

Government nautical chart, but does not include areas above any fishway or dam when that fishway or dam is the dividing line between tidewater and fresh water.
[PL 2001, c. 272, §2 (NEW).]

49. Transfer. "Transfer" means to transport by boat on the water.
[PL 1977, c. 661, §5 (NEW).]

50. Transport, the verb. The verb "transport" means to move an object from one place to another by any means other than to ship.
[PL 1977, c. 661, §5 (NEW).]

51. Tub-trawl. "Tub-trawl" means a single line, with more than 5 hooks, including the commonly called tub-trawl, line trawl or long line.
[PL 1977, c. 661, §5 (NEW).]

52. Tuna. "Tuna" means any finfish commonly known as tuna, including the horse mackerel.
[PL 1977, c. 661, §5 (NEW).]

53. Vehicle. "Vehicle" means a machine or conveyance, including watercraft and aircraft, used to move or transport marine organisms.
[PL 1989, c. 742, §2 (RPR).]

54. Wholesale. "Wholesale" means sale, trade or service that is not directly to a consumer and is not retail.
[PL 1977, c. 661, §5 (NEW).]

55. Whole scallop. "Whole scallop" means a cultured scallop in any form, except when the final product form is the adductor muscle of the scallop only.
[PL 2001, c. 112, §1 (NEW).]

56. Working waterfront or working waterfront property. "Working waterfront" or "working waterfront property " means land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business.
[PL 2011, c. 266, Pt. B, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 541, §B13 (AMD). PL 1979, c. 590, §1 (AMD). PL 1981, c. 63 (AMD). PL 1981, c. 297, §§1,2 (AMD). PL 1981, c. 433, §1 (AMD). PL 1983, c. 116, §1 (AMD). PL 1983, c. 662, §1 (AMD). PL 1985, c. 24, §1 (AMD). PL 1987, c. 312, §§1,2 (AMD). PL 1987, c. 690, §1 (AMD). PL 1989, c. 348, §2 (AMD). PL 1989, c. 742, §§1,2 (AMD). PL 1993, c. 498, §1 (AMD). PL 1995, c. 536, §§A1-4 (AMD). PL 1995, c. 536, §A13 (AFF). PL 1997, c. 91, §§1-3 (AMD). PL 1997, c. 123, §1 (AMD). PL 1997, c. 575, §1 (AMD). PL 1999, c. 7, §1 (AMD). PL 1999, c. 401, §BB2 (AMD). PL 2001, c. 112, §1 (AMD). PL 2001, c. 272, §§1,2 (AMD). PL 2003, c. 248, §1 (AMD). PL 2005, c. 26, §§1-3 (AMD). PL 2007, c. 615, §1 (AMD). PL 2011, c. 266, Pt. B, §§4, 5 (AMD). PL 2011, c. 598, §§2, 3 (AMD). PL 2019, c. 225, §2 (AMD).

§6002. Rules of construction

The following rules of construction apply to this Part, unless a different construction is plainly required by the context. [PL 1977, c. 661, §5 (NEW).]

1. Reference to marine organisms. Reference to the taking or possession of any marine organism includes the taking and possession of any part of it.
[PL 1977, c. 661, §5 (NEW).]

2. Application to marine organisms. Marine resources' laws apply only to marine organisms, as distinguished from fresh water organisms, except where jurisdiction over migratory or other organisms is specifically given.
[PL 1977, c. 661, §5 (NEW).]

3. General application. Marine resources' laws shall apply to all registered vessels and to all persons where their activities occur within the State, within the coastal waters of the State or where the product of those activities are brought into the State or its coastal waters. They shall also apply to all residents of the State wherever those activities are conducted, but not within the jurisdiction of another state. These laws do not apply to marine organisms passing through the State under the authority of the laws of the United States. This subsection does not limit section 6859.
[PL 1977, c. 661, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW).

§6003. Coordination of fisheries management

The Commissioner of Marine Resources, in consultation with the Commissioner of Inland Fisheries and Wildlife, may regulate the taking of freshwater fish species in coastal waters. Rules shall be promulgated in accordance with section 6171. Whenever a bag limit on freshwater fish species in coastal waters exists, as defined in section 6001, subsection 17-A, no person may possess more than one day's bag limit, regardless of whether the fish are taken from inland or coastal waters. [PL 1987, c. 312, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 312, §3 (NEW).

§6004. Juvenile violations

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment but may be ordered to serve a period of confinement in a Department of Corrections juvenile correctional facility that may not exceed 30 days, which may be suspended in whole or in part, if the court determines that: [PL 2005, c. 507, §1 (AMD).]

1. Crime. The crime is one that, if committed by a person who has attained 18 years of age, would carry a mandatory term of imprisonment that may not be suspended;
[PL 2005, c. 328, §1 (NEW).]

2. Nature. The aggravated nature and seriousness of the crime warrants a period of confinement; or
[PL 2005, c. 507, §1 (AMD).]

3. History. The record or previous history of the defendant warrants a period of confinement.
[PL 2005, c. 507, §1 (AMD).]

The court is not required to impose a period of confinement notwithstanding that there is a mandatory term of imprisonment applicable to a person who has attained 18 years of age. [PL 2005, c. 507, §1 (AMD).]

Any period of confinement must be served concurrently with any other period of confinement previously imposed and not fully discharged or imposed on the same date. Any period of confinement is subject to Title 17-A, section 2305, except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but is not subject to Title 17-A, section 2305, subsection 4; section 2307, subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection

2; or section 2310, subsections 3, 6 and 7. If the court suspends the period of confinement in whole or in part, the court shall impose a period of administrative release not to exceed one year. The administrative release must be administered pursuant to Title 17-A, chapter 67, subchapter 2, and revocation of the administrative release is governed by the provisions of that subchapter. [PL 2019, c. 113, Pt. C, §9 (AMD).]

SECTION HISTORY

PL 2003, c. 410, §1 (NEW). PL 2005, c. 328, §1 (AMD). PL 2005, c. 507, §1 (AMD). PL 2019, c. 113, Pt. C, §9 (AMD).

§6005. Labeling shellfish

A person who is authorized to hold or possess shellfish under chapter 623 may not label shellfish sold alive using the words "product of Maine" or any other similar words or terms that misleadingly suggest the shellfish was taken from the waters of this State unless the shellfish was in fact taken from the waters of the State. [PL 2011, c. 234, §1 (NEW).]

The sale of shellfish labeled in violation of this section is a deceptive business practice in violation of Title 17-A, section 901. A violation of this section that results in a conviction under Title 17-A, section 901 is considered a conviction for a violation of a marine resources law under section 6351, subsection 1, paragraph A. [PL 2011, c. 234, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 234, §1 (NEW).

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