



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1031

H.P. 766

House of Representatives, March 10, 2021

An Act To Create an Administrative Review Process for Hunting Violations

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DILLINGHAM of Oxford.
Cosponsored by Representatives: BERNARD of Caribou, KRYZAK of Acton, THERIAULT of China.

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

2 **Sec. 1. 12 MRSA §10657, sub-§4** is enacted to read:

3 **4. Administrative penalties; mutually exclusive penalties.** A person who violates
4 this section who is not convicted or adjudicated of a crime or civil violation under
5 subsection 2 may be subject to administrative penalties under section 10902-A. A person
6 who violates this section and receives an administrative penalty for that violation under
7 section 10902-A is not subject to conviction or adjudication under this section for that
8 violation.

9 **Sec. 2. 12 MRSA §10902-A** is enacted to read:

10 **§10902-A. Suspension of license through administrative process for civil trespass**
11 **while hunting**

12 The department in an adjudicatory proceeding may impose an administrative penalty
13 for a violation of section 10657 in accordance with this section.

14 **1. Initiation and notice.** If the director of the Bureau of Warden Service delivers to
15 the commissioner a written statement under oath that the director has probable cause to
16 suspect that a person has violated section 10657 while hunting and the person alleged to
17 have violated section 10657 has not been convicted or adjudicated of a crime or civil
18 violation under that section, the commissioner immediately shall examine the statement
19 and determine whether to conduct an adjudicatory proceeding for the purpose of imposing
20 an administrative penalty under this section. If the commissioner determines that the
21 imposition of a penalty is necessary, the commissioner shall, in accordance with Title 5,
22 section 9052, immediately notify the person who is alleged to have violated section 10657.
23 The provided notice under this subsection must state that the person may request a hearing
24 in accordance with subsection 2 within 10 days of receipt of notice. Notice is deemed
25 received 3 days after the mailing. If a person who has been notified pursuant to this
26 subsection does not request a hearing within 10 days after receipt of notice, the
27 commissioner may implement administrative penalties under subsection 3 without a
28 hearing.

29 **2. Hearing.** If a person alleged to have violated section 10657 requests a hearing
30 pursuant to subsection 1, the commissioner or commissioner's designee shall appoint a
31 presiding officer who shall hold the hearing within 30 business days after the request. If
32 the hearing is continued, it must be held no later than 60 days after the original notice,
33 unless the presiding officer finds that a continuance beyond 60 days is warranted. The
34 hearing must be held in accordance with Title 5, chapter 375, subchapter 4, except that:

35 A. Issues of the hearing are limited to whether the person while hunting violated
36 section 10657;

37 B. If the presiding officer determines that the person while hunting committed a
38 violation of section 10657, the presiding officer shall immediately notify the
39 commissioner of the finding; and

40 C. The presiding officer shall provide a written decision that contains the findings and
41 recommended penalties under subsection 3 no more than 10 business days after
42 completion of the hearing, after which the commissioner or the commissioner's
43 designee may take administrative action under subsection 3.

1 **3. Administrative action.** In accordance with this section, if the commissioner or the
2 commissioner's designee determines, after receiving the findings and recommendations of
3 the presiding officer under subsection 2 or in accordance with Title 5, section 9053 if a
4 hearing has not been requested, that a person who holds a license to hunt violated section
5 10657 while hunting, the commissioner or the commissioner's designee may impose the
6 following penalties:

7 A. For a first violation, revocation of the person's hunting licenses for one year from
8 the date the commissioner or the commissioner's designee issues a decision under this
9 subsection;

10 B. For a 2nd violation, revocation of the person's hunting licenses for 2 years from the
11 date the commissioner or the commissioner's designee issues a decision under this
12 subsection; or

13 C. For subsequent violations, revocation of the person's hunting licenses for 3 years
14 from the date the commissioner or the commissioner's designee issues a decision under
15 this subsection.

16 **4. Additional penalties; mutually exclusive penalties.** In addition to the penalties
17 specified in subsection 3, a person who violates section 10657 while hunting, as determined
18 by the presiding officer, the commissioner or the commissioner's designee under this
19 section, must successfully complete the outdoor ethics course for hunters under section
20 10903-A before the person is eligible to obtain a hunting license. If a person who violates
21 section 10657 while hunting does not possess a hunting license at the time of violation, the
22 commissioner or commissioner's designee may refuse to issue a hunting license to that
23 person for up to 5 years following the violation in accordance with the procedures
24 established in this section. If the person alleged to have violated section 10657 is convicted
25 or adjudicated of a crime or civil violation under that section, the commissioner or the
26 commissioner's designee may not impose an administrative penalty under this section.

27 **5. Appeal.** A person may appeal an administrative action under subsection 3 or 4 to
28 the Superior Court within 30 days of receipt of the commissioner's or the commissioner's
29 designee's decision under subsection 3 or 4.

30 SUMMARY

31 This bill establishes a procedure for the Commissioner of Inland Fisheries and Wildlife
32 to take administrative action regarding civil trespass while hunting without first requiring
33 a criminal conviction or civil adjudication. If a person alleged to have committed a violation
34 of the Maine Revised Statutes, Title 12, section 10657 while hunting is not charged with
35 violating section 10657, the commissioner may initiate administrative proceedings, which
36 include notice and an opportunity to be heard, and impose administrative penalties
37 including revocation of a license to hunt for up to 3 years. If the person violates section
38 10657 while hunting and does not hold a hunting license, the commissioner may refuse to
39 issue a hunting license to that person for up to 5 years. The decision of the commissioner
40 may be appealed to Superior Court.