

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 766 - L.D. 1031

An Act To Create an Administrative Review Process for Hunting Violations

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

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

4. Administrative penalties; mutually exclusive penalties. A person who violates this section may be subject to administrative penalties under section 10902-A, but a person who violates this section and receives an administrative penalty for that violation under section 10902-A is not subject to conviction or adjudication under this section for that violation.

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

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

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

1. Initiation and notice. If the Game Warden Colonel delivers to the commissioner a written statement under oath that the Game Warden Colonel has probable cause to suspect that a person has violated section 10657 while hunting and the Game Warden Colonel has determined, after consultation with the district attorney having jurisdiction over that violation, that the person will not be charged with a crime or civil violation under that section, the commissioner immediately shall examine the statement and determine whether to conduct an adjudicatory proceeding for the purpose of imposing an administrative penalty under this section. If the commissioner determines that the imposition of a penalty is necessary, the commissioner shall, in accordance with Title 5, section 9052, immediately notify the person who is alleged to have violated section 10657. The provided notice under this subsection must state that the person may request a hearing in accordance with subsection 2 within 10 days of receipt of notice. Notice is deemed received 3 days after the mailing. If a person who has been notified pursuant to this subsection does not request a hearing within 10 days after receipt of notice, the commissioner may implement administrative penalties under subsection 3 without a hearing.

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

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

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

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

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

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

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

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

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

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