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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1193, L.D. 1604, “An Act To Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'PART A

Sec. A-1. 12 MRSA §10605, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §64 and affected by §422, is further amended to read:

1. Habitual violator defined. For purposes of this section, "habitual violator" means a person whose record, as maintained by the department, shows that:

A. ~~The person has been convicted of 3 or more criminal violations under this Part, adjudicated of 3 or more civil violations under this Part or convicted of at least one criminal violation under this Part and adjudicated of at least one civil violation under this Part for a combined total of 3 or more times within the previous 5-year period, except that, whenever more than one criminal violation is or more than one civil violation or multiple violations of which at least one is a criminal violation and at least one is a civil violation are committed at the same time, multiple convictions or adjudications are deemed to be one offense;~~

~~B. The person has been adjudicated as having committed 3 or more civil violations under this Part and convicted of 2 or more Class E crimes as a result of such prior adjudications within the previous 5-year period.~~

Sec. A-2. 12 MRSA §11109, sub-§1, as amended by PL 2015, c. 281, Pt. A, §4, is further amended to read:

1. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a license may be issued under this section unless that person has a valid license issued under this section. An electronic license or permit fulfills the requirement under this subsection that a person must have a physical paper

1 license or permit if the electronic license or permit can be displayed upon request to a game
2 warden or other law enforcement officer, an employee of the department, a registered
3 Maine guide or the owner of the land on which the licensed activity is taking place. ~~Each~~
4 Except as otherwise provided in this section, each day a person violates this subsection that
5 person commits a Class E crime for which a minimum fine of \$50 and an amount equal to
6 twice the applicable license fee must be imposed a fine may be imposed and a term of
7 imprisonment may not be imposed.

8 **Sec. A-3. 12 MRSA §11109, sub-§3, ¶A**, as amended by PL 2017, c. 164, §8, is
9 further amended to read:

10 A. A resident junior hunting license, for a person under 16 years of age, is \$8 and
11 permits hunting of all legal species, subject to the permit requirements in subchapter 3.
12 Notwithstanding the permit fees established in subchapter 3, a resident junior hunting
13 license includes all permits, stamps and other permissions needed to hunt at no
14 additional cost. A license holder under this paragraph who qualifies to hunt during the
15 special season on deer under section 11153 and who meets the eligibility requirements
16 of section 11106 must have included in that person's license one antlerless deer permit
17 and one either-sex permit. A resident junior hunting license does not exempt the holder
18 of the license from lottery-related application requirements under this Part. A resident
19 under 16 years of age who hunts without a resident junior hunting license commits a
20 civil violation.

21 **Sec. A-4. 12 MRSA §11109, sub-§3, ¶F**, as amended by PL 2019, c. 501, §8, is
22 further amended to read:

23 F. A nonresident junior hunting license, for a person under 16 years of age, is \$35 and
24 permits hunting of all legal species, subject to the permit requirements in subchapter 3.
25 Notwithstanding the permit fees established in subchapter 3, a nonresident junior
26 hunting license includes all permits, stamps and other permissions needed to hunt at no
27 additional cost. A license holder under this paragraph who qualifies to hunt during the
28 special season on deer under section 11153 and who meets the eligibility requirements
29 of section 11106 must have included in that person's license one antlerless deer permit
30 and one either-sex permit. A nonresident junior hunting license does not exempt the
31 holder of the license from lottery-related application requirements under this Part. A
32 nonresident under 16 years of age who hunts without a nonresident junior hunting
33 license commits a civil violation.

34 **Sec. A-5. 12 MRSA §11159, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
35 affected by c. 614, §9, is amended to read:

36 **1. Permit required.** Except as otherwise authorized in this Part, a person may not
37 engage in the practice of falconry unless that person has a valid permit issued under this
38 section. Each day a person violates this subsection that person commits a ~~Class E crime~~
39 ~~for which a minimum fine of \$50 and an amount equal to twice the applicable license fee~~
40 ~~must be imposed~~ civil violation.

41 **Sec. A-6. 12 MRSA §11214, sub-§1, ¶F**, as enacted by PL 2003, c. 414, Pt. A, §2
42 and affected by c. 614, §9, is amended to read:

43 F. Hunt migratory game birds with a shotgun of any description originally capable of
44 holding more than 3 shells, unless the shotgun's magazine has been cut off, altered or

1 plugged with a one-piece filler incapable of removal without disassembling the gun so
2 as to reduce the capacity of the gun to not more than 3 shells in the magazine and
3 chamber combined. A person who violates this paragraph commits a civil violation.
4 This paragraph does not apply to:

5 (1) Military organizations authorized by law to bear arms or to the National Guard
6 in the performance of its duty;

7 **Sec. A-7. 12 MRSA §11214, sub-§1, ¶I**, as enacted by PL 2003, c. 414, Pt. A, §2
8 and affected by c. 614, §9, is amended to read:

9 I. Allow duck decoys to remain in waters of Merrymeeting Bay at any time during the
10 period from one hour after legal shooting time until one hour before legal shooting time
11 the next day. A person who violates this paragraph commits a civil violation;

12 **Sec. A-8. 12 MRSA §11214, sub-§1, ¶J**, as enacted by PL 2003, c. 414, Pt. A, §2
13 and affected by c. 614, §9, is amended to read:

14 J. Leave or allow to remain in waters of Merrymeeting Bay an artificial cover, that is,
15 a "stationary blind," or parts of an artificial cover used for hunting purposes between
16 one hour after legal shooting time and one hour before legal shooting time the next day.
17 A person who violates this paragraph commits a civil violation;

18 **Sec. A-9. 12 MRSA §11214, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §146
19 and affected by §422, is amended to read:

20 **2. Penalty.** A Except as provided in subsection 1, paragraphs F, I and J, a person who
21 violates subsection 1 commits a Class E crime for which a fine may be imposed and a term
22 of imprisonment may not be imposed.

23 **Sec. A-10. 12 MRSA §11301**, as amended by PL 2021, c. 100, §6 and affected by
24 §13, is further amended to read:

25 **§11301. Placing of bear bait**

26 **1. Bear baiting; penalty.** A person may not place bait to entice, hunt or trap black
27 bear, unless:

28 A. The bait is placed at least 50 yards from a travel way that is accessible by a
29 conventional 2-wheel-drive or 4-wheel-drive vehicle;

30 B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the
31 name and address of the baiter;

32 C. The bait is placed more than 500 yards from a site permitted or licensed for the
33 disposal of solid waste or a campground;

34 D. The bait is placed more than 500 yards from an occupied dwelling, unless written
35 permission is granted by the owner or lessee;

36 E. The bait is placed not more than 30 days before the opening day of the season, and
37 not more than 30 days before the first Monday preceding September 1st and not after
38 October 31st;

39 F. The bait areas will be cleaned up by November 10th, as defined by the state litter
40 laws; and

1 G. The person hunting from a stand or blind of another person has permission of the
2 owner of that stand or blind.

3 A person may not use bait to hunt or trap black bear without the oral or written permission
4 of the landowner.

5 A person who violates this subsection commits a civil violation.

6 **1-A. ~~Prohibition~~ Prohibitions; penalty.** During the open season on hunting bear, a
7 person may not within 50 yards of a bait site established by another person in accordance
8 with section 11227 without the written permission of the person who established the bait
9 site:

10 A. Hunt, trap, molest or harass bear or release a dog or dogs for the purpose of hunting
11 bear or training dogs to hunt bear; ~~or.~~

12 A person who violates this paragraph commits a Class E crime for which a fine may
13 be imposed and a term of imprisonment may not be imposed; or

14 B. Disturb the bait site through the use of chemicals or take other action intended to
15 interfere with the hunting of bear at the bait site by the person who established the bait
16 site.

17 A person who violates this paragraph commits a Class E crime for which a fine may
18 be imposed and a term of imprisonment may not be imposed.

19 ~~**2. Penalty.** A person who violates this section commits a Class E crime.~~

20 **Sec. A-11. 12 MRSA §11302, sub-§3**, as enacted by PL 2003, c. 655, Pt. B, §158
21 and affected by §422, is amended to read:

22 **3. Penalty.** A person who violates this section commits a ~~Class E crime~~ civil violation.

23 **Sec. A-12. 12 MRSA §12051, sub-§1**, as repealed and replaced by PL 2013, c.
24 588, Pt. A, §16, is amended by amending the 2nd blocked paragraph to read:

25 A person who violates this subsection commits a ~~Class E crime~~ civil violation.

26 **Sec. A-13. 12 MRSA §12054, sub-§2**, as enacted by PL 2003, c. 414, Pt. A, §2
27 and affected by c. 614, §9, is amended to read:

28 **2. Rabbit hound field trials.** A person may not hold field trials for beagles and other
29 rabbit hounds except from September 1st through the following April 10th. A person who
30 violates this subsection commits a ~~Class E crime~~ civil violation.

31 **Sec. A-14. 12 MRSA §12055, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2
32 and affected by c. 614, §9, is amended to read:

33 **1. License required.** A club or organization may not hold field trials as provided
34 under this section unless the club or organization has a valid license issued under this
35 section. Each day a person violates this subsection that person commits a ~~Class E crime~~
36 ~~for which a minimum fine of \$50 and an amount equal to twice the applicable license fee~~
37 ~~must be imposed~~ civil violation.

38 **Sec. A-15. 12 MRSA §12101, sub-§1-A**, as enacted by PL 2003, c. 655, Pt. B,
39 §199 and affected by §422, is amended to read:

1 **1-A. License required.** A person may not charge others for the opportunity to hunt
2 mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in an area or
3 establish a commercial shooting area for such purposes unless that person has a valid
4 license issued under this section. Each day a person violates this subsection that person
5 commits a ~~Class E crime for which a minimum fine of \$50 and an amount equal to twice~~
6 ~~the applicable license fee must be imposed~~ civil violation.

7 A. Nothing in this subsection prohibits the operator of a commercial shooting area
8 from authorizing a person to hunt other wild birds or wild animals in the commercial
9 shooting area during the regular open season on those species, in accordance with this
10 Part, as long as the person possesses a valid state hunting license that allows the hunting
11 of those wild birds and wild animals.

12 **Sec. A-16. 12 MRSA §12508, sub-§1,** as enacted by PL 2003, c. 414, Pt. A, §2
13 and affected by c. 614, §9, is amended by amending the first blocked paragraph to read:

14 Each day a person violates this subsection, that person commits a ~~Class E crime for which~~
15 ~~a minimum fine of \$50 and an amount equal to twice the applicable license fee must be~~
16 ~~imposed~~ civil violation.

17 **Sec. A-17. 12 MRSA §12551-A, sub-§5, ¶B,** as enacted by PL 2003, c. 655, Pt.
18 B, §259 and affected by §422, is amended by amending subparagraph (2) to read:

19 (2) Shall present a receipted invoice, bill of lading, bill of sale or other satisfactory
20 evidence of the lawful possession of live baitfish or smelts for retail sale to any
21 agent of the commissioner upon request. A person who violates this subparagraph
22 commits a civil violation; or

23 **Sec. A-18. 12 MRSA §12551-A, sub-§5, ¶B,** as enacted by PL 2003, c. 655, Pt.
24 B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

25 ~~Each~~ Except for a violation of subparagraph (2), each day a person violates this
26 paragraph that person commits a ~~class~~ Class E crime for which a fine may be imposed
27 and a term of imprisonment may not be imposed.

28 **Sec. A-19. 12 MRSA §12551-A, sub-§6, ¶B,** as enacted by PL 2003, c. 655, Pt.
29 B, §259 and affected by §422, is amended by amending subparagraph (1) to read:

30 (1) When engaged in taking, or assisting in taking, live baitfish for resale from
31 inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the
32 commissioner upon request. A person who violates this subparagraph commits a
33 civil violation;

34 **Sec. A-20. 12 MRSA §12551-A, sub-§6, ¶B,** as enacted by PL 2003, c. 655, Pt.
35 B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

36 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
37 paragraph that person commits a ~~class~~ Class E crime for which a fine may be imposed
38 and a term of imprisonment may not be imposed.

39 **Sec. A-21. 12 MRSA §12551-A, sub-§7, ¶B,** as amended by PL 2005, c. 237, §3,
40 is further amended by amending subparagraph (1) to read:

1 (1) When engaged in taking, or assisting in taking, live smelts for resale from
2 inland waters, fail to exhibit the license to any agent of the commissioner upon
3 request. A person who violates this subparagraph commits a civil violation;

4 **Sec. A-22. 12 MRSA §12551-A, sub-§7, ¶B,** as amended by PL 2005, c. 237, §3,
5 is further amended by amending the first blocked paragraph to read:

6 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
7 paragraph that person commits a Class E crime for which a fine may be imposed and a
8 term of imprisonment may not be imposed.

9 **PART B**

10 **Sec. B-1. 29-A MRSA §1603, sub-§9,** as enacted by PL 1993, c. 683, Pt. A, §2
11 and affected by Pt. B, §5, is amended to read:

12 **9. Return license, certificates and plates.** A person whose license or registration has
13 been suspended shall immediately return every license, registration certificate and
14 registration plate issued to that person to the Secretary of State. A person commits a ~~Class~~
15 ~~E-crime~~ traffic infraction if that person, after notice of suspension, fails or refuses to return
16 every license, registration certificate and registration plate.

17 **Sec. B-2. 29-A MRSA §1859,** as amended by PL 1995, c. 65, Pt. A, §104 and
18 affected by §153 and Pt. C, §15, is further amended to read:

19 **§1859. Removal of vehicle**

20 Removal of a vehicle described in section 1851 or of any part or accessory from the
21 vehicle without the written consent of the person in charge or the owner of the premises or
22 property where the vehicle is located is a ~~Class E-crime~~ traffic infraction. This section
23 applies to all persons, including the owner of the vehicle.

24 **Sec. B-3. 29-A MRSA §2069, sub-§3, ¶B,** as enacted by PL 2015, c. 159, §4, is
25 amended to read:

26 B. The issuance of a summons for a traffic infraction as described in section 351, 2104
27 or 2412-A, subsection 8;

28 **Sec. B-4. 29-A MRSA §2102, sub-§1,** as amended by PL 2009, c. 493, §2, is
29 further amended to read:

30 **1. Display revoked, mutilated, fictitious or fraudulently altered driver's license**
31 **or identification card.** A person commits a ~~Class E-crime~~ traffic infraction if that person
32 displays a revoked, ~~mutilated,~~ fictitious or fraudulently altered driver's license or
33 identification card issued or represented to be issued by this State or any other state or
34 province.

35 **Sec. B-5. 29-A MRSA §2102, sub-§1-A,** as amended by PL 2009, c. 493, §2, is
36 further amended to read:

37 **1-A. Possess revoked, mutilated, fictitious or fraudulently altered driver's license**
38 **or identification card.** A person commits a ~~Class E-crime~~ traffic infraction if that person
39 possesses a revoked, ~~mutilated,~~ fictitious or fraudulently altered driver's license or
40 identification card issued or represented to be issued by this State or any other state or
41 province.

1 **Sec. B-6. 29-A MRSA §2102, last ¶**, as amended by PL 2009, c. 493, §2, is further
2 amended to read:

3 Violation of subsection ~~1, 1-A~~, 1-B, 1-D or 3 is a strict liability crime as defined in
4 Title 17-A, section 34, subsection 4-A.

5 **Sec. B-7. 29-A MRSA §2104**, as amended by PL 2015, c. 176, §5, is further
6 amended to read:

7 **§2104. Improper plates**

8 **1. Attaching false plates.** A person commits a ~~Class E crime~~ traffic infraction if that
9 person attaches to a vehicle a registration plate assigned to another vehicle or not currently
10 assigned to that vehicle.

11 **1-A. Permitting attachment of false plates.** A person commits a ~~Class E crime~~ traffic
12 infraction if that person permits to be attached to a vehicle a registration plate assigned to
13 another vehicle or not currently assigned to that vehicle.

14 **1-B. Permitting display of false registration validation device.** A person commits
15 a ~~Class E crime~~ traffic infraction if that person permits to be attached or displayed on a
16 vehicle registration plate a registration validation device issued for another vehicle.

17 **2. False identification.** A person commits a ~~Class E crime~~ traffic infraction if that
18 person obscures identification numbers, identification letters, the state name, validation
19 sticker or mark distinguishing the type of plate attached to a vehicle.

20 **3. Manufacturing or reproduction of plates.** A person commits a Class D crime for
21 which a fine may be imposed and a term of imprisonment may not be imposed if that person
22 manufactures or reproduces registration plates without the consent of the Secretary of State.
23 Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34,
24 subsection 4-A.

25 **4. Alterations to registration plates.** Except when a greater penalty is applicable, a
26 person commits a traffic infraction if that person adds or attaches to a registration plate a
27 decal, symbol, slogan, mark, letter or number not authorized by law or by the Secretary of
28 State.

29 ~~**5. Strict liability.** Violation of subsection 1, 2 or 3 is a strict liability crime as defined~~
30 ~~in Title 17-A, section 34, subsection 4-A.~~

31 **Sec. B-8. 29-A MRSA §2412-A, sub-§1-A, ¶A**, as enacted by PL 2003, c. 452,
32 Pt. Q, §85 and affected by Pt. X, §2, is amended to read:

33 A. Operates a motor vehicle on a public way or in a parking area when that person's
34 license has been suspended or revoked, and that person:

- 35 (1) Has received written notice of a suspension or revocation from the Secretary
36 of State or a court;
- 37 (2) Has been orally informed of the suspension or revocation by a law enforcement
38 officer or a court;
- 39 (3) Has actual knowledge of the suspension or revocation;
- 40 (4) Has been sent written notice in accordance with section 2482 or former Title
41 29, section 2241, subsection 4; or

(5) Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608;

A violation of this paragraph is a traffic infraction;

Sec. B-9. 29-A MRSA §2412-A, sub-§1-A, as amended by PL 2009, c. 297, §1, is further amended by amending the first blocked paragraph to read:

Except for an offense under subsection 8 or as otherwise provided a violation of paragraph A, operating while license suspended or revoked is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A, and is punishable pursuant to subsection 3.

Sec. B-10. 29-A MRSA §2412-A, sub-§8, as amended by PL 2009, c. 493, §3, is repealed.

Sec. B-11. 29-A MRSA §2417, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2417. Suspended registration

A person commits a ~~Class E offense~~ traffic infraction if that person operates or permits another to operate a vehicle when the registration of that vehicle is suspended or revoked.

PART C

Sec. C-1. 17-A MRSA §4-B, sub-§4, as enacted by PL 1985, c. 282, §3, is amended to read:

4. Evidence obtained pursuant to an unlawful search and seizure ~~shall is not be~~ admissible in a civil violation proceeding ~~arising under Title 22, section 2383.~~

Sec. C-2. 17-A MRSA §4-B, sub-§5 is enacted to read:

5. A law enforcement officer who has probable cause to believe that a violation of law has taken place or is taking place may make application for a search warrant in accordance with the applicable Maine Rules of Civil Procedure or Maine Rules of Unified Criminal Procedure.

PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides one-time funding for programming changes to 2 existing case management systems.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$3,500
GENERAL FUND TOTAL	<u>\$0</u>	<u>\$3,500</u>

PART E

Sec. E-1. Effective date. Parts A, B and C of this Act take effect January 1, 2023.'

40 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
41 number to read consecutively.

42 **SUMMARY**

4 This amendment is the minority report of the committee. The amendment replaces the
5 bill.

45 Part A amends certain laws regarding inland fisheries and wildlife in the Maine Revised
46 Statutes, Title 12, Part 13, limiting the sentences for certain crimes to fines and changing
47 some crimes to civil violations. Crimes reduced to civil violations include junior hunting
48 without a license, unlawful practice of falconry, unlawful hunting of migratory birds with
49 a shotgun, allowing duck decoys or a stationary blind to remain in the water in
50 Merrymeeting Bay or beyond the legal hours, unlawful hunting of bear with dogs or with
51 bait, certain violations of field trial, training dogs and opportunity to hunt laws and certain
52 violations of live smelt and baitfish laws.

53 Part B amends certain Maine motor vehicle laws in Title 29-A, limiting the sentence
54 for the crime of manufacturing or producing registration plates without the consent of the
55 Secretary of State to a fine and changing some crimes to traffic infractions. Other crimes
56 reduced to traffic infractions include certain violations of laws related to:

- 57 1. Motor vehicle registration certificates and plates and driver's licenses;
- 58 2. Removal of a vehicle without the consent of the owner or person in charge of the
59 property;
- 60 3. Unlawful ownership or display of a revoked, fictitious or fraudulently altered
61 driver's license or identification card;
- 62 4. Unlawful use of a driver's license or an identification card;
- 63 5. Improper use of registration plates; and
- 64 6. Operating a motor vehicle while license or registration is suspended.

65 Part C amends the Maine Criminal Code provision governing civil violations to
66 explicitly provide that evidence obtained pursuant to an unlawful search and seizure is not
67 admissible in any civil violation proceeding, not just those arising from marijuana
68 possession by a person under 21 years of age or possession of butyl nitrite or isobutyl
69 nitrite, and to permit a law enforcement officer who has probable cause to believe that a
70 violation of the law has taken place or is taking place to make application for a search
71 warrant.

72 Part D adds an appropriations and allocations section.

73 Part E adds an effective date of January 1, 2023 for Parts A, B and C.

74 The amendment differs from the majority report by removing provisions of the bill that
75 decriminalize certain crimes of operating a motor vehicle after suspension of a license or
76 registration that are not based on operating a motor vehicle under the influence.

38 **FISCAL NOTE REQUIRED**

39 **(See attached)**