

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend Certain Provisions of Maine Fish and Wildlife Laws

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

Sec. 1. 12 MRSA §10052, as amended by PL 2009, c. 340, §2, is further amended to read:

§ 10052. Division of Licensing and Registration

The Division of Licensing, ~~and~~ Registration ~~and Engineering~~ is established within the Department of Inland Fisheries and Wildlife. The division is equal in organizational level and status with other major organizational units within the department or its successors. The division is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility for administering all the powers and duties of the division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the division include, but are not limited to:

3. Licensing and registration. The administration and issuance of department licenses, stamps and permits and the registration of snowmobiles, watercraft and all-terrain vehicles; ~~and~~

4. Engineering. ~~The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document.~~

Sec. 2. 12 MRSA §10052-A is enacted to read:

§ 10052-A. Division of Engineering

The Division of Engineering is established within the Department of Inland Fisheries and Wildlife. The division is administered by a director. The responsibilities of the division include:

1. Engineering. The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document.

Sec. 3. 12 MRSA §10502, sub-§1, as amended by PL 2003, c. 592, §1 and affected by §5; c. 614, §9; and c. 655, Pt. C, §§5 and 6, is further amended to read:

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of this Part, and all currency and equipment, including but not limited to firearms, possessed or used in violation of this Part are contraband and subject to seizure by any officer authorized to enforce this Part. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 10503.

Sec. 4. 12 MRSA §10503, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Notice and hearing of libel. The judge shall fix a time for the hearing of the libel and issue a notice of the libel to all persons interested, citing them to appear at the time and place appointed and show cause why the fish, wildlife, currency or equipment possessed should not be declared forfeited. A true and attested copy of the libel and notice must be posted in 2 conspicuous places in the town or place where the fish, wildlife, currency or equipment possessed was seized, or in such place or places as is ordered by the court, at least 10 days before the day on which the libel is returnable. Copies must be served on common carriers;

Sec. 5. 12 MRSA §10503, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Return of articles or proceeds to claimant. If the court is, upon the hearing, satisfied that the fish, wildlife, currency or equipment possessed was not possessed in violation of this Part and that the claimant is entitled to the custody of any part of the articles, the court shall give the claimant an order in writing, directed to the officer having the articles in custody, commanding delivery to the claimant of the articles or proceeds derived from the sale of the articles, to which the claimant is found to be entitled, within 48 hours after demand;

Sec. 6. 12 MRSA §10652, sub-§1, ¶B, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §68 and affected by §422, is amended to read:

B. A person may not while hunting any wild animal or wild bird:

(1) Damage or destroy a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand unless the person has the permission of the landowner;

(2) Except as provided in this paragraph, erect or use either a portable or permanent ~~tree~~ ladder or observation stand attached to a tree on the land of another person unless:

(a) That person has obtained oral or written authorization to erect and use a ~~tree~~ ladder or observation stand from the landowner or the landowner's representative; and

(b) The ~~tree~~ ladder or observation stand is plainly labeled with a 2-inch by 4-inch tag identifying the name and address of the person or persons authorized by the landowner to use the ~~tree~~ stand or observation ladder.

This subparagraph does not apply to a portable ~~tree~~ ladder or observation stand that is located on land within the jurisdiction of the Maine Land Use Regulation Commission and attended by the person who owns the ladder or observation stand;

(3) Tear down or destroy any fence or wall on another person's land;

(4) Leave open any gate or bars on another person's land; or

(5) Trample or destroy any crop on another person's land.

Sec. 7. 12 MRSA §10703, sub-§11, as amended by PL 2009, c. 447, §15, is further amended to read:

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that ~~results~~has resulted or could result in the death of any person must submit to and complete chemical tests to determine that person's alcohol level or other chemical use by analysis of blood, breath or urine. A law enforcement officer may determine which types of tests will be administered. The results of tests taken pursuant to this subsection are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive alcohol level.

Sec. 8. 12 MRSA §10751, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 9. 12 MRSA §10757, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

§ 10757. Fraudulently obtaining or possessing license or permit

A person may not obtain or possess a license or permit authorized in this Part through fraud, misstatement or misrepresentation. A person who violates this section commits a Class E crime.

Sec. 10. 12 MRSA §10801, sub-§6, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one calendar year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

Sec. 11. 12 MRSA §10851, sub-§1, ¶D, as amended by PL 2007, c. 651, §9, is further amended to read:

D. For a resident 70 years of age or older. A person who holds a valid senior lifetime license under this section ~~upon turning at any time during the calendar year that person turns~~ 70 years of age may ~~obtain at no cost~~ be entitled to all hunting permits and licenses authorized in this Part and may renew at no cost a guide license under section 12853. A person who is 70 years of age or older may purchase a senior lifetime license that entitles the holder to all the privileges described in this paragraph for a one-time \$8 fee.

Sec. 12. 12 MRSA §10902, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Hunting license revocation or suspension for endangerment or harm to another. The commissioner may bring a complaint in the District Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person, regardless of residency, whom the commissioner reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting. The District Court shall revoke or suspend the person's license or privilege for a period of at least 5 years if the court finds that the person, while hunting, has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of that license or privilege. For the purpose of this subsection, "recklessly" has the same meaning as that set out in Title 17-A, section 35, subsection 3.

A. A person whose hunting license has been revoked or suspended or whose right to hunt or the right to obtain a hunting license has been denied under this subsection, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of the person's privilege to procure such a license.

B. The commissioner, after hearing, may restore the petitioner's privilege if the commissioner determines that the public safety will not be endangered by restoring that privilege.

C. If the commissioner disallows the petition and thereby refuses to grant the restoration of the privilege, the petitioner may appeal to the commissioner's advisory council, which, after hearing on the petition, may allow it and restore the privilege.

Sec. 13. 12 MRSA §10902, sub-§6, ¶C, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §99 and affected by §422, is further amended to read:

C. Night hunting, in violation of section ~~11206-A~~ 11206;

Sec. 14. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

E. Buying or selling bear, hunting or trapping bear after having killed one or exceeding the bag limit on bear, in violation of section 11217 ~~or~~, 11351 or 12260;

Sec. 15. 12 MRSA §10902, sub-§6, ¶G, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §99 and affected by §422, is further amended to read:

G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing moose, in violation of section 11154, 11217, 11601, 11651-A, 11652, 12302-A, 12304-A, 12305 or 12403; or

Sec. 16. 12 MRSA §10902, sub-§10, ¶E, as enacted by PL 2005, c. 626, §2, is amended to read:

E. Failure or refusal to stop an ATV or attempting to elude an officer, as prohibited under section 10651, subsection 1, paragraphs ~~C~~ and D and E.

Sec. 17. 12 MRSA §11152, sub-§1-A, as enacted by PL 2007, c. 463, §4, is amended to read:

1-A. Antlerless deer in wildlife management districts with no permits issued.

Except as otherwise provided in this Part, a person may not hunt or possess an antlerless deer in ~~Washington County~~ wildlife management district that does not have permits issued. A person may possess in one of those districts an antlerless deer ~~in Washington County~~ that has been lawfully registered in another ~~county~~district where permits have been issued.

A person that violates this subsection commits a Class D crime for which a minimum fine of \$1,000 must be imposed, and the court shall impose a sentencing alternative involving a term of imprisonment of at least 3 days, none of which may be suspended.

Sec. 18. 12 MRSA §11301, as affected by PL 2003, c.614, §9 and amended by c. 655, Pt. B, §§156 and 157 and affected by §422, is further amended to read:

§ 11301.Placing of bear bait

1. Bear baiting. A person may not ~~use~~place bait to entice, hunt or trap black bear, unless:

- A. The bait is placed at least 50 yards from a travel way that is accessible by a conventional 2-wheel-drive or 4-wheel-drive vehicle;
- B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the name and address of the baiter;
- C. The bait is placed more than 500 yards from a site permitted or licensed for the disposal of solid waste or a campground;
- D. The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or lessee;
- E. The bait is placed not more than 30 days before the opening day of the season and not after October 31st;
- F. The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and
- G. The person hunting from a stand or blind of another person has permission of the owner of that stand or blind.

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

Sec. 19. 12 MRSA §11605 is enacted to read:

§ 11605. Baiting moose

1. Prohibitions. A person may not, during open hunting season on moose:

A. Place salt or any other bait or food in a place to entice moose to that place; or

B. Hunt from an observation stand or blind overlooking salt, grain, fruit, nuts or other foods known to be attractive to moose. This prohibition does not apply to hunting from an observation stand or blind overlooking:

(1) Standing crops;

(2) Foods that are left as a result of normal agricultural operations or as a result of a natural occurrence; or

(3) Bear bait that is placed at a bear hunting stand or blind in accordance with section 11301, subsection 1.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

Sec. 20. 12 MRSA §11751-A, sub-§2, as enacted by PL 2003, c. 552, §11 and affected by §15 and c. 655, Pt. C, §§2 and 6, is amended to read:

2. Exceeding bag limit. AExcept as otherwise provided in section 11155, subsection 1-B, a person may not possess more than one wild turkey during any open season, except a person may keep more than one legally obtained wild turkey in that person's home at any time or as otherwise provided in law or rule. A person who holds a 2nd spring wild turkey permit may take only one turkey per day.

Sec. 21. 12 MRSA §12051, sub-§1, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. A person may train dogs on foxes, ~~rabbitssnowshoe hare~~ and raccoons from July 1st through the following March 31st, including Sundays.

Sec. 22. 12 MRSA §12051, sub-§3, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §191 and affected by §422, is amended to read:

3. Possessing firearm while training dogs. A person may not possess a firearm while training a dog outside of the open training season on foxes, ~~rabbitssnowshoe hare~~ and raccoons as set out in subsection 1.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 23. 12 MRSA §12159, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §§207 and 208 and affected by §422, is further amended to read:

§ 12159. Taking reptiles and amphibians from the wild

1. Prohibition; penalties. Except as provided in this section, a person may not take and possess ~~snakes or turtles~~reptiles or amphibians from the wild for export, sale or commercial purposes.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

2. Commercial amphibian permit. Persons harvesting ~~snapping turtles~~amphibians for purposes of resale are required to obtain a permit from the commissioner.

3. Rules. The commissioner shall adopt rules pertaining to harvest methods, confinement and disposal of ~~snapping turtles~~amphibians. The commissioner may by rule:

- A. Require reporting of ~~commercial~~ harvest activities;
- B. Establish a season, including daily and season possession limits;
- C. Establish ~~size limits~~requirements for humane harvest, confinement and disposal methods; and
- D. Establish a fee schedule to implement a permit system under this section.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 24. 12 MRSA §12160 is enacted to read:

§ 12160. Taking of certain nonmarine invertebrates from the wild for commercial purposes

1. Prohibition; penalties. Except as provided in this section, a person may not take and possess certain nonmarine invertebrates, specifically freshwater mussels, butterflies, moths, dragonflies or beetles, from the wild for export, sale or commercial purposes.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

2. Commercial nonmarine invertebrate permit. Persons harvesting freshwater mussels, butterflies, moths, dragonflies or beetles for purposes of resale are required to obtain a permit from the commissioner.

3. Rules. The commissioner may by rule:

A. Require reporting of commercial harvest activities, including at a minimum dates, locations, and numbers collected by species;

B. Establish daily and season possession limits;

C. Establish a fee schedule to implement a permit system under this section; and

D. Require humane harvest, confinement and disposal methods.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 25. 12 MRSA §12259, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §221 and affected by §422, is further amended to read:

3. Nonresident trapping beaver. Except as authorized in specific wildlife management districts as determined by the commissioner, a nonresident may not trap beaver in this State.

A person who violates this subsection commits a Class E crime.

Sec. 26. 12 MRSA §12501, sub-§4, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. A nonresident who possesses a 15-day nonresident fishing license may exchange it for an annual nonresident license upon the additional payment of \$12, the difference between the fee for the 15-day license and the fee for the annual license; and \$2 to the clerk or issuing agent.

Sec. 27. 12 MRSA §12506, sub-§5-A, ¶A, as amended by PL 2007, c. 463, §6 and affected by §9, is further amended to read:

A. A person may fish for alewives by use of a dip net or single hook and line for consumption by that person or members of that person's family, provided that as long as the person takes or possesses no more than one bushel²⁵ fish in any day and provided also that as long as the alewives are taken downstream from any location where a municipality or other person has been granted exclusive rights under section 6131; and

Sec. 28. 12 MRSA §12661, sub-§2, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §284 and affected by §422, is repealed.

Sec. 29. 12 MRSA §12661, sub-§3, as amended by PL 2005, c. 397, Pt. A, §9, is further amended to read:

3. Removal of abandoned ice fishing shacks. A person may not leave a structure on another person's land without permission from the landowner. Notwithstanding the provisions of Title 33, chapter 41, a landowner on whose property an ice fishing shack is left in violation of this section and Title 17, section 2263-A may remove or destroy the shack. The landowner may recover any costs of removing or destroying the shack from the owner of the shack in a civil action.

Sec. 30. 12 MRSA §12661, sub-§4 is enacted to read:

4. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 31. 12 MRSA §12904, as amended by PL 2009, c. 211, Pt. B, §13, is further amended to read:

§ 12904.Exceptions

This chapter does not apply to the operation of canoes or kayaks. This chapter does not apply to guides or youth camp trip leaders licensed under chapter 927 or motorboat operators licensed under chapter 935, unless those persons are in the business of conducting commercial ~~white-collar~~whitewater trips.

Sec. 32. 12 MRSA §13154-A, sub-§3, as enacted by PL 2003, c. 655, Pt. B, §404 and affected by §422 and enacted by c. 695, Pt. B, §12 and affected by Pt. C, §1, is further amended to read:

3. Unlawfully operating ATV by person 10 to under 16 years of age. Except as provided in subsection 6, a person 10 years of age or older but under 16 years of age may not operate an ATV unless that person has successfully completed a training course approved by the department pursuant to section 13152 and is accompanied by an adult. Proof of having completed a training course must be presented for inspection upon request of a law enforcement officer.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 33. 36 MRSA §191, sub-§2, ¶GG, as amended by PL 2009, c. 340, §27, is further amended to read:

GG. The disclosure to the Department of Inland Fisheries and Wildlife, Division of Licensing, and Registration and Engineering of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft;

SUMMARY

This bill changes the name of the Department of Inland Fisheries and Wildlife, Division of Licensing, Registration and Engineering to the Division of Licensing and Registration and enacts a new Division of Engineering.

It broadens the law that provided for increased fines in Washington County for hunting or possessing antlerless deer to cover any wildlife management district where antlerless deer permits have not been issued due to decreased deer populations.

It also prohibits leaving an ice fishing shack on a landowner's shorefront without permission and allows that landowner to remove the shack after April 1st.

It also broadens to residents of other states the Commissioner of Inland Fisheries and Wildlife's authority to revoke, suspend or refuse to issue a license to a person who has killed, wounded or recklessly endangered the safety of another human being while hunting.

It no longer requires that whenever a license or permit to hunt is in the form of a stamp, the licensee has to affix the stamp on the license and sign it.

It clarifies that a person may not obtain or possess a license or permit through fraud, misstatement or misrepresentation.

It clarifies that a person who is 70 years of age and holds a valid senior lifetime license at any time during the calendar year that the person turns 70 years of age is entitled to all hunting permits and licenses.

It modifies the current tree stand laws to include all types of stands that people use for hunting, such as freestanding tripods, rather than just stands that are attached to trees.

It enables the enforcement of the laws regarding the placement of bear bait. Currently a person can claim that the person did not place the bait and therefore is not in violation of any laws.

It also requires persons operating ATVs who are required to have completed a training course to provide proof of having completed that course upon request by a law enforcement officer.

It also changes the laws regarding submitting to chemical tests when involved in an accident while hunting or on a recreational vehicle to mirror similar laws in the Maine Revised Statutes, Title 29-A.

It also includes currency in the items that must be forfeited by violators of fish and wildlife laws.

The Atlantic State Marine Fisheries Commission is reducing the alewife harvest along the entire eastern seaboard. The bill establishes a daily bag limit of 25 alewives; this change keeps the limit consistent with the department rules.

It reduces the fee a nonresident must pay to exchange a 15-day nonresident fishing license for an annual license to the difference between the 15-day license and the annual license and \$2 to the clerk or issuing agent.

It also authorizes the commissioner to allow nonresidents to trap beaver in designated wildlife management districts where a higher harvest is necessary.

It clarifies that reptiles cannot be taken for commercial purposes.

It also prohibits baiting moose.

It clarifies that a person who holds a 2nd spring wild turkey permit may take only one turkey per day.

It changes the term "rabbits" to "snowshoe hare" in the provisions regarding the training of dogs on game.