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An Act To Clarify and Enhance Fish and Wildlife Enforcement Laws

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

Sec. 1. 12 MRSA §10609 is enacted to read:

§ 10609. Restitution for scientific testing

The department may seek restitution for scientific testing investigative expenses in accordance with Title 17-A, section 1322 for all crimes investigated under this Part.

Sec. 2. 12 MRSA §10652, as amended by PL 2017, c. 50, §1, is further amended to read:

§ 10652. Abuse of another person's property

1. Prohibitions. Prohibitions on the abuse of another person's property ~~while fishing, hunting or trapping~~ are as follows.

A. A person may not ~~while fishing~~:

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

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

(3) Trample or destroy any crop on another person's land;

(4) 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;

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

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

(b) The 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 stand or observation ladder.

This subparagraph does not apply to a portable ladder or observation stand that is located on land within the jurisdiction of the Maine Land Use Planning Commission and attended by the person who owns the ladder or observation stand. For purposes of this subparagraph, "observation stand" does not include a portable blind utilized at ground level that remains in the physical possession of the hunter; or

(6) Destroy, tear down, deface or otherwise damage a property posting sign under Title 17-A, section 402, subsection 4.

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 ladder or observation stand on the land of another person unless:~~

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

~~(b) The 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 stand or observation ladder.~~

~~This subparagraph does not apply to a portable ladder or observation stand that is located on land within the jurisdiction of the Maine Land Use Planning Commission and attended by the person who owns the ladder or observation stand. For purposes of this subparagraph, "observation stand" does not include a portable blind utilized at ground level that remains in the physical possession of the hunter;~~

~~(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;~~

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

~~(6) Destroy, tear down, deface or otherwise damage a property posting sign under Title 17-A, section 402, subsection 4.~~

C. A person may not while trapping a wild animal:

~~(1) Tear down or destroy any fence or wall on another person's land;~~

~~(2) Leave open any gate or bars on another person's land; or~~

~~(3) Trample or destroy any crop on another person's land.~~

Except as otherwise provided, a person may not possess any wild animal or wild bird taken by hunting or trapping in violation of this subsection.

2. Penalty. A person who violates this section commits a Class E crime and may be ordered to pay restitution to the landowner for damages.

Sec. 3. 12 MRSA §10658-A is enacted to read:

§ 10658-A. Unlawful possession of upland game

1. Daily bag limit. A person may not take more than the daily bag limit of an upland game species, as defined in rules adopted by the department, during any open season on that upland game species as established by the commissioner.

2. Possession limit. A person may not possess more than the possession limit of an upland game species taken during any open season on that upland game species as established by the commissioner.

3. Penalty. A person who violates this section commits a Class E crime for which a fine of not less than \$200 plus \$50 for each upland game species taken in violation may be adjudged.

Sec. 4. 12 MRSA §10902, sub-§6, ¶G, as amended by PL 2013, c. 280, §3, 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~~12304-B, 12305 or 12403;

Sec. 5. 12 MRSA §10902, sub-§7-A, as enacted by PL 2003, c. 592, §2 and affected by §5 and c. 655, Pt. C, §§5 and 6, is amended to read:

7-A. Hunting with night vision or thermal imaging device. A hunting license of a person convicted of night hunting in violation of section 11206, subsection 1 and found to have been in possession of night vision equipment or a thermal imaging device at the time of the offense must be revoked, and that person is ineligible to obtain a hunting license for a period of 5 years from the date of conviction.

Sec. 6. 12 MRSA §10902, sub-§7-B, as enacted by PL 2017, c. 50, §2, is amended to read:

7-B. Destroying or defacing property posting signs. ~~The hunting and fishing licenses of~~ A license, permit or registration issued by the department in effect at the time a person is convicted of destroying, tearing down, defacing or otherwise damaging a property posting sign in violation of section 10652, subsection 1, paragraph ~~BA~~ must be revoked, and that person is ineligible to obtain a hunting or fishing any license, permit or registration issued by the department for a period of one year from the date of conviction.

Sec. 7. 12 MRSA §11103, as affected by PL 2003, c. 614, §9; amended by c. 655, Pt. B, §112; and affected by §422, is further amended to read:

§ 11103. Prohibition for convicted felons and domestic violence offenders and nonviolent juvenile offenders

A person who is prohibited from possessing a firearm under Title 15, section 393, subsection 1, ~~1-A or 1-B~~ is ineligible to obtain or possess any license or permit issued by the department that authorizes a person to hunt with a firearm unless that person possesses a valid permit in accordance with Title 15, section 393, subsection 2.

Sec. 8. 12 MRSA §11217, sub-§2, ¶A, as repealed and replaced by PL 2013, c. 333, §4, is amended to read:

A. A person who has lawfully killed or trapped and registered a bear may sell, without a hide dealer's license, only the hide, head, teeth, claws not attached to the paws, fat not attached to the meat and ~~gall bladder~~ gallbladder of that animal.

Sec. 9. 12 MRSA §11217, sub-§2, ¶G, as enacted by PL 2013, c. 333, §4, is amended to read:

G. A person may buy, without a hide dealer's license, for that person's personal use and not for resale, only the teeth, claws not attached to paws, fat not attached to the meat, skull or head and hide of a bear; only the bones, feet and hide of a moose; the skull or head of a deer or moose, excluding antlers; and all other parts of wild animals and wild birds not prohibited from being bought, sold, offered for sale or bartered under subsections 1 and 3.

Sec. 10. 12 MRSA §11857, as amended by PL 2013, c. 538, §29, is repealed.

Sec. 11. 12 MRSA §12159, sub-§1, as amended by PL 2011, c. 253, §23, is further amended to read:

1. Prohibition; penalties. Except as provided in this section, a person may not take ~~and~~ or possess 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.

Sec. 12. 12 MRSA §12303-A, sub-§1, as enacted by PL 2003, c. 655, Pt. B, §230 and affected by §422, is amended to read:

1. Time limits. Except as provided in subsection 1-A, a person may not keep any of the following unregistered wild animals ~~at home or any place of storage~~ for more than 18 hours after the animal was harvested:

A. Bear;

B. Deer;

C. Moose; or

D. Wild turkey.

Sec. 13. 12 MRSA §12304-A, as enacted by PL 2003, c. 655, Pt. B, §232 and affected by §422, is repealed.

Sec. 14. 12 MRSA §12304-B is enacted to read:

§ 12304-B. Condition of animal presented for registration

1. Wild turkey. A person shall present a wild turkey for registration in its entirety, except that the viscera may be removed in a manner that permits determination of the sex of the animal.

2. Bear, deer and moose. A person shall present a bear, deer or moose for registration as follows.

A. A person shall present a bear, deer or moose in its entirety, including, but not limited to, all edible meat and the head for registration, except that the viscera, hide, lower legs and rib cage, including the ribs, spine and pelvis, are not required to be presented for registration.

B. A bear, deer or moose may be dismembered for ease of transportation.

C. A person must present evidence of sex of a bear, deer or moose for registration.

3. Biological samples. Through rulemaking, the commissioner may require hunters to submit biological samples from wild turkey, bear, deer or moose at the time of registration.

4. Disposal of parts not presented for registration. A person may not dispose of the parts of a bear, deer or moose not presented for registration where they are visible to a person traveling on a public or private way.

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

Sec. 15. 12 MRSA §12954, sub-§4-A, ¶A, as amended by PL 2017, c. 288, Pt. A, §15, is further amended to read:

A. A licensee shall:

(1) Keep a true and complete record, in such form as is required by the commissioner, to include the names and addresses of persons buying or selling heads, hides, bear fat and bear gall bladders; and

(2) File that record with the commissioner on or before June 30th of each year.

All data submitted to the commissioner as part of the record are for scientific purposes only and are confidential and not a public record within the meaning of Title 1, chapter 13, subchapter 1, except that the commissioner may disclose data collected under this paragraph for law enforcement purposes or if the data are released in a form that is statistical or general in nature.

Sec. 16. 12 MRSA §12954, sub-§6-A, ¶C, as enacted by PL 2013, c. 333, §9, is amended to read:

C. A person who has lawfully killed or trapped and registered a bear may sell, without a hide dealer's license, only the hide, head, teeth, claws not attached to the paws, fat not attached to the meat and gallbladder of that animal.

Sec. 17. 12 MRSA §12954, sub-§6-A, ¶G, as enacted by PL 2013, c. 333, §9, is amended to read:

G. A person may buy, without a hide dealer's license, for that person's own personal use and not for resale, only the teeth, claws not attached to paws, fat not attached to the meat, skull or head and hide of a bear; only the bones, feet and hide of a moose; the skull or head of a deer or moose, excluding antlers; and all other parts of wild animals and wild birds not prohibited from being bought, sold, offered for sale or bartered under section 11217, subsections 1 and 3.

Sec. 18. 12 MRSA §13001, sub-§15-A is enacted to read:

15-A. Marine engine. "Marine engine" means a motor, including an outboard motor, suitable for the propulsion of a watercraft upon water.

Sec. 19. 12 MRSA §13001, sub-§21, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

21. Owner. "Owner" means:

A. For the purpose of registration of a snowmobile, a person holding title to a snowmobile or having ~~exclusive right to the use of a snowmobile for a period greater than 30 days~~equitable interest in a snowmobile that entitles the person to possession of the snowmobile;

B. ~~With respect to~~For the purpose of registration of a watercraft, a person who claims lawful possession of the~~holding title to a watercraft by virtue of legal title or having equitable interest therein~~in a watercraft that entitles the person to possession of the watercraft; or

C. For the purposes of registration of an ATV, a person holding title to an ATV or having equitable interest in an ATV that entitles the person to possession of the ATV.

Sec. 20. 12 MRSA §13068-A, sub-§10, as enacted by PL 2003, c. 655, Pt. B, §380 and affected by §422, is amended to read:

10. Operating marine engine that exceeds noise limits. The following provisions govern noise limits.

A. A person may not operate a ~~motorboat~~marine engine in such a manner as to exceed:

(1) A noise level of 90 decibels when subjected to a stationary sound level test with and without cutouts engaged and as prescribed by the commissioner; or

(2) A noise level of 75 decibels when subjected to an operational test measured with and without cutouts engaged and as prescribed by the commissioner.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$300 nor more than \$500 may be adjudged.

(2) 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.

C. This subsection does not apply to ~~motorboats~~marine engines that are operating in a regatta or race approved by the commissioner under section 13061.

Sec. 21. 15 MRSA §393, sub-§1-B, as amended by PL 2017, c. 432, Pt. A, §1, is further amended to read:

1-B. Prohibition for domestic violence offenses. A person may not own, possess or have under that person's control a firearm, a crossbow, a muzzleloader or archery or airbow equipment if that person:

A. Has been convicted of committing or found not criminally responsible by reason of insanity of committing:

(1) A Class D crime in this State in violation of Title 17-A, section 207-A, 209-A, 210-B, 210-C or 211-A; or

(2) A crime under the laws of the United States or any other state that in accordance with the laws of that jurisdiction is elementally substantially similar to a crime in subparagraph (1).

Violation of this paragraph is a Class C crime; or

B. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under this subsection. Violation of this paragraph is a Class C crime.

Except as provided in subsection 1-A, the prohibition created by this subsection for a conviction or adjudication of an offense listed in paragraph A or B expires 5 years from the date the person is finally discharged from the sentence imposed as a result of the conviction or adjudication if that person has no subsequent criminal convictions during that 5-year period. If a person is convicted of a subsequent crime within the 5-year period, the 5-year period starts anew from the date of the subsequent conviction. In the case of a deferred disposition, the 5-year period begins at the start of the deferred disposition period. If, at the conclusion of the deferred disposition period, the court grants the State's motion to allow a person to withdraw the plea and the State dismisses the charge that gave rise to the prohibition with prejudice, the 5-year period terminates.

For the purposes of this subsection, a person is deemed to have been convicted or adjudicated upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

The provisions of this subsection apply only to a person convicted, adjudicated or placed on deferred disposition on or after October 15, 2015.

Sec. 22. 17-A MRSA §1105-A, sub-§1, ¶E, as amended by PL 2005, c. 415, §2, is further amended to read:

E. At the time of the offense, the person is on a school bus or, within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 or on property designated by the Department of Inland Fisheries and Wildlife as open to fishing for only persons under 16 years of age or persons holding a complimentary fishing license under Title 12, section 10853 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a Class B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5;

Sec. 23. 17-A MRSA §1322, sub-§3, as amended by PL 2015, c. 346, §8, is further amended to read:

3. Economic loss. "Economic loss" includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. "Economic loss" includes expenses of an emergency response by any public agency and critical investigation expenses and scientific testing investigative expenses.

A. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic,

convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.

A-1. "Critical investigation expense" means a necessary expense incurred by a government or by a victim while investigating or prosecuting suspected criminal conduct. "Critical investigation expense" is limited to the cost of an audit or other financial analysis when that analysis is necessary to determine whether and to what extent a victim has suffered financial harm from criminal conduct by an employee or other person in a position of trust and the cost of analysis of suspected illegal drugs.

B. "Dependent's economic loss" means loss after a decedent's death of contributions of things of economic value to the decedent's dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death.

C. "Dependent's replacement loss" means loss reasonably incurred by dependents after a decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of the decedent's death and not subtracted in calculating dependent's economic loss.

C-1. "Environmental clean-up expense" means any reasonable expense incurred for products and services needed to clean up any harm or damage caused to the environment, including any harm or damage caused by chemicals; to restore the environment to its previous condition prior to any harm or damage; and to properly dispose of chemicals and other materials, including those used in the manufacture of scheduled drugs in violation of chapter 45.

C-2. "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including a response to a suspected unlawful methamphetamine laboratory under section 1124, but only includes those costs directly arising because of the response to the particular incident. Reasonable costs include the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the compensation for the personnel, including trained laboratory personnel, responding to the incident. "Public agency" means the State or any county, municipality, district or public authority located, in whole or in part, within this State that provides or may provide laboratory services or police, firefighting, ambulance or other emergency services.

D. "Property loss" means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss includes the value of taxes or other obligations due to the government that have not been paid. "Property loss" also includes, in cases involving a violation of chapter 45, the value of money or other consideration given or offered in exchange for scheduled drugs by a law enforcement officer or another at the direction of a law enforcement officer that are not, in fact, recovered by the State at the time of sentencing, regardless of whether other money

or items of value are sought, acquired or forfeited pursuant to Title 15, chapter ~~515~~17. In cases involving a violation of chapter 45, the court must make a finding that the property loss is specifically related to that case.

E. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of the injured person or the injured person's family, if the injured person had not been injured.

E-1. "Scientific testing investigative expense" means an expense incurred by a public agency for conducting scientific testing aimed at enhancing or solving fish and wildlife related crimes.

F. "Work loss" means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C, "work loss" includes pay or benefits unfairly or illegally withheld from the victim by the offender or any unfair labor agreement under Title 26, section 629, as defined by rules adopted by the Department of Labor.

SUMMARY

This bill makes several changes to the State's fish and wildlife enforcement laws. The bill:

1. Makes it illegal for nonviolent juvenile offenders and persons convicted of domestic violence to possess a firearm hunting license. It also prohibits a person convicted of a domestic violence offense from owning or possessing a crossbow, a muzzleloader or archery or airbow equipment;
2. Provides that a person is guilty of aggravated trafficking in a scheduled drug if the person is convicted of trafficking while in an area open to fishing for only persons under 16 years of age or complimentary fishing license holders;
3. Requires all edible meat from bear, deer and moose to be presented for registration with evidence of sex;
4. Clarifies that a person's hunting license will be revoked if the person is convicted of night hunting while in possession of a thermal imaging device;
5. Amends the definition of "owner" for the purpose of registration of a snowmobile, watercraft and all-terrain vehicle;
6. Provides for penalties for bag limit and possession limit violations for individual upland game species as established by the commissioner;
7. Clarifies the time limit to register a bear, deer, moose or wild turkey;

8. Clarifies that bear fat not attached to the meat can legally be used for personal or commercial use without a hide dealer's license;

9. Provides for restitution of expenses incurred as a result of scientific testing to enhance investigation procedures;

10. Clarifies that a person may not take or possess reptiles or amphibians from the wild for export, sale or commercial purposes;

11. Strengthens the prohibition of abuse of another person's property by removing reference to certain stated activities such as hunting, fishing or trapping to allow the Department of Inland Fisheries and Wildlife to enforce the law against persons who abuse another person's property but who may not be involved in an activity such as hunting, fishing or trapping; and

12. Replaces the prohibition on operating a motorboat that exceeds noise limits with a prohibition on operating a marine engine that exceeds noise limits.