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Date: (Filing No. H-)

INLAND FISHERIES AND WILDLIFE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1417, L.D. 2001, “An Act To Create An Administrative Review Process for Hunting and Fishing Violations”

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

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

4. Administrative penalties; mutually exclusive penalties. A person who violates this section who is not charged with a civil or criminal penalty under subsection 2 may be subject to administrative penalties under section 10902-A. A person who violates this section and receives an administrative penalty for that violation under section 10902-A is not subject to a civil or criminal action under this section for that violation.

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

§10902-A. Suspension of license and permit through administrative process for violations of 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 director of the Bureau of Warden Service delivers to the commissioner a written statement under oath that the director has probable cause to suspect that a person has violated section 10657 while hunting and the person alleged to have violated section 10657 has not been charged with a civil or criminal 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 immediately notify the person who is alleged to have violated section 10657 in accordance with Title 5, section 9052. The provided notice under this subsection must state that the recipient may request a hearing 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

COMMITTEE AMENDMENT

1 hearing within 10 days after receipt of notice, the commissioner may implement
2 administrative penalties under subsection 3 without a hearing in accordance with
3 subsection 2.

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

10 A. Issues of the hearing are limited to whether the person while hunting violated section
11 10657;

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

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

19 **3. Administrative action.** In accordance with this section, if the commissioner or the
20 commissioner's designee determines, after receiving the findings and recommendations of
21 the presiding officer under subsection 2 or in accordance with Title 5, section 9053 if a
22 hearing has not been requested, that a person who holds a license to hunt violated section
23 10657 while hunting, the commissioner or the commissioner's designee may impose the
24 following penalties:

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

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

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

34 **4. Additional penalties; mutually exclusive penalties.** In addition to the penalties
35 specified in subsection 3, a person who violates section 10657 while hunting, as determined
36 by the presiding officer, the commissioner or the commissioner's designee under this
37 section, must successfully complete the outdoor ethics course for hunters under section
38 10903-A before the person is eligible to obtain a hunting license. If a person who violates
39 section 10903-A while hunting does not possess a hunting license at the time of violation,
40 the commissioner or commissioner's designee may refuse to issue a hunting license to that
41 person for up to 5 years following the violation in accordance with the procedures
42 established in this section. If the person alleged to have violated section 10657 is charged
43 with a civil or criminal violation under that section, the commissioner or the
44 commissioner's designee may not impose an administrative penalty under this section.

