

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND SEVENTEEN

—
 H.P. 1030 - L.D. 1497

An Act To Correct and Clarify Maine's Fish and Wildlife Laws

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

Sec. 1. 12 MRSA §10108, sub-§5, as amended by PL 2013, c. 408, §4, is further amended to read:

5. Youth and family programs and activities. ~~The "Hooked on Fishing Not on Drugs" program is~~ Youth and family outdoor recreational programs and activities may be established in the department to encourage youth hunting and fishing activities as well as shooting sports in the State. The commissioner may accept money, goods or services donated to the department for ~~the "Hooked on Fishing Not on Drugs" program~~ these programs and activities. Money, goods and services accepted by the commissioner under this subsection may be used only for ~~program~~ these programs and activities, including providing gifts to program participants, and to promote and market the ~~program~~ programs and activities. Gifts may include but are not limited to complimentary hunting and fishing licenses, fishing tackle and fishing equipment, gear and tackle.

Sec. 2. 12 MRSA §10851, sub-§1, ¶D, as amended by PL 2015, c. 281, Pt. C, §1, is further amended to read:

D. For a resident 70 years of age or older. For a person who holds a valid senior lifetime license under this section at any time during the calendar year that person turns 70 years of age, that lifetime license includes all hunting permits and licenses authorized in this Part and may renew at no cost a guide license under section 12853. A license holder under this paragraph who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 ~~must be issued~~ have included in that person's license one antlerless deer permit and one either-sex permit. 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. 3. 12 MRSA §10853, sub-§4, as amended by PL 2015, c. 281, Pt. C, §3, is further amended to read:

4. Disabled veteran. A resident disabled veteran or a nonresident disabled veteran who is a resident of New Hampshire or Vermont may obtain upon application, at no cost, all hunting, trapping and fishing licenses, including permits, stamps and other permission needed to hunt, trap and fish, and, upon meeting the qualifications as established in section 12853, subsection 4, a guide license. A license holder under this subsection who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 ~~must be issued~~ have included in that person's license one antlerless deer permit and one either-sex permit. The commissioner shall issue all fishing, trapping and hunting licenses and permits requested under this subsection if the commissioner determines the applicant is a disabled veteran and is not otherwise ineligible to hold that permit or license. For the purposes of this subsection, "disabled veteran" means a person who:

- A. Is a resident as defined in section 10001, subsection 53 or is a resident of New Hampshire or Vermont;
- B. Is a veteran as defined in Title 37-B, section 505, subsection 2, paragraph A, subparagraph (3); and
- C. Has a service-connected disability evaluated at 50% or more.

Each application must be accompanied by satisfactory evidence that the applicant meets the requirements of this subsection. An applicant for a license or permit under this section is subject to the provisions of this Part, including, but not limited to, a lottery or drawing system for issuing a particular license or permit. A permit or license issued under this subsection remains valid for the life of the permit or license holder, as long as the permit or license holder continues to satisfy the residency requirement in section 10001, subsection 53 and the permit or license is not revoked or suspended. For a resident of New Hampshire or Vermont to be eligible under this subsection, that resident's state must have a reciprocal agreement with this State.

Sec. 4. 12 MRSA §10853, sub-§6, as amended by PL 2013, c. 408, §7, is further amended to read:

6. Members of Armed Forces domiciled in State. A member of the Armed Forces of the United States on active duty who is permanently stationed outside of the State may be issued fishing, hunting and trapping licenses for an amount equal to the administrative costs associated with issuing a license as determined by the department. Administrative costs do not include agent fees. To qualify, the member of the Armed Forces of the United States must show proof that that member's home of record, as recorded in that person's service records, is Maine. That person may purchase all other licenses or permits at resident fees. The license is valid during the year of issue. That person's spouse and children may purchase hunting ~~and~~, fishing and trapping licenses at reduced rates. The reduced fees are as follows:

- A. Twenty dollars, plus the issuing fee for a combination fishing and hunting license;
- B. Ten dollars, plus the issuing fee for a hunting license;
- C. Ten dollars, plus the issuing fee for a fishing license; and
- D. Ten dollars, plus the issuing fee for a trapping license.

Sec. 5. 12 MRSA §10853, sub-§8, as amended by PL 2015, c. 281, Pt. C, §4, is further amended to read:

8. Members of federally recognized nation, band or tribe. The commissioner shall issue a hunting, trapping and fishing license, including an archery hunting license under this chapter, and including all permits, stamps and other permission needed to hunt, trap and fish, to a person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs that is valid for the life of that person without any charge or fee pursuant to section 11109, if the person presents certification from the respective reservation chief or governor or the Aroostook Micmac Council stating that the person described is an enrolled member of a federally recognized nation, band or tribe listed in this subsection. Holders of these licenses are subject to this Part, including, but not limited to, a lottery or drawing system for issuing a particular license or permit. Members of a federally recognized nation, band or tribe listed in this subsection are exempt from the trapper evaluation program required for a license under section 12201 and the archery hunter education course under section 11106. A license holder under this subsection who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 must ~~be issued~~ have included in that person's license one antlerless deer permit and one either-sex permit.

Sec. 6. 12 MRSA §10953, sub-§1-C, as enacted by PL 2015, c. 42, §1, is amended to read:

1-C. Hunting with a crossbow; 70 years of age or older. A person 70 years of age or older may hunt a wild bird or a wild animal with a crossbow during any open season on that wild bird or wild animal, subject to this Part. ~~A person 70 years of age or older may hunt deer with a crossbow during a regular archery only season established under section 11403 or in an expanded archery zone or during the muzzle loading only deer hunting season established under section 11404.~~

Sec. 7. 12 MRSA §11107, sub-§2, as amended by PL 2015, c. 136, §5 and affected by §12, is repealed.

Sec. 8. 12 MRSA §11109, sub-§3, ¶A, as repealed and replaced by PL 2015, c. 494, Pt. D, §2, is amended to read:

A. A resident junior hunting license, for a person under 16 years of age, is \$8 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a resident junior hunting license includes all permits, stamps and other permissions needed to hunt at no additional cost. A license holder under this paragraph who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 must ~~be issued~~ have included in that person's license one antlerless deer permit and one either-sex permit. A resident junior hunting license does not exempt the holder of the license from lottery-related application requirements under this Part.

Sec. 9. 12 MRSA §11109, sub-§3, ¶F, as repealed and replaced by PL 2015, c. 494, Pt. D, §2, is amended to read:

F. A nonresident junior hunting license, for a person under 16 years of age, is \$35 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a nonresident junior hunting license includes all permits, stamps and other permissions needed to hunt at no additional cost. A license holder under this paragraph who qualifies to hunt during the special season on deer under section 11153 and who meets the eligibility requirements of section 11106 ~~must be issued~~ have included in that persons's license one antlerless deer permit and one either-sex permit. A nonresident junior hunting license does not exempt the holder of the license from lottery-related application requirements under this Part.

Sec. 10. 12 MRSA §11109, sub-§3, ¶O, as repealed and replaced by PL 2015, c. 494, Pt. D, §2, is amended to read:

O. A nonresident small game apprenticeship hunter license, which permits the hunting of all legal species except deer, bear, moose, raccoon and bobcat, is \$75 and includes a wild turkey hunting permit under section 11155.

Sec. 11. 12 MRSA §11214, sub-§1, ¶¶A, B, D and E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

A. Use for hunting or possess for hunting any automatic firearm. This paragraph does not apply to:

- (1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; ~~or~~
- (2) ~~Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;~~

B. Use for hunting or possess for hunting any autoloading firearm having a magazine capacity of more than 5 cartridges. All autoloading firearms having a magazine capacity in excess of 5 cartridges must have the magazine permanently altered to contain not more than 5 cartridges before the autoloading firearm may be used in this State for hunting. This paragraph does not apply to:

- (1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; or
- (2) Firearms using the .22 caliber rimfire cartridge or smaller caliber cartridge or to any autoloading pistol having a barrel less than 8 inches in length;

D. Use for hunting cartridges containing tracer bullets. This paragraph does not apply to:

- (1) Military organizations authorized by law to bear arms or to the National Guard in the performance of its duty; ~~or~~
- (2) ~~Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;~~

E. Use for hunting cartridges containing explosive bullets. This paragraph does not apply to:

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

~~(2) Firearms using the .22 caliber rimfire cartridge or to any autoloading pistol having a barrel less than 8 inches in length;~~

Sec. 12. 12 MRSA §11251, sub-§2, as enacted by PL 2015, c. 79, §1, is repealed.

Sec. 13. 12 MRSA §11401, sub-§1, ¶B, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §168 and affected by §422, is further amended to read:

B. The commissioner may shorten the open season on deer in any part of the State, as long as:

(1) The demarcation of the areas with the shortened season follows recognizable physical boundaries, such as rivers and railroad rights-of-way; and

(3) The Saturday preceding the first day of open season on deer is an open day for residents of the State ~~only~~ and for nonresidents who meet the qualifications under paragraph E.

Sec. 14. 12 MRSA §12201, sub-§2, as amended by PL 2009, c. 69, §2, is further amended to read:

2. Eligibility. The following persons are eligible to purchase a trapping license, subject to the provisions of subsection 3.

A. A resident 16 years of age or older is eligible to purchase a resident trapping license.

B. A resident 10 years of age or older and under 16 years is eligible to purchase a resident junior trapping license.

C. A resident under 10 years of age may trap all legal species, except bear, without a license.

D. A nonresident is eligible to purchase a nonresident trapping license.

E. An alien is eligible to purchase a nonresident trapping license for beaver pursuant to section 12259, subsection 3.

~~Nonresident aliens are ineligible to purchase a trapping license.~~

Sec. 15. 12 MRSA §12201, sub-§3, as amended by PL 2013, c. 538, §31, is further amended to read:

3. Successful completion of trapper education program required for license.

Except as provided in paragraph A, a person who applies for a state license to trap, other than a junior trapping license pursuant to subsection 2, paragraph B or an apprentice trapper license issued under section 12204, must submit proof of having successfully completed a trapper education course of the type described in section 10108, subsection 7

or satisfactory evidence of having previously held an adult license to trap in this State or any other state, province or country in any year beginning ~~with~~ in or after 1978.

When proof or evidence can not otherwise be provided, the person may substitute a signed affidavit that that person has previously held the required adult trapping license or that that person has successfully completed the required trapper education course.

A. A person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs who presents certification from the respective reservation chief or governor or the Aroostook Micmac Council stating that the person is an enrolled member of a federally recognized nation, band or tribe listed in this paragraph is exempt from the requirements of this subsection.

Sec. 16. 12 MRSA §12201, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Issuance. The commissioner, or the commissioner's agent, may issue a license to engage in trapping. ~~Clerks or other agents appointed by the commissioner shall charge a fee of \$2 for each trapping license issued. The commissioner shall charge a fee of \$1 for each trapping license issued by department employees.~~

Sec. 17. 12 MRSA §12204, sub-§6, as enacted by PL 2011, c. 51, §1, is amended to read:

6. Issuance; fee. The commissioner, through the commissioner's authorized agent, shall issue an apprentice trapper license to an eligible person. The fee for an apprentice trapper license is ~~\$35~~ \$36 for residents and ~~\$317~~ \$318 for nonresidents.

Sec. 18. 12 MRSA §12452, as amended by PL 2009, c. 214, §1, is further amended to read:

§12452. Consolidation of rules

Fishing rules as set forth in the Open Water and Ice Fishing Regulations folder, as ~~printed and distributed to the public~~ maintained by the department in an electronic version and distributed through electronic means, are declared to be official consolidations of fishing rules upon filing with the Secretary of State, except that the 150-day limit of Title 5, section 8052, subsection 7, paragraph B does not apply to this section.

Sec. 19. 12 MRSA §12551-A, sub-§2, ¶¶C and D, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, are amended to read:

C. Engage in taking or assist in taking live smelts for resale from inland waters without a smelt wholesaler's license; ~~or~~

D. Sell live smelts or baitfish from more than one facility without an appropriate and valid license for each facility; ~~or~~

Sec. 20. 12 MRSA §12551-A, sub-§2, ¶E is enacted to read:

E. When licensed under this section, receive, possess for resale, sell or offer to sell gift baitfish or gift smelts without an appropriate and valid license issued under subsection 3.

Sec. 21. 12 MRSA §12551-A, sub-§2-A, as enacted by PL 2015, c. 298, §9, is repealed.

Sec. 22. 12 MRSA §12661, sub-§3, as amended by PL 2011, c. 253, §32, 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 and Title 17, section 2263-A, 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. 23. 12 MRSA §12803, sub-§3, ¶MM, as enacted by PL 2007, c. 166, §1, is amended to read:

MM. Common ~~moorhen~~ gallinule, *Gallinula chloropus galeata*, threatened;

Sec. 24. 12 MRSA §12953, sub-§7, as amended by PL 2015, c. 281, Pt. F, §4, is further amended to read:

7. Renewal of license; fees. Licenses issued pursuant to this section ~~run for a period of expire~~ 3 years; from the ~~current year of issuance until the 31st day of December in the 3rd year after issuance, on which date the license terminates~~ date of issuance unless it is revoked sooner. A taxidermist whose license is not suspended or revoked may renew the license every 3 years upon application by the licensee accompanied by a \$77 license fee.

Sec. 25. 12 MRSA §13104, sub-§5, as amended by PL 2005, c. 12, Pt. III, §41, is further amended to read:

5. Antique snowmobile registration fee. A ~~resident~~ person who owns a snowmobile that is more than 25 years old and that is substantially maintained in original or restored condition may register that snowmobile under this subsection as an antique snowmobile. An antique snowmobile registration authorizes that snowmobile to be operated only for the purpose of traveling to, returning from and participating in an exhibition, parade or other event of interest to the public or for occasional personal use. The fee for an antique snowmobile registration is \$33. An antique snowmobile registration is valid until the ownership of that antique snowmobile is transferred to another person. Upon the transfer of ownership, the new owner may reregister that snowmobile as an antique snowmobile by paying the \$33 antique snowmobile registration fee. The registration fee for an antique snowmobile is allocated according to section 10206, subsection 2, paragraph A.

Sec. 26. 12 MRSA §13106-A, sub-§5, as amended by PL 2011, c. 533, §11, is further amended to read:

5. Operating snowmobile on public way. Except as provided in subsection ~~4~~ 3 and this subsection, a person may not operate a snowmobile upon the main traveled portion, the sidewalks or the plowed snowbanks of a public way.

A. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert.

B. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, ~~provided that~~ as long as that operation can be made in safety and that it does not interfere with vehicular traffic approaching from either direction on the public way.

C. A snowmobile may be operated on any portion of a public way when the public way has been closed in accordance with Title 23, section 2953.

D. If the main traveled portion of a public way is publicly plowed and utilized by conventional motor vehicles, a snowmobile may be operated only on that portion of the way not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way is prohibited during the hours from sunset to sunrise on the portion of the way not maintained or utilized for the operation of conventional motor vehicles. This paragraph does not apply to a snowmobile operated by a public utility regulated by the Public Utilities Commission while being operated in the course of the utility's corporate function, so that public utilities may effectively and speedily carry out their obligations to the public.

E. A snowmobile may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable. This paragraph does not apply to a snowmobile operated by a public utility regulated by the Public Utilities Commission while being operated in the course of the utility's corporate function, so that public utilities may effectively and speedily carry out their obligations to the public.

F. A snowmobile may be operated on streets and public ways in special snowmobile events of limited duration conducted according to a prearranged schedule and under a permit from the governmental unit having jurisdiction.

G. Notwithstanding paragraphs A to F, a snowmobile may be operated on the extreme right of a public way within the built-up portion of a municipality or unorganized or unincorporated township if the appropriate governmental unit has designated the public way as a snowmobile-access route for the purpose of allowing snowmobiles access to places of business. A public way designated by an appropriate governmental unit as a snowmobile-access route must be posted conspicuously at regular intervals by that governmental unit with highly visible signs designating the snowmobile-access route. Before designating a public way as a snowmobile-access route, the appropriate governmental unit shall make appropriate determinations that snowmobile travel on the extreme right of the public way may be

conducted safely and will not interfere with vehicular traffic on the public way. For purposes of this paragraph, "appropriate governmental unit" means the Department of Transportation, county commissioners or municipal officers within their respective jurisdictions. The jurisdiction of each appropriate governmental unit over public ways pursuant to this paragraph is the same as its jurisdiction over the passage of vehicles on public ways pursuant to Title 29-A, section 2395. Municipal or county law enforcement officials having jurisdiction have primary enforcement authority over any route established under this paragraph.

H. 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 \$100 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.

Sec. 27. 12 MRSA §13157-A, sub-§16, ¶B, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is amended to read:

B. The following are exceptions to the requirements of paragraph A.

~~(1) An ATV manufactured prior to January 1, 1991 without a headlight or taillight is exempt from the provisions of this subsection while being operated between sunrise and sunset.~~

(2) A person may operate an ATV including a 2-wheel off-road motorcycle without a headlight and taillight between sunrise and sunset ~~if:~~

(a) ~~The ATV has an engine size of 90 cubic centimeters or less; and~~

(b) ~~The ATV has 4 or more wheels.~~