



SAM ILA

205 Church Hill Road, Augusta, ME 04330

David Trahan, Executive Director

david@samofmaine.org

www.samila.org

Testimony in Support

LD 629, An Act to Improve, Protect and Defend the Individual Civil Right to Bear Arms Through Exemption of Firearms and Ammunition from Taxation

Before the Joint Standing Committee on Taxation

Presented by David Trahan, Executive Director of the SAM Institute for Legislative Action

March 9, 2023

The Honorable Senator Grahoski, Rep. Perry, members of the Taxation Committee, My name is David Trahan, I am the Executive Director of the Sportsman's Alliance of Maine-Institute for Legislative Action, testifying in support of LD 629, An Act to Improve, Protect and Defend the Individual Civil Right to Bear Arms Through Exemption of Firearms and Ammunition from Taxation with what we hope will be a friendly amendment.

As a former Senate Chair of the Taxation Committee, I realize the importance of using tax policy to reinforce public policy. I suspect this bill will be controversial, anything to do with guns and ammunition usually is. Instead of what might be a lengthy fight and questionable result, I would like to present a change to this bill, a concept that might gain bi-partisan support.

In 1937, congress passed the most significant conservation program ever proposed, the Pittman-Robertson (PR) Act, a 10 and 11 percent excise tax on guns, ammunition and archery equipment, I have supplied you with a detailed article describing the structure of the Pitman-Robertson Act. In summary, the PR Act funds wildlife agencies around the country, wildlife habitat restoration, hunter education, etc.

When I saw the title of this bill, I approached the sponsor, Rep. Ardell, and inquired whether the he would consider amending this bill to direct the sales tax generated on items like firearms, ammunition and archery equipment to the Department of Inland Fisheries and Wildlife to fund the state side match for Pitman-Robertson funding. Doing so would create a stable source of revenue for wildlife habitat purchase and improvement, public access upgrades, enhanced hunter safety education and other support for conservation that benefits non-game species.

If this committee endorses this new policy, it would mean the new revenue source for Inland Fisheries and Wildlife would also receive Constitutional protections as it would become a fee directly connected to the department's mission.

Maine is unique, we have some of the last remaining strong holds for naturally reproducing Brook Trout, we are over 90 percent wooded with some of the most amazing wildlife habitat left in Maine. Stable funding that supports conservation of these special natural resources has never been more important.

We ask the committee to allow the Sportsman's Alliance of Maine-Institute for Legislative Action, the sponsor of the bill and other interested parties to develop an amendment that creates a mini Pitman-Robertson Act and bring the amendment back for your review.

The Pittman-Robertson Wildlife Restoration Act explained

The Pittman-Robertson Wildlife Restoration Act (16 U.S.C.A. 669 et seq) was passed in 1937. The legislation took an existing excise tax on firearms and reallocated the proceeds to a grant fund for state wildlife agencies. It established a program of matching federal grants to the states for “wildlife restoration projects.” The Pittman-Robertson Act required states, as a condition of receiving funding, to enact laws prohibiting the “diversion” of license fees paid by hunters for any purpose other than administration of their state wildlife agency. Every state did as required. While this established a reliable funding source for state wildlife agencies, it also created an incentive for the agencies to maximize hunting license sales.

The impetus for the Pittman-Robertson Act was a marked decline in certain game populations. The Pittman-Robertson Act was intended to promote the preservation and restoration of wildlife habitats. The Pittman-Robertson Act defines “wildlife” broadly to include “any species of wild, free-ranging fauna including fish.” Note that this definition includes invertebrate and non-game species. However, in 1956 the U.S. Fish and Wildlife Service (FWS) issued regulations that restricted the use of Pittman-Robertson Act funds to birds and mammals, probably because these are the taxa of most interest to hunters and wildlife managers. That restriction is still in place, and presumably open to a legal challenge.

During the 2019 comment period on proposed revisions to the federal regulations implementing the Pittman-Robertson Act, this is how the FWS responded to a suggestion that the definition of wildlife be expanded:

“Comment 5: The Service should use funds under the Wildlife Restoration Act for management of all species of wildlife. The Act was written for species that are imperiled and not just for those that are hunted.

Response 5: State fish and wildlife agencies may use their Wildlife Restoration funds for species under their control that meet the definition of “wildlife” at 50

CFR 80.2. *This definition limits eligible species to birds and mammals.* [italics added]
Some States have asked that we expand the definition to include species that are hunted in that State, but are not birds or mammals, as these species often need a management plan and those who purchase licenses to hunt those species contribute financially when they purchase a license. The topic of defining wildlife will continue to be considered, and we appreciate this public input.”

Where does the money come from?

Pittman-Robertson Act funds are derived from federal excise taxes collected from manufacturers and importers on the following items:

- Handguns (10 percent of wholesale price)
- Other Firearms (11 percent)—includes any portable weapons such as:
 - Rifles
 - Carbines
 - Machine guns
 - Shotguns
 - Fowling pieces
 - Antique firearms
- Shells and cartridges (11 percent)
- Firearm parts or accessories (11 percent)
- Archery equipment (11 percent)

The revenues generated from these taxes vary year to year both in total and by specific type of taxable item, but in general the total amount collected has increased over time. Based on annual averages, FWS reported gross Pittman-Robertson Act receipts generated as follows:

- Ammunition: 34%
- Firearm: 32%
- Pistols and revolvers: 25%
- Archery equipment: 9%

Note that taxes on guns and ammunition accounted for nearly all (91 percent) of the revenues.

Where does the money go?

These taxes are deposited into a “Wildlife Restoration Account” administered by the FWS and dispersed for the following purposes:

1. Program administration
2. Traditional multistate conservation grants
3. “R3” (“Recruit, Retain, Reactivate”) multistate grants (see below)
4. Enhanced hunter education and safety grants (section 669h-1)
5. Basic hunter education and safety grants (section 669c(c))
6. Wildlife restoration grants (section 669c(b))

Up to \$8 million annually is reserved for “Traditional multistate conservation grants” that benefit multiple states, and up to \$5 million of the total excise taxes collected from certain archery equipment is set aside for “R3 multistate conservation grants” to promote a national hunting and shooting sport recruitment program.

Then \$8 million annually is set aside for “Enhanced Hunter Education” programs, which can include R3 activities. Half of the excise taxes collected on handguns and archery equipment are allocated for Basic Hunter Education and Safety programs, which can also be used for R3 activities. Grants for both types of hunter education programs are apportioned to the states using the same formula, based on the ratio of their population to the U.S. total population. No state can receive more than 3 percent or less than 1 percent of the total funds available.

The remaining funds in the account are apportioned to the states for Wildlife Restoration activities according to a formula based half on the ratio of their land area to the total U.S. land area, and half based on the number of paid hunting license holders in the state compared to the total number of paid hunting license holders in the U.S. The latter obviously creates an incentive to maximize hunting license sales to obtain more Pittman-Robertson Act funding. No state can receive more than 5 percent or less than 0.5 percent of the total funds available for the Wildlife Restoration Program.

By far the Wildlife Restoration Program receives the largest share of apportioned funds. In FY2022 a total of \$1.1 billion was apportioned to the states and territories. In FY2021, those funds were apportioned as follows:

- Wildlife Restoration grants: 79 percent,
- Basic Hunter Education grants: 20 percent
- Enhanced Hunter Education grants: 1 percent
- Traditional multi state grants: \$8 million
- Administration: \$12 million

According to 2019 FWS regulations, the following are activities eligible for funding under the PR act:

Wildlife Restoration program:

- Restore and manage wildlife for the benefit of the public.
- Conduct research on the problems of managing wildlife and its habitat if necessary to administer wildlife resources efficiently.
- Obtain data to guide and direct the regulation of hunting.
- Acquire real property suitable or capable of being made suitable for:
 - Wildlife habitat; or
 - Public access for hunting or other wildlife-oriented recreation.
- Restore, rehabilitate, improve, or manage areas of lands or waters as wildlife habitat.
- Build structures or acquire equipment, goods, and services to:
 - Restore, rehabilitate, or improve lands and waters as wildlife habitat; or
 - Provide public access for hunting or other wildlife-oriented recreation.
- Operate or maintain:
 - Projects that the State fish and wildlife agency completed under the Pittman-Robertson Wildlife Restoration Act; or
 - Facilities that the agency acquired or constructed with funds other than those authorized under the Pittman-Robertson Wildlife Restoration Act if these facilities are necessary to carry out activities authorized by the Pittman-Robertson Wildlife Restoration Act.
- Coordinate grants in the Wildlife Restoration program and related programs and subprograms.
- Provide technical assistance.
- Make payments in lieu of taxes on real property under the control of the State fish and wildlife agency when the payment is:
 - Required by State or local law; and

- Required for all State lands including those acquired with Federal funds and those acquired with non-Federal funds.

Wildlife Restoration – Basic Hunter Education and Safety subprogram:

- Teach the skills, knowledge, and attitudes necessary to be a responsible hunter.
- Acquire real property suitable or capable of being made suitable for firearm and archery ranges for public use.
- Construct, operate, or maintain firearm and archery ranges for public use.

Enhanced Hunter Education and Safety program:

- Enhance programs for hunter education, hunter development, and firearm and archery safety. Hunter-development programs introduce individuals to and recruit them to take part in hunting, bow hunting, target shooting, or archery.
- Enhance interstate coordination of hunter-education and firearm- and archery-range programs.
- Enhance programs for education, safety, or development of bow hunters, archers, and shooters.
- Enhance construction and development of firearm and archery ranges.
- Update safety features of firearm and archery ranges.
- Acquire real property suitable or capable of being made suitable for firearm and archery ranges for public use.

Hunter and Recreational Shooter Recruitment:

Congress made an important change to the Pittman-Robertson Act in 2019 by passing the “Modernizing the Pittman-Robertson Fund for Tomorrow’s Needs Act” as part of a larger appropriations bill (H.R. 1865). The amendments eliminated the prohibition on states using Pittman-Robertson funds for “R3” activities intended to offset the decades-long decline in hunters nationwide, as well as the prohibition on using Pittman-Robertson Act funds for “public relations.” The law specifically added an additional purpose to the WR Act to include providing financial and technical assistance to the states for the “promotion of hunting and recreational shooting,” including by:

- Outreach and communications as a means—
 - (i) To improve communications with hunters, recreational shooters, and the general public with respect to hunting and recreational shooting opportunities;

- (ii) To reduce barriers to participation in these activities;
- (iii) To advance the adoption of sound hunting and recreational shooting practices;
- (iv) To promote conservation and the responsible use of the wildlife resources of the United States;
- (v) To further safety in hunting and recreational shooting;
- Providing education, mentoring, and field demonstrations;
- Enhancing access for hunting and recreational shooting, including through range construction;
- Providing education to the public about the role of hunting and recreational shooting in funding wildlife conservation.”

These changes had long been a top priority of the Association of State Fish and Wildlife Agencies (ASFWA), and hunting and gun groups. States may now use their Basic Hunter Education and Enhanced Hunter Education funds for R3 programs, including those aimed at promoting trapping and “other forms of hunting activities,” as well as “guided and mentored hunts,” according to FWS [guidance](#). (Note: as of this writing, the Pittman-Robertson Act regulations had not been updated to reflect these changes.) Although the Modernizing Pittman-Robertson Act only specifies recruitment and retention, not reactivation, FWS’ position is that reactivation activities are covered as well.

In addition, Pittman-Robertson Act funds may now be used for grants that promote a national hunting and shooting sport recruitment program. Nongovernmental organizations are eligible to obtain these grants, as long as they can certify that no part of the funding will be use “ in whole or in part, for an activity, project, or program that promotes or encourages opposition to the regulated hunting or trapping of wildlife or to recreational shooting activities.”

Most Pittman-Robertson Act funds are generated by nonhunters

It is often said that “sportsmen” pay for wildlife conservation in part through their purchase of items that are taxable under the Pittman-Robertson Act. In fact, although excise taxes paid on guns and ammunition account for the bulk of Pittman-Robertson Act revenues (more than 90 percent of the total), most guns and ammunition in the U.S. are *not* purchased for use in hunting. A 2021 [study](#) by Southwick Associates

estimated that about one-quarter (25.8 percent) of all firearms and ammunition sold in 2020 were purchased for hunting.

One implication of this fact is that while the number of hunters in the U.S. has been on the decline both in absolute and relative numbers for decades, Pittman-Robertson Act revenues have generally increased over the years, with some notable year-to-year fluctuations. They tend to spike after a mass shooting or presidential election when fears rise about restrictions on gun ownership. Through their purchase of guns and ammunition, nonhunters are *already* making a substantial contribution to state wildlife agency budgets.



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