

Sponsor: Rep Warren

Drafter: JO

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Proposed Amendment to LD 1604 from Rep Warren

An Act To Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System

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

PART A

Sec. A-1. 12 MRSA §10605, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §64 and affected by §422, is further amended to read:

1. Habitual violator defined. For purposes of this section, "habitual violator" means a person whose record, as maintained by the department, shows that:

A. The person has been convicted of 3 or more criminal violations under this Part, 3 or more civil violations under this Part or 3 or more violations under this Part of which at least one is a criminal violation and at least one is a civil violation within the previous 5-year period, except that, whenever more than one criminal violation is or more than one civil violation or multiple violations of which at least one is a criminal violation and at least one is a civil violation are committed at the same time, multiple convictions are deemed to be one offense; ~~or~~

~~B. The person has been adjudicated as having committed 3 or more civil violations under this Part and convicted of 2 or more Class E crimes as a result of such prior adjudications within the previous 5-year period.~~

Sec. A-2. 12 MRSA §11109, sub-§1, as amended by PL 2015, c. 281, Pt. A, §4, is further amended to read:

1. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a license may be issued under this section unless that person has a valid license issued under this section. An electronic license or permit fulfills the requirement under this subsection that a person must have a physical paper license or permit if the electronic license or permit can be displayed upon request to a game warden or other law enforcement officer, an employee of the department, a registered Maine guide or the owner of the land on which the licensed activity is taking place. ~~Each~~ Except as otherwise provided in this section, each day a person violates this subsection that person commits a Class E crime for which a ~~minimum fine of \$50 and an amount equal to twice the applicable license fee must~~ may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-3. 12 MRSA §11109, sub-§3, ¶A, as amended by PL 2017, c. 164, §8, is further 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 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. A resident under 16 years of age who hunts without a resident junior hunting license commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-4. 12 MRSA §11109, sub-§3, ¶F, as amended by PL 2019, c. 501, §8, is further 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 have included in that person'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. A nonresident under 16 years of age who hunts without a nonresident junior hunting license commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-5. 12 MRSA §11159, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Permit required. Except as otherwise authorized in this Part, a person may not engage in the practice of falconry unless that person has a valid permit issued under this section. Each day a person violates this subsection that person commits a ~~Class E crime~~ civil violation for which a ~~minimum~~ fine of \$50 and an amount equal to twice the applicable license fee must ~~may~~ be imposed as provided in a schedule adopted by the Chief Judge

Sec. A-6. 12 MRSA §11214, sub-§1, ¶F, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

F. Hunt migratory game birds with a shotgun of any description originally capable of holding more than 3 shells, unless the shotgun's magazine has been cut off, altered or plugged with a one-piece filler incapable of removal without disassembling the gun so as to reduce the capacity of the gun to not more than 3 shells in the magazine and chamber combined. A person who violates this paragraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge. 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;

Sec. A-7. 12 MRSA §11214, sub-§1, ¶I, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

I. Allow duck decoys to remain in waters of Merrymeeting Bay at any time during the period from one hour after legal shooting time until one hour before legal shooting time the next day. A person who violates this paragraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge;

Sec. A-8. 12 MRSA §11214, sub-§1, ¶J, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

J. Leave or allow to remain in waters of Merrymeeting Bay an artificial cover, that is, a "stationary blind," or parts of an artificial cover used for hunting purposes between one hour after legal shooting time and one hour before legal shooting time the next day. A person who violates this paragraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge;

Sec. A-9. 12 MRSA §11214, sub-§2, as enacted by PL 2003, c. 655, Pt. B, §146 and affected by §422, is amended to read:

2. Penalty. A Except as provided in subsection 1, paragraphs F, I and J, a person who violates subsection 1 commits a Class E crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-10. 12 MRSA §11301, sub-§2, as enacted by PL 2003, c. 655, Pt. B, §157 and affected by §422, is amended to read:

2. Penalty. A person who violates subsection 1 commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge. A person who violates this section subsection 1-A commits a Class E crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-11. 12 MRSA §11302, sub-§3, as enacted by PL 2003, c. 655, Pt. B, §158 and affected by §422, is amended to read:

3. Penalty. A person who violates this section commits a ~~Class E crime~~ civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-12. 12 MRSA §12051, sub-§1, as repealed and replaced by PL 2013, c. 588, Pt. A, §16, is amended by amending the 2nd blocked paragraph to read:
A person who violates this subsection commits a ~~Class E crime~~ civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-13. 12 MRSA §12054, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

2. Rabbit hound field trials. A person may not hold field trials for beagles and other rabbit hounds except from September 1st through the following April 10th. A person who violates this subsection commits a ~~Class E crime~~ civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-14. 12 MRSA §12055, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. License required. A club or organization may not hold field trials as provided under this section unless the club or organization has a valid license issued under this section. Each day a person violates this subsection that person commits a ~~Class E crime for which a minimum civil violation for which a fine of \$50 and an amount equal to twice the applicable license fee must be imposed~~ may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-15. 12 MRSA §12101, sub-§1-A, as enacted by PL 2003, c. 655, Pt. B, §199 and affected by §422, is amended to read:

1-A. License required. A person may not charge others for the opportunity to hunt mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in an area or establish a commercial shooting area for such purposes unless that person has a valid license issued under this section. Each day a person violates this subsection that person commits a ~~Class E crime for which a minimum civil violation for which a fine of \$50 and an amount equal to twice the applicable license fee must be imposed~~ may be imposed as provided in a schedule adopted by the Chief Judge.

A. Nothing in this subsection prohibits the operator of a commercial shooting area from authorizing a person to hunt other wild birds or wild animals in the commercial shooting area during the regular open season on those species, in accordance with this Part, as long as the person possesses a valid state hunting license that allows the hunting of those wild birds and wild animals.

Sec. A-16. 12 MRSA §12508, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended by amending the first blocked paragraph to read:

Each day a person violates this subsection, that person commits a ~~Class E crime for which a minimum civil violation for which a fine of \$50 and an amount equal to twice the applicable license fee must be imposed~~ may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-17. 12 MRSA §12551-A, sub-§5, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending subparagraph (2) to read:

(2) Shall present a receipted invoice, bill of lading, bill of sale or other satisfactory evidence of the lawful possession of live baitfish or smelts for retail sale to any agent of the commissioner upon request. A person who violates this subparagraph commits a civil

violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge; or

Sec. A-18. 12 MRSA §12551-A, sub-§5, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

~~Each~~ Except as provided in subparagraph (2), each day a person violates this paragraph that person commits a class Class E crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-19. 12 MRSA §12551-A, sub-§6, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending subparagraph (1) to read:

(1) When engaged in taking, or assisting in taking, live baitfish for resale from inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the commissioner upon request. A person who violates this subparagraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge;

Sec. A-20. 12 MRSA §12551-A, sub-§6, ¶B, as enacted by PL 2003, c. 655, Pt. B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

~~Each~~ Except as provided in subparagraph (1), each day a person violates this paragraph that person commits a class Class E crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. A-21. 12 MRSA §12551-A, sub-§7, ¶B, as amended by PL 2005, c. 237, §3, is further amended by amending subparagraph (1) to read:

(1) When engaged in taking, or assisting in taking, live smelts for resale from inland waters, fail to exhibit the license to any agent of the commissioner upon request. A person who violates this subparagraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge;

Sec. A-22. 12 MRSA §12551-A, sub-§7, ¶B, as amended by PL 2005, c. 237, §3, is further amended by amending the first blocked paragraph to read:

~~Each~~ Except as provided in subparagraph (1), each day a person violates this paragraph that person commits a Class E crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

PART B

Sec. B-1. 29-A MRSA §1603, sub-§9, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

9. Return license, certificates and plates. A person whose license or registration has been suspended shall immediately return every license, registration certificate and registration plate issued

to that person to the Secretary of State. A person commits a Class E crime traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person, after notice of suspension, fails or refuses to return every license, registration certificate and registration plate.

Sec. B-2. 29-A MRSA §1859, as amended by PL 1995, c. 65, Pt. A, §104 and affected by §153 and Pt. C, §15, is further amended to read:

§1859. Removal of vehicle

Removal of a vehicle described in section 1851 or of any part or accessory from the vehicle without the written consent of the person in charge or the owner of the premises or property where the vehicle is located is a Class E crime traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge. This section applies to all persons, including the owner of the vehicle.

Sec. B-3. 29-A MRSA §2069, sub-§3, ¶B, as enacted by PL 2015, c. 159, §4, is amended to read:

B. The issuance of a summons for a traffic infraction as described in section 351, section 2104, or section 2412-A, subsection 8;

Sec. B-4. 29-A MRSA §2102, sub-§1, as amended by PL 2009, c. 493, §2, is further amended to read:

1. Display revoked, mutilated, fictitious or fraudulently altered driver's license or identification card. A person commits a Class E crime traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person displays a revoked, ~~mutilated~~, fictitious or fraudulently altered driver's license or identification card issued or represented to be issued by this State or any other state or province.

Sec. B-5. 29-A MRSA §2102, sub-§1-A, as amended by PL 2009, c. 493, §2, is further amended to read:

1-A. Possess revoked, mutilated, fictitious or fraudulently altered driver's license or identification card. A person commits a Class E crime traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person possesses a revoked, ~~mutilated~~, fictitious or fraudulently altered driver's license or identification card issued or represented to be issued by this State or any other state or province.

Sec. B-6. 29-A MRSA §2102, last paragraph is amended to read:

Violation of subsection ~~4, 4-A~~, 1-B, 1-D or 3 is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. B-7. 29-A MRSA §2104, as amended by PL 2015, c. 176, §5, is further amended to read:

§2104. Improper plates

1. Attaching false plates. A person commits a ~~Class E crime~~ traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge adjudged if that person attaches to a vehicle a registration plate assigned to another vehicle or not currently assigned to that vehicle.

1-A. Permitting attachment of false plates. A person commits a ~~Class E crime~~ traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person permits to be attached to a vehicle a registration plate assigned to another vehicle or not currently assigned to that vehicle.

1-B. Permitting display of false registration validation device. A person commits a ~~Class E crime~~ traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person permits to be attached or displayed on a vehicle registration plate a registration validation device issued for another vehicle.

2. False identification. A person commits a ~~Class E crime~~ traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person obscures identification numbers, identification letters, the state name, validation sticker or mark distinguishing the type of plate attached to a vehicle.

3. Manufacturing or reproduction of plates. A person commits a Class D crime for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person manufactures or reproduces registration plates without the consent of the Secretary of State. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

4. Alterations to registration plates. Except when a greater penalty is applicable, a person commits a traffic infraction if that person adds or attaches to a registration plate a decal, symbol, slogan, mark, letter or number not authorized by law or by the Secretary of State.

~~**5. Strict liability.** Violation of subsection 1, 2 or 3 is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.~~

Sec. B-8. 29-A MRS §2412-A, sub-§1-A, as amended by PL 2009, c. 297, §1, is further amended to read:

1-A. Offense; penalty. A person commits operating while license suspended or revoked if that person:

A. Operates a motor vehicle on a public way or in a parking area when that person's license has been suspended or revoked, and that person:

(1) Has received written notice of a suspension or revocation from the Secretary of State or a court;

- (2) Has been orally informed of the suspension or revocation by a law enforcement officer or a court;
- (3) Has actual knowledge of the suspension or revocation;
- (4) Has been sent written notice in accordance with section 2482 or former Title 29, section 2241, subsection 4; or
- (5) Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608;

A violation of this paragraph is a traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge;

B. Violates paragraph A and the suspension was for OUI or an OUI offense;

C. Violates paragraph A and the suspension was for OUI or an OUI offense, the person was subject to the mandatory minimum sentence and the person:

- (1) Has one prior conviction for violating this section;
- (2) Has 2 prior convictions for violating this section; or
- (3) Has 3 or more prior convictions for violating this section; or

D. Violates paragraph A, the suspension was not for OUI or an OUI offense and the person has one or more prior convictions for violating this section.

Except for an offense under ~~subsection 8~~ paragraph A or as otherwise provided, operating while license suspended or revoked is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A and for which, notwithstanding the provisions of Title 17-A, chapters 63 and 65, a fine may be imposed as provided in a schedule adopted by the Chief Judge.

Sec. B-9. 29-A MRSA §2412-A, sub-§8, as amended by PL 2009, c. 493, §3, is repealed.

Sec. B-10. 29-A MRSA §2417, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2417. Suspended registration

A person commits a ~~Class E offense~~ traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge if that person operates or permits another to operate a vehicle when the registration of that vehicle is suspended or revoked.

Sec. B-11. 29-A MRSA §2551-A, sub-§1, ¶A, sub-¶4 is amended to read:

- (4) Operating after suspension or revocation, in violation of section 2412-A, subsection 1-A, paragraph B, C or D;

Sec. B-12. 29-A MRSA §2551-A, sub-§3, ¶D, as enacted by PL 2009, c. 297, §3, is amended to read:

D. An adjudication for the traffic infraction of operating after suspension under section 2412-A, subsection § 1-A, paragraph A.

PART C

Sec. C-1. 17-A MRSA §4-B, sub-§4, as enacted by PL 1985, c. 282, §3, is amended to read:

4. Evidence obtained pursuant to an unlawful search and seizure ~~shall~~ is not be admissible in a civil violation proceeding ~~arising under Title 22, section 2383~~.

Sec. C-2. 17-A MRSA §4-B, sub-§5 is enacted to read:

5. A law enforcement officer who has probable cause to believe that a violation of law has taken place or is taking place may make application for a search warrant in accordance with the applicable Rules of Civil Procedure or Rules of Unified Criminal Procedure.

PART D

Sec. D-1. 4 MRSA §164, subsection 12 is amended to read:

12. Violations bureau. Notwithstanding any other statute or law, establish the violations bureau.

A. The violations bureau has jurisdiction over all traffic infractions committed in this State. Unless otherwise ordered by a court, trial of a traffic infraction, the crime of manufacturing or reproducing registration plates under Title 29-A, section 2104, or the crime of operating while license is suspended or revoked under Title 29-A, section 2104 must be in the division in which the alleged infraction was committed.

B. The Chief Judge by order, which may from time to time be amended, shall designate the amount of fines imposed for traffic infractions, the crime of manufacturing or reproducing registration plates under Title 29-A, section 2104, or the crime of operating while license is suspended or revoked under Title 29-A, section 2104.

C. The Maine Rules of Civil Procedure applies in all traffic infraction proceedings.

D. The clerk of each division has the authority to accept pleadings and fines on behalf of the violations bureau;

E.

Sec. D-2. 4 MRSA §164, subsection 15, paragraph C is amended to read:

C. Any person charged with any fisheries and wildlife offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk and enter

a plea admitting the infraction, civil violation or crime charged and waiver of trial and pay the fine established for the infraction, civil violation or crime charged and costs. Any person entering a plea admitting the infraction, civil violation or crime charged must be informed of that person's rights, including the right to stand trial, that that person's signature to a plea admitting the infraction, civil violation or crime charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Inland Fisheries and Wildlife.

PART E

Sec. E-1. Effective date. This Act takes effect January 1, 2023.

SUMMARY

This amendment deletes from the bill in Title 29-A, the motor vehicle statutes, the following proposed amendments: amendments related to operating an unregistered vehicle and operating a vehicle with registration that has been expired for 150 days or more; amendment related to failure to register more than 150 days after establishing residency; amendment to operating with a temporary registration plate that has been expired more than 150 days; amendment related to abandoning a vehicle on an island; and amendment related to the habitual offender law as it applies to operating without a license.

This amendment deletes from the bill certain minimum, maximum and mandatory fines that fall within the jurisdiction of the Department of Inland Fisheries and Wildlife pursuant to Title 12 Maine Revised Statutes Part 13 and the Maine motor vehicle laws in Title 29-A Maine Revised Statutes and provides for penalties that are established in schedules of fines adopted by the Chief Judge of the District Court. The amendment adds to the duties of the Chief Judge the duty to adopt fine schedules to cover these offenses.

This amendment broadens the duty of the Chief Judge of the District Court to adopt a schedule of fines for certain Class D and E crimes, civil violations and traffic violations that fall within the jurisdiction of the Department of Inland Fisheries and Wildlife and the Maine motor vehicle laws in Title 29-A Maine Revised Statutes. The amendment repeals the designation of certain of these crimes as strict liability crimes.

This amendment provides an effective date of January 1, 2023.