

## **Combined Testimony on LD 1033, LD 1054 and LD 1212**

My name is D. Gordon Mott. Together with my wife I live and own land in Lakeville in eastern Penobscot County where all three Sunday Hunting bills would apply. I work as forester and land manager for others in a private practice with the result that I encounter and understand many diverse values in land ownership.

I understand some of the reasoning and values stated publicly by one of the sponsor of these bills: some property-tax-paying landowners want to be able to hunt in lawful fashions on their own lands and on properties where they get permission on Sunday, as a departure from our traditional land use here in Maine.

I urge that you oppose Sunday hunting and that you continue to support the extraordinary, unique, free access that we have enjoyed for hundreds of years where land is not posted here in Maine where we enjoy one day of peace free from gunshots in our neighborhoods during our weekends.

A great many Maine landowners who also pay property taxes and who have accepted this traditional freedom of access to unposted land with no hunting on Sunday do not want hunting to be performed on their land without their permission. They don't want hunters coming armed upon their land and near their residences and camps at night with lights and audio lures hunting coyotes almost every month in the year as hunters do now – let alone on Sundays. Many do not want dogs pursuing bear, bobcat, raccoon and coyotes during spring fawning season. Some have safety concerns and do not want any hunting on their land. Some want to reserve part or all of their property for their own hunting. Some want to be asked permission from hunters to be able to control the location and time of presence of armed persons while and where they, the landowners, work. Some, who are full equal owners together with hunters of the wildlife resource, want their share of wildlife alive not dead. Some want permission to be asked by hunters in order to ensure protection for their livestock. Some want to direct hunters to areas where deer, moose and turkeys damage their vegetarian crops. You know all these things, and you know that to get these rights to their private property, landowners must incur the expense to post it.

You know that a large number of private property owners of Maine land want to be asked by hunters for permission to come armed to use their land for these and many other reasons. It has long been an issue faced by landowners, hunters, sportsmen's organizations and Department of Inland Fisheries and Wildlife - and the tension continues. There is evidence that land posting is increasing and opportunities to hunt diminish as our population grows and customs change.

You also know that in 11 other states there is no hunting on Sunday according to reports I have seen. And it's known that in 24 other states - almost one-half of all states in this country – it is necessary to obtain landowner's permission to hunt on private property. Undoubtedly you also know that going state by state across the country, there is

a wide diverse complex set of arrangements about posting, Sunday hunting, and private land access. And for those interested in the legalities, policies and complexities of wildlife ownership, posting and land use, you are undoubtedly aware there is an authoritative useful body of work from Duke University<sup>1</sup>.

From all of these differences, we must all acknowledge that there are many different kinds of arrangements when it comes to private land and the shared public ownership of the wildlife resource and that our Maine arrangement is not necessarily the best or fairest among them – it simply is what it is: our tradition.

Woven among all those different arrangements nationwide it is fundamentally true that those who provide the habitat that sustains the resource have property rights and these rights must be recognized.

Among landowners, I have a personal set of values. I'm no longer a hunter – I was when I raised three children while attending university years ago. Venison, partridge and good wild fish were all the protein we had. I now treasure what is natural and wild, alive, unless the need to eat to survive arises. At the same time, I extend regard to family and friends who are hunters, and recognize everybody's legal right to choose to hunt. While I wish a fair share of public lands would be reserved against hunting for the enjoyment of those who have the non-hunting ethic, we permit hunting on some parts and post other parts of the bit of land we are fortunate to own. I mention these things in the hope to convey that in what follows, the intent is to urge attention broadly to all values – those of hunters, non hunters, Sunday hunters, Wednesday hunters – everybody, without bias.

While I urge as stated above, that you continue to support the extraordinary unique free access and ban on Sunday hunting that we have enjoyed for hundreds of years where land is not posted here in Maine, in the end, in fairness, I want to state that I can come to a conclusion that could embrace the radical change from tradition to allow Sunday hunting where permission to do so is granted by the landowner. If, in exchange, the equally radical change to give private landowners the right that requires hunters to obtain permission to hunt land they do not own is also granted, I can conclude this would be a fair balanced change in the law – radical indeed, but no more so than the radical step to allow Sunday hunting. And in the end with many possible advantages.

If it is decided to vote to allow hunting on Sunday by landowners on land they own as proposed in these three bills, and then to let them continue to have the privilege to hunt on their neighbors' land on all other days without obtaining permission unless the neighbors' land is expensively posted, another unbalanced step will be permitted in favor of hunter's interests without granting something to positively balance the interests of all landowners. I ask, please, that you seriously consider giving something important that landowners seriously want: the right to own their land free and clear of any obligation to allow hunting by others without permission. The State of Maine urges "Ask First". But hunters vigorously oppose any requirement to seek permission to use others' lands. They

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1 <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1238&context=dlj>

label any such requirement to have to ask permission to use others' private property with the pejorative "Reverse Posting" and oppose it. The 158,197 licensed hunters in 2020 are at most 12% of the population of Maine. By federal survey, a far greater majority of people enjoy the outdoors and the natural world in Maine in ways other than hunting.

This proposition to permit any kind of hunting on Sundays without any restrictions is not limited to deer and bird season – it goes all year long.

**I urge that if you vote to support lawful hunting by landowners on Sundays on their own land and on land where they obtain permission, please also vote that all hunters must get permission to hunt on land of others.**

**By extending to private landowners the right to require hunters to get permission to use their land, please consider establishing what would become a powerful simple situation where, without government imposition or statute, landowners will be able to "vote their acres" in accord with the broad variety of interests that exist in the real world among these owners of the habitat, and permit them by themselves to bring the needed complex diversity of regulation and property rights to hunting management on private property. It could never be accomplished by any kind of one-size-fits-all government statute. Hunters, sportsmen's organizations, local game clubs and so forth, would find their interests properly filled by directing effort and attention to local landowners, and thus relieve State agencies and the Legislature from formulating and enforcing regulations that can never cover the interests that exist and that change constantly as ownerships and growth and change take place. Hunting on Sundays and at all other times would be managed in accord with the will of the affected people.**

With only minor amendments as proposed below, the language in the proposed current bills would appear to provide a statute that would serve to allow hunting of lawful kinds on any day - and to require that hunters "Ask First" to obtain permission from landowners to hunt on land belonging to others. This proposal would apply only to hunting and not to other recreational uses of unposted land which would retain much of the traditional free access for non-hunting purposes.

Please give this amendment serious consideration as you contemplate these bills,

With regard and respect,

D. Gordon Mott

I propose that the three proposed bills be combined into one bill in which the following amendments be made (using the language proposed in LD 1033).

**An Act To Allow ~~Sunday~~ Lawful Hunting on Any Day on Private Property with the Written Permission of the Landowner**

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

**Sec. 1. 12 MRSA §10501, sub-§9, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. The hunting equipment is fastened in a case; ~~or~~

**Sec. 2. 12 MRSA §10501, sub-§9, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. The hunting equipment is carried in at least 2 separate pieces in such a manner that it can not be fired, unless the separate pieces are joined together. For the purpose of this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece of the hunting equipment. Bows and arrows must be kept in a case or cover if broadheads or field points are kept attached to the arrows; ~~or~~

**Sec. 3. 12 MRSA §10501, sub-§9, ¶D** is enacted to read:

D. The person is hunting on the person's own land or has the written consent of the landowner to hunt ~~on Sunday~~ on that landowner's property, as provided in section 11205, subsection 1-A.

**Sec. 4. 12 MRSA §11205**, as amended by PL 2003, c. 655, Pt. B, §137 and affected by §422, is further amended to read:

**§11205. Lawful Hunting on ~~Sunday~~ Any Day**

**1. Prohibition.** A person may not:

A. Hunt wild animals or wild birds ~~on Sunday~~, except as provided in subsection 1-A; or

B. Possess any wild animal or wild bird taken in violation of paragraph A except as otherwise provided in this Part.

**1-A. Lawful Hunting allowed on ~~Sunday~~ Any Day.** A landowner or a person with written consent of that landowner may hunt wild animals or wild birds on that landowner's land on ~~Sunday~~ any lawful day subject to all other requirements, laws and rules governing that hunting. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Penalties.** A person who violates subsection 1 commits a Class E crime.

**SUMMARY**

This bill allows landowners to lawfully hunt wild animals and wild birds on their private property on ~~Sundays~~ any day of the week and requires hunters to obtain permission from landowners to hunt on land hunters do not own. Landowners can ~~also~~ give written permission to other individuals to hunt on the landowners' private property. ~~on Sundays~~. The Department of Inland Fisheries and Wildlife is directed to establish rules to implement these provisions.