

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1577

H. P. 1423

House of Representatives, May 6, 1981

Reported by Representative Damren from the Committee on Fisheries and Wildlife. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Clarify the Inland Fisheries and Wildlife Laws of Maine.

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

Sec. 1. 4 MRSA § 164, sub-§ 15, ¶ A, as enacted by PL 1977, c. 392, is amended to read:

A. A fisheries and wildlife offense shall mean any violation of any provision of Title 12, Part ~~3~~ 10, any provision of law enumerated in Title 12, section ~~2001~~ 7053, or any regulation promulgated by the Commissioner of Inland Fisheries and Wildlife pursuant thereto.

Sec. 2. 12 MRSA § 7001, sub-§ 13, as repealed and replaced by PL 1979, c. 543, § 1, is amended to read:

13. Guide. "Guide" means any person who receives any form of remuneration for his services in accompanying or assisting any person in the fields, forests or on the waters or ice within the jurisdiction of the State while hunting, fishing, trapping, boating, snowmobiling or camping ~~or pursuing other recreational activities.~~

Sec. 3. 12 MRSA § 7001, sub-§ 38, first sentence, as enacted by PL 1979, c. 420, § 1, is amended to read:

"Tributary" means a river, brook or stream flowing directly or indirectly into a lake, pond or another river, stream or brook.

Sec. 4. 12 MRSA § 7001, sub-§ 42, as enacted by PL 1979, c. 420, § 1, is amended to read:

42. Wildlife. "Wildlife" means any species of the animal kingdom, except fish, ~~including~~ which is wild by nature, whether or not bred or reared in captivity, and includes any part, egg or offspring thereof, or the dead body or parts thereof. Wildlife includes wild animals and wild birds.

Sec. 5. 12 MRSA § 7034, sub-§ 8, as enacted by PL 1979, c. 679, § 1, is repealed.

Sec. 6. 12 MRSA § 7035, sub-§ 11 is enacted to read:

11. Promotion of hunting, fishing and camping. The commissioner may implement a program designed to promote fisheries and wildlife resources and attract hunters and fishermen to the State. This program may include coordination of activities between the public and private sectors and utilization of promotional missions, exhibits, brochures, technical assistance and expertise as necessary to develop and promote hunting, fishing and camping activities within the State. The commissioner shall coordinate this program with the activities of the State Development Office and the Maine Publicity Bureau.

Sec. 7. 12 MRSA § 7053, sub-§ 1, ¶ A, sub-¶ (3), as enacted by PL 1979, c. 420, § 1, is amended to read:

(3) The United States Federal Migratory Bird Treaty Act, Public Law, ~~July 2, 1918~~ July 3, 1918, chapter 128, as amended, and all rules and regulations promulgated in pursuance thereof;

Sec. 8. 12 MRSA § 7053, sub-§ 4 is enacted to read:

4. Agents of the commissioner. Wardens may act as agents of the commissioner.

Sec. 9. 12 MRSA § 7071, sub-§ 4, as last amended by PL 1979, c. 723, § 3, is further amended to read:

4. Servicemen permanently stationed in Maine. The following persons are eligible for any fishing, hunting or combination fishing and hunting license or permit at the resident fee and shall have the same privileges as Maine residents in regard to hunting and fishing:

A. Any person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of that person, provided that the spouse and children permanently reside with that person.

Such a member of the Armed Forces desiring a hunting, fishing or combination license or permit shall present certification from the commander of his post, station or base, or from the commander's designated agent, that the person

mentioned in the certificate is permanently stationed at that post, station or base. Licenses and permits shall be issued by the clerk or agent of the town in which that military or naval post, station or base is situated.

Sec. 10. 12 MRSA § 7076, sub-§ 6, as amended by PL 1979, c. 543, § 5, is further amended to read:

6. **Residents in Armed Forces.** A combination fishing and hunting license shall be issued upon payment of \$5, plus the issuing fee, to a Maine resident in the Armed Forces of the United States ~~who is stationed outside the State of Maine,~~ his spouse and children. **These persons shall be issued all other licenses or permits at resident fees.** The license will be valid during the year of issue.

Sec. 11. 12 MRSA § 7078, as enacted by PL 1979, c. 420, § 1, is repealed and the following enacted in its place:

§ 7078. **Refusal to issue license or permit**

If any person is convicted of a violation of any provision of chapters 701 to 721 and is not the holder of a valid license or permit issued under chapters 701 to 721, the commissioner may refuse to issue a related license or permit to that person for the next calendar year following the date of conviction.

Sec. 12. 23 MRSA § 7101, sub-§ 5, ¶ A, as amended by PL 1979, c. 663, § 66 and PL 1979, c. 704, § 2, is repealed and the following enacted in its place:

- A. **Resident junior hunting license** \$1
(10 years of age or older and under 16)

Sec. 13. 12 MRSA § 7101, sub-§ 5, ¶ H, as amended by PL 1979, c. 675, § 1 and PL 1979, c. 704, § 2, is repealed and the following enacted in its place:

- H. **Alien big game hunting license**\$105
(Permits hunting of all species, including deer and bear)

Sec. 14. 12 MRSA § 7101, sub-§ 5, ¶¶ I, J and K, as enacted by PL 1979, c. 675, § 2 and PL 1979, c. 704, § 3, are repealed and the following enacted in their place:

- I. **Nonresident combination hunting and fishing license** \$87
- J. **Alien small game hunting license** \$50
(Permits hunting of all species, except deer and bear)
- K. **Alien combination hunting and fishing license**.....\$140

Sec. 15. 12 MRSA § 7102, sub-§ 1, ¶¶ B and C, as repealed and replaced by PL 1979, c. 543, § 9, are amended to read:

- B. Any person ~~≥~~ 10 years of age or older and under 16 may hunt with bow and arrow, provided he holds a valid junior hunting license; and
- C. No person under the age of ~~≥~~ 10 may hunt with bow and arrow at any time.

Sec. 16. 12 MRSA § 7102, sub-§ 3, ¶ D, as enacted by PL 1979, c. 675, § 3 and PL 1979, c. 704, § 6, is repealed and the following enacted in its place:

D. Alien archery license \$50

Sec. 17. 12 MRSA § 7102, sub-§ 4, ¶ B, as repealed and replaced by PL 1979, c. 543, § 9, is amended to read:

B. There shall be a special open season from the first Monday day of October to the beginning of the regular deer hunting season, as described in section 7457, subsection 1, paragraph A, for the purpose of hunting deer with bow and arrow only.

Sec. 18. 12 MRSA § 7102, sub-§ 4, ¶ C is enacted to read:

C. An archery hunting license is required for persons 16 years of age or older to hunt during the special archery season on deer.

Sec. 19. 12 MRSA § 7102, sub-§ 5, ¶ C, as repealed and replaced by PL 1979, c. 543, § 9, is amended to read:

C. Any person ~~12~~ 10 years of age or older and under 16 shall be accompanied at all times while hunting by a parent or guardian or an adult approved by a parent or guardian;

Sec. 20. 12 MRSA § 7105, sub-§ 2, as enacted by PL 1979, c. 420, § 1, is amended to read:

2. Fee. The fee for a special commercial shooting area hunting license is \$7 \$9.

Sec. 21. 12 MRSA § 7131-A, as enacted by PL 1979, c. 723, § 6, is repealed.

Sec. 22. 12 MRSA § 7151, sub-§ 5, ¶ I, as enacted by PL 1979, c. 675, § 4 and PL 1979, c. 704, § 10, is repealed and the following enacted in its place:

I. Alien season fishing \$50
(16 years of age or older)

Sec. 23. 12 MRSA § 7171, sub-§ 3, ¶ D, as enacted by PL 1979, c. 420, § 1, is amended to read:

D. Any bait trap used for the taking of bait in accordance with this section or any bait holding box shall bear the name and address of the person who is taking or holding the bait.

Sec. 24. 12 MRSA § 7205, sub-§ 1, first sentence, as amended by PL 1979, c. 723, § 9, is further amended to read:

The commissioner may issue a ~~commercial~~ license to commercially cultivate or harvest fish in private ponds permitting the following:

Sec. 25. 12 MRSA § 7231, sub-§ 2, as enacted by PL 1979, c. 420, § 1, is amended to read:

2. Application. Applications for ~~roadside managerie wildlife exhibit~~ permits shall be made on forms prepared and furnished by the commissioner and shall show:

- A. The name and address of the applicant;
- B. The location or proposed location of the ~~roadside managerie wildlife exhibit~~;
- C. The approximate number and kinds of wildlife being or to be kept; and
- D. ~~The space and method of housing;~~
- E. ~~The confinement measures taken to protect the public from injury by any wild animal; and~~
- F. Such further information as the commissioner may prescribe.

Sec. 26. 12 MRSA § 7303, sub-§ 1, first sentence, as amended by PL 1979, c. 723, § 12-A, is further amended to read:

Boys' and girls' ~~summer~~ camps located in Maine and duly licensed by the Department of Human Services or located in another state and duly licensed in a similar manner, if the laws of the other state so require, conducting trip camping ~~on waters~~ shall:

Sec. 27. 12 MRSA § 7406, sub-§ 1, as enacted by PL 1979, c. 420, § 1, is amended to read:

1. **Closed season violation.** A person is guilty of a closed season violation if he hunts ~~or possesses~~ any wild animal or wild bird ~~during the closed season~~ or possesses any wild animal or wild bird taken during the closed season on that wild animal or wild bird ~~except that a person lawfully killing a deer during the open season may possess the deer during a closed season, provided that the deer has been properly registered in accordance with section 7457, subsection 2.~~

Sec. 28. 12 MRSA § 7406, sub-§ 20, ¶ B, as enacted by PL 1979, c. 420, § 1, is repealed and the following enacted in its place:

B. The following are exceptions concerning subsection 17.

- (1) Paragraphs A, B, C, D, E and F do not apply to military organizations authorized by law to bear arms or to the National Guard in the performance of its duty.
- (2) Paragraphs B, D and E do not apply to firearms using the .22 caliber rim fire cartridge or to any autoloading pistol having a barrel less than 8 inches in length.
- (3) Paragraph K does not affect or restrict the legitimate possession and sale of flashlights.
- (4) Paragraph L does not affect chapter 709, subchapter IV, or any rule issued in accordance with section 7035, subsection 1.

Sec. 29. 12 MRSA § 7432, sub-§ 1, as enacted by PL 1979, c. 420, § 1, is amended to read:

1. Closed season violation. A person is guilty of a closed season violation if he traps any wild animal or wild bird **during the closed season** or possesses any wild animal or wild bird taken during the closed season on that wild animal or wild bird.

Sec. 30. 12 MRSA § 7451, sub-§ 2, ¶E, as enacted by PL 1979, c. 420, § 1, is amended to read:

E. Agents shall receive, from the person registering a bear, ~~25¢~~ \$1 for each seal retained by that person.

Sec. 31. 12 MRSA § 7456, sub-§ 5, as enacted by PL 1979, c. 420, § 1, is amended to read:

5. Selling wild birds. A person is guilty of selling wild birds if he sells or possesses for sale any part of the plumage, skin or body of any wild bird, except the English or European house sparrow and the European starling, **except as provided in chapters 701 to 721.**

Sec. 32. 12 MRSA § 7457, sub-§ 1, ¶A, as enacted by PL 1979, c. 420, § 1, is amended to read:

A. There shall be an open season on deer in each calendar year in all counties of the State from the 5th Monday preceding Thanksgiving to ~~the Saturday following Thanksgiving~~ **November 30th.**

Sec. 33. 12 MRSA § 7457, sub-§ 1, ¶D, sub-¶ (7), as enacted by PL 1979, c. 420, § 1, is amended to read:

(7) The Town of Islesboro in Waldo County, except that a person may hunt deer in that town with bow and arrow ~~during the month of October and the month of November from the first day of October to November 30th~~ of each calendar year;

Sec. 34. 12 MRSA § 7458, sub-§ 4, as repealed and replaced by PL 1979, c. 723, § 18-D, is amended to read:

4. Failure to register deer. A person is guilty of failure to register a deer if he kills a deer ~~or~~ **and** fails to present it for registration in his name at the first open deer registration station on the route taken by him.

Sec. 35. 12 MRSA § 7458, sub-§ 6, as amended by PL 1979, c. 723, § 19, is further amended to read:

6. Failure to attach deer tag to deer. A person is guilty ~~except as provided in subsection 15, paragraph G~~ of failure to attach a deer tag to a deer if, prior to presenting a deer for registration, he possesses or leaves in the fields or forests a deer which he has killed ~~and~~ which does not have securely attached to it and plainly visible the deer tag portion of his hunting license bearing his full name and address.

Sec. 36. 12 MRSA § 7601, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7601. Closed season violation

A person is guilty of a closed season violation if he fishes for any fish **during the closed season** or possesses any fish taken during the closed season on that fish.

Sec. 37. 12 MRSA § 7653, sub-§ 4 is enacted to read:

4. Fees. The commissioner may establish reasonable fees for admission to the Fish and Wildlife Visitors' Center at Gray, Maine.

Sec. 38. 12 MRSA § 7800, sub-§ 3, last sentence, as enacted by PL 1979, c. 720, § 4, is amended to read:

The disbursement shall be 2/3 to the Department of Inland Fisheries and Wildlife and 1/3 to the Department of Marine Resources, and shall be used to defray the costs of enforcing this subchapter.

Sec. 39. 12 MRSA § 7862, sub-§ 1, as enacted by PL 1979, c. 420, § 1, is amended to read:

1. Open season.

A. It is lawful to hold raccoon dog field trials at any time.

B. It is lawful to ~~train and~~ hold field trials for beagles and other rabbit hounds from September 1st through the following April 10th.

Sec. 40. 12 MRSA § 7863, sub-§ 4, as enacted by PL 1979, c. 420, § 1, is amended to read:

4. Illegal use of a firearm during training or field trials. A person is guilty of illegal use of a firearm during training or field trials if, during the training or field trials permitted in section 7862, subsection 1, and section 7861, subsection 1, he uses or possesses any firearm other than a pistol loaded with blank ammunition, except during open season for hunting.

STATEMENT OF FACT

This bill has the following purposes.

Section 1. This section corrects references to repealed and replaced sections of the fisheries and wildlife laws.

Section 2. The purpose of this section is to clarify the meaning of this definition.

Section 3. The term "river" was omitted from the definition of tributary. Rivers are considered to be tributaries in many of the rules promulgated by the department.

Section 4. The purpose of this section is to clarify the meaning of this definition.

Sections 5 and 6. These sections relocate a provision of law enacted in 1979 from the list of the commissioner's duties to the list of his powers.

Section 7. This section corrects the date of enactment of the United States Federal Migratory Bird Treaty Act.

Section 8. Game wardens have traditionally been considered to be agents of the commissioner. Nowhere in the present revision of Title 12 does it plainly state this. This would correct that situation.

Sections 9 and 10. This conforms the language of these sections granting special eligibility for licenses and permits of servicemen permanently stationed in Maine to that of the other special license or permit eligibility provisions of section 7071.

Section 11. The purpose of this section is to clarify the intent of the section.

Section 12 corrects a conflict between the Errors Bill and Public Law 1979, chapter 704.

Section 13 corrects a conflict between Public Law 1979, chapter 675, and Public Law 1979, chapter 704.

Section 14 corrects a conflict between Public Law 1979, chapter 675, and Public Law 1979, chapter 704.

Sections 15 and 19. The age requirement for a resident to hunt with a firearm is 10 years of age. The purpose of these sections is to make the archery hunting license section consistent with the hunting license section.

Section 16 corrects a conflict between Public Law 1979, chapter 675, and Public Law 1979, chapter 704.

Section 17. The purpose of this section is to establish a consistent annual opening date for the special archery season on deer.

Section 18. This section makes it clear that an archery hunting license is required for the special archery season on deer.

Section 20. Prior to the last general license increase, the fee for this special commercial shooting area hunting license was the same as the fee for a regular resident hunting license. This section corrects that oversight. Such a small number of these licenses are sold that this section will have no effect on the finances of the Department of Inland Fisheries and Wildlife.

Section 21 corrects a conflict between 2 bills dealing with trapping fee schedules.

Section 22 corrects a conflict between 2 bills enacted in the 109th second regular session.

Section 23. After being trapped, live bait is often put into a holding box. It is important for enforcement purposes that the bait holding box, as well as the bait trap, be identified as to ownership.

Section 24. The purpose of this change is to have the word "commercial" refer to the activity rather than the license. This makes the section consistent with similar sections in Title 12.

Section 25. The commissioner has adopted rules pertaining to wild animals in captivity which speak specifically to space allotments, methods of housing and confinement requirements for protection of the public. Many applicants do not become aware of these regulations until they apply for a permit and are misled by the wording in the application into thinking that they have the option of designing their own housing methods and safety precautions. This section provides for a change in the application and remedies this problem.

Section 26. This section removes words inadvertently left in the section in question during an amendment of it in the 1979 errors and inconsistencies bill.

Section 27. In the biennial revision of Title 12 of the 109th Legislature, the first part of this section, in particular the phrase "during the closed season," was omitted. The parts of this section that refer to deer should refer to any wild animal or wild bird. The last part of the section that is being omitted is already covered in other sections of Title 12.

Section 28 clarifies an internal reference.

Section 29. The purpose of this section is to clarify the intent of the section.

Section 30. This section increases the bear registration fee from 25¢ to \$1.

Section 31. The purpose of this section is to clarify the intent of the restrictions on selling wild birds.

Section 32. This section establishes a specific date for the period in which the Commissioner of Inland Fisheries and Wildlife may set the open season on deer.

Section 33. The purpose of this section is to ensure that the open season on deer in the Town of Islesboro is consistent with the open season on deer in surrounding areas.

Section 34. This section reinstates a word accidentally changed in a reenactment of this section in the 1979 errors and inconsistencies bill.

Section 35. The purpose of this section is to eliminate an exception which does not apply and to clarify the intent of this section.

Section 36. The purpose of this section is to clarify the intent of this section.

Section 37. The purpose of this section is to make clear that the commissioner may charge admission to defray administrative expenses of providing public access to state-owned wildlife management areas, such as the Steve Powell Sanctuary or Swan Island in Richmond.

Section 38. This section adds a word that was omitted at the time the law was enacted.

Sections 39 and 40. The purpose of these sections is to clear up certain questions concerning the training of dogs.