

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1938

I.B. 5

House of Representatives, March 18, 2004

### An Act Prohibiting Certain Bear Hunting Practices

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Transmitted to the Clerk of the 121st Maine Legislature by the Secretary of State on March 17, 2004 and ordered printed.

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

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

PART A

Sec. A-1. 12 MRSA §7077, sub-§1-A, ¶F, as enacted by PL 1993, c. 136, §1, is amended to read:

F. Hunting ~~or--trapping~~ bear after having killed one, exceeding the bag limit on bear or buying or selling bear in violation of section 7452, subsection 3, 4 or 9;

Sec. A-2. 12 MRSA §7077-A, sub-§6 is enacted to read:

6. Unsportsmanlike practices regarding hunting or trapping bear. A person convicted of a violation of section 7451, subsection 3-A; section 7452, subsection 1; or section 7452, subsection 2-A is not eligible to obtain any license issued by the department for 5 years from the date of conviction in the case of a first offense and permanently from the date of conviction in the case of a 2nd or subsequent offense. Any license in effect at the time of conviction is revoked upon conviction and must be immediately surrendered to the commissioner.

Sec. A-3. 12 MRSA §7104-A, sub-§§1 and 2, as enacted by PL 1993, c. 216, §1, are amended to read:

1. Gate fees. Gate fees or other access fees that are unrelated to the taking of game; or

2. Guiding fees. Fees charged by licensed guides or other fees that are unrelated to access to land; ~~or.~~

Sec. A-4. 12 MRSA §7104-A, sub-§3, as enacted by PL 1993, c. 216, §1, is repealed.

Sec. A-5. 12 MRSA §7110, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §34, is amended to read:

1. Permit required. A permit is required to hunt for bear from the first Monday preceding September 1st to ~~the--day preceding the--open--firearm--season--on--deer~~ November 30th. ~~This section--does--not--apply--to--trapping--for--bear.~~

Sec. A-6. 12 MRSA §7451, sub-§1, ¶A, as amended by PL 1993, c. 167, §1, is further amended to read:

A. There is an open season on hunting bear from the first

Monday preceding September 1st to November 30th annually.  
~~The commissioner may, pursuant to section 7035, subsection 1, adopt rules prohibiting the use of bait to hunt black bear during any portion of the open bear hunting season.~~

**Sec. A-7. 12 MRSA §7451, sub-§1, ¶B,** as repealed and replaced by PL 1981, c. 224, §1, is repealed.

**Sec. A-8. 12 MRSA §7451, sub-§1, ¶C,** as amended by PL 1989, c. 493, §29, is repealed.

**Sec. A-9. 12 MRSA §7451, sub-§1, ¶D,** as amended by PL 1989, c. 913, Pt. A, §7, is further amended to read:

D. The commissioner may shorten the open seasons season on bear as established in ~~paragraphs~~ paragraph ~~A, B and C~~ in any part of the State provided that:

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

(2) The decision is made and published prior to February 1st of any year.

**Sec. A-10. 12 MRSA §7451, sub-§1, ¶E,** as enacted by PL 1981, c. 224, §1, is amended to read:

E. The commissioner may terminate the open season on bear as established in paragraph ~~A, B and C~~ at any time in any part of the State, if, in his the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting ~~or trapping~~ pressure.

**Sec. A-11. 12 MRSA §7451, sub-§3,** as amended by PL 2003, c. 333, §11, is repealed.

**Sec. A-12. 12 MRSA §7451, sub-§3-A** is enacted to read:

3-A. Placing of bear bait prohibited. Bait, including, but not limited to, doughnuts and other pastries, grease, meat, fruits, vegetables, honey and any other food known to be attractive to bear, may not be used to hunt or attract bear. Such use of bait is unlawful unless:

A. The bait is used by state or federal employees, acting in their official capacity, to attract a specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety;

2           B. The bait is used in conjunction with the operation of a  
4           feeding station for bear in order to prevent damage to  
6           commercial timberland, as long as the bait is used by owners  
8           or operators of that land, or their employees, pursuant to a  
10           permit granted by the department, but in no event for the  
12           purpose of killing bear; or

14           C. The bait is used by the department or pursuant to a  
16           permit granted by the department to an accredited university  
18           for scientific or research purposes, but in no event for the  
20           purpose of killing bear.

22           **Sec. A-13. 12 MRSA §7452, sub-§1**, as enacted by PL 1979, c.  
24           420, §1, is repealed and the following enacted in its place:

26           1. Unlawfully hunting or pursuing bear with dogs;  
28           hounding. The following provisions govern hunting or pursuing  
30           bear with dogs, also known as hounding.

32           A. It is unlawful to use a dog or dogs to hunt or pursue  
34           bear, except as provided in paragraph B.

36           B. The use of a dog or dogs to hunt or pursue bear is  
38           lawful in the following circumstances:

40                   (1) The dog or dogs are used by state or federal  
42                   employees to pursue a specific offending animal when  
44                   the employees, or their designees, are acting in their  
46                   official capacity for purposes of protecting livestock,  
48                   domestic animals, threatened or endangered wildlife,  
50                   public or private property or public safety; or

(2) The dog or dogs are used by the department or  
                  pursuant to a permit granted by the department to an  
                  accredited university for scientific or research  
                  purposes, but in no event for the purpose of killing  
                  bear.

**Sec. A-14. 12 MRSA §7452, sub-§1-A**, as amended by PL 1989, c.  
                  493, §30, is repealed.

**Sec. A-15. 12 MRSA §7452, sub-§1-B**, as enacted by PL 1987, c.  
                  696, §10, is amended to read:

**1-B. Illegal harvest of bear.** A person ~~is--guilty--of~~  
                  ~~illegally-harvesting-bear-if~~ may not, without the permission of  
                  the person conducting the hunt ~~that person-kills,~~ kill or wounds  
                  wound a bear that is treed or held at bay by another ~~person's-deg~~  
                  ~~or-degs~~ person.

2           **Sec. A-16. 12 MRSA §7452, sub-§1-C**, as enacted by PL 1989, c.  
493, §31, is amended to read:

4           **1-C. Illegal baiting of bear.** A person is guilty of  
6 illegally baiting bear if that person places bear bait in any  
manner ~~which~~ that does not conform to section 7451, subsection 3  
8 3-A.

10           **Sec. A-17. 12 MRSA §7452, sub-§1-D**, as enacted by PL 1989, c.  
913, Pt. B, §7, is repealed.

12           **Sec. A-18. 12 MRSA §7452, sub-§2**, as amended by PL 1979, c.  
14 543, §38, is repealed.

16           **Sec. A-19. 12 MRSA §7452, sub-§2-A** is enacted to read:

18           **2-A. Unlawful hunting of bear with trap.** The following  
20 provisions govern the hunting of bear with a trap.

22           A. It is unlawful to use or set a trap to hunt or capture  
bear, except as provided in paragraph B.

24           B. The use of a trap to hunt or capture bear is lawful in  
26 the following circumstances, provided any use of a trap  
pursuant to this paragraph is undertaken in the most humane  
28 manner practicable:

30           (1) The trap is used by state or federal employees,  
32 acting in their official capacity, to hunt or capture a  
specific offending animal for purposes of protecting  
34 livestock, domestic animals, threatened or endangered  
wildlife, public or private property or public safety;  
or

36           (2) The trap is used by the department or pursuant to  
38 a permit granted by the department to an accredited  
university for scientific or research purposes, but in  
40 no event for the purpose of killing bear.

42           **Sec. A-20. 12 MRSA §7452, sub-§3**, as enacted by PL 1979, c.  
420, §1, is amended to read:

44           **3. Hunting bear after having killed one.** A person is  
46 guilty of hunting ~~or trapping~~ bear after having killed one if he  
that person hunts ~~or traps~~ bear after he ~~has~~ having killed or  
48 registered one during any open season.

50           **Sec. A-21. 12 MRSA §7452, sub-§5**, as amended by PL 2003, c.  
333, §13, is further amended to read:



2           **Sec. A-26. 12 MRSA §7901-A, sub-§6, ¶C**, as repealed and  
replaced by PL 2003, c. 331, §36 and c. 333, §24, is amended by  
4 repealing and replacing subparagraph (1) to read:

6           (1) Hunting bear near a site permitted or licensed for  
7           the disposal of solid waste as described in section  
8           7452, subsection 5;

10           **Sec. A-27. 12 MRSA §7901-A, sub-§7, ¶C**, as enacted by PL 2001,  
c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

12           C. The following crimes are Class D crimes for which the  
14           court shall impose a sentencing alternative involving a term  
of imprisonment not to exceed 180 days; the court also shall  
16           impose a fine of not less than \$1,000, none of which may be  
suspended:

18           (1) Hunting a bear during the closed season or  
20           possessing a bear taken during the closed season as  
described in section 7406, subsection 1;

22           (2) Hunting ~~or trapping~~ a bear after having killed  
24           one, as described in section 7452, subsection 3; and

26           (3) Exceeding the bag limit on bears as described in  
section 7452, subsection 4.

28           **Sec. A-28. 12 MRSA §7901-A, sub-§7, ¶¶F and G** are enacted to  
30           read:

32           F. In the case of a first offense, the following are  
34           unsportsmanlike practices that are Class D crimes:

36           (1) Unlawfully hunting or attracting bear using bait  
as described in section 7451, subsection 3-A;

38           (2) Unlawfully hunting or pursuing bear with dogs,  
40           also known as hounding, as described in section 7452,  
subsection 1; and

42           (3) Unlawfully hunting or capturing bear with a trap  
44           as described in section 7452, subsection 2-A.

46           G. In the case of a 2nd or subsequent offense, the  
48           following are unsportsmanlike practices that are Class C  
crimes:





2           **Sec. B-4. 12 MRSA §11218**, as enacted by PL 2003, c. 414, Pt.  
A, §2 and affected by Pt. D, §7, is amended to read:

4           **§11218. Game fees**

6           A person may not charge any fee for access to land if the  
8 fee is contingent upon the taking of game on the land or directly  
related to the taking of game on the land unless the land is an  
10 authorized commercial shooting area licensed under section  
12101. This section does not apply to:

12           **1. Gate fees.** Gate fees or other access fees that are  
14 unrelated to the taking of game; or

16           **2. Guiding fees.** Fees charged by licensed guides or other  
fees that are unrelated to access to land; ~~or.~~

18           ~~**3. Fees for placing bear bait.** Fees that are directly~~  
20 ~~related to the placing of bear bait on land.~~

22           A person who violates this section commits a Class E crime.

24           **Sec. B-5. 12 MRSA §11251**, as enacted by PL 2003, c. 414, Pt.  
A, §2 and affected by Pt. D, §7, is amended to read:

26           **§11251. Open and closed seasons**

28           **1. Open season on bear; commissioner's authority.** This  
30 subsection governs the open and closed seasons on bear.

32           A. There is an open season on hunting bear from the first  
Monday preceding September 1st to November 30th annually.  
34 ~~The commissioner may, pursuant to section 10104, subsection~~  
36 ~~1, adopt rules prohibiting the use of bait to hunt black~~  
~~bear during any portion of the open bear hunting season.~~

38 ~~B. There is an open season on using a dog or dogs in~~  
40 ~~conjunction with bear hunting from the first Monday~~  
~~preceding September 1st to the day preceding the open~~  
42 ~~firearm season on deer provided in sections 11401 and 11402.~~

44           C. The commissioner may shorten the open seasons season on  
bear as established in paragraphs paragraph A and B in any  
part of the State as long as:

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

50

2 (2) The decision is made and published prior to  
February 1st of any year.

4 D. The commissioner may terminate the open season on bear  
as established in paragraphs ~~paragraph~~ A and-B at any time  
6 in any part of the State if, in the commissioner's opinion,  
an immediate emergency action is necessary due to adverse  
8 weather conditions or severe hunting or trapping pressure.

10 **Sec. B-6. 12 MRSA §§11301 and 11302**, as enacted by PL 2003,  
c. 414, Pt. A, §2 and affected by Pt. D, §7, are repealed.

12 **Sec. B-7. 12 MRSA §§11301-A and 11302-A** are enacted to read:

14 **§11301-A. Bear baiting**

16 **1. Prohibition.** Bait, including, but not limited to,  
18 doughnuts and other pastries, grease, meat, fruits, vegetables,  
honey and any other food known to be attractive to bear, may not  
20 be used to hunt or attract bear, except as provided in subsection  
2.

22 **2. Exceptions.** The use of bait to hunt or attract bear is  
24 lawful if:

26 A. The bait is used by state or federal employees, acting  
in their official capacity, to attract a specific offending  
28 animal for purposes of protecting livestock, domestic  
animals, threatened or endangered wildlife, public or  
30 private property or public safety;

32 B. The bait is used in conjunction with the operation of a  
feeding station for bear in order to prevent damage to  
34 commercial timberland, as long as the bait is used by owners  
or operators of that land, or their employees, pursuant to a  
36 permit granted by the department, but in no event for the  
purpose of killing bear; or

38 C. The bait is used by the department or pursuant to a  
40 permit granted by the department to an accredited university  
for scientific or research purposes, but in no event for the  
42 purpose of killing bear.

44 **3. Penalty.** A person who violates this section is guilty  
46 of the unsportsmanlike practice of bear baiting, which is a Class  
D crime for the first offense. A 2nd or subsequent offense is a  
Class C crime.

48 **§11302-A. Unlawfully hunting or pursuing bear with dogs; hounding**

50

1. Prohibition. It is unlawful to use a dog or dogs to hunt or pursue bear, also known as hounding, except as provided in subsection 2.

2. Exception. The use of a dog or dogs to hunt or pursue bear is lawful in the following circumstances:

A. The dog or dogs are used by state or federal employees to pursue a specific offending animal when the employees, or their designees, are acting in their official capacity for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety; or

B. The dog or dogs are used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of hounding, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

**Sec. B-8. 12 MRSA §11303, sub-§2,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

2. **Prohibition.** A person may not hunt, trap, molest or harass a bear ~~or release dogs for the purpose of hunting bear~~ within the area described in subsection 1. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live-trapping nuisance bears pursuant to section 12260-A.

**Sec. B-9. 12 MRSA §11304,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

**§11304. Permission to harvest another person's bear**

A person may not, without the permission of the person conducting the hunt, kill or wound a bear that is treed or held at bay by another ~~person's dog or dogs~~ person.

**Sec. B-10. 12 MRSA §11351, sub-§1,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

1. **Hunting bear after having killed one.** A person may not hunt ~~or trap~~ bear after that person has killed or registered one during any open season. A person who violates this subsection commits a Class D crime for which the court shall impose a

2 sentencing alternative involving a term of imprisonment not to  
3 exceed 180 days; the court also shall impose a fine of not less  
4 than \$1,000, none of which may be suspended.

5 **Sec. B-11. 12 MRSA §12260**, as enacted by PL 2003, c. 414, Pt.  
6 A, §2 and affected by Pt. D, §7, is repealed.

7 **Sec. B-12. 12 MRSA §12260-A** is enacted to read:

8 **§12260-A. Illegal trapping of bear**

9 **1. Prohibition.** It is unlawful to use or set a trap to  
10 hunt or capture bear, except as provided in subsection 2.

11 **2. Exception.** The use of a trap to hunt or capture bear is  
12 lawful in the following circumstances, provided any use of a trap  
13 pursuant to this subsection is undertaken in the most humane  
14 manner practicable:

15 **A.** The trap is used by state or federal employees, acting  
16 in their official capacity, to hunt or capture a specific  
17 offending animal for purposes of protecting livestock,  
18 domestic animals, threatened or endangered wildlife, public  
19 or private property or public safety; or

20 **B.** The trap is used by the department or pursuant to a  
21 permit granted by the department to an accredited university  
22 for scientific or research purposes, but in no event for the  
23 purpose of killing bear.

24 **3. Penalty.** A person who violates this section is guilty  
25 of the unsportsmanlike practice of illegal bear trapping, which  
26 is a Class D crime for the first offense. A 2nd or subsequent  
27 offense is a Class C crime.

28 **Sec. B-13. 12 MRSA §12404, sub-§1, ¶C**, as enacted by PL 2003,  
29 c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

30 **C.** The commissioner may suspend the game laws relating to  
31 bears in such restricted localities and for such periods of  
32 time as the commissioner finds it advisable to relieve  
33 excessive damage being done by bears to sweet corn or other  
34 crops. Nothing in this paragraph is intended to limit or  
35 create an exception to sections 11301-A, 11302-A and 12260-A.

36 **Sec. B-14. 12 MRSA §12404, sub-§1, ¶D**, as enacted by PL 2003,  
37 c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

