

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1938

I.B. 5

House of Representatives, March 18, 2004

An Act Prohibiting Certain Bear Hunting Practices

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 A-4. 12 MRSA §7104-A, sub-§3, as enacted by PL 1993, c. 216, §1, is repealed.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 A-5. 12 MRSA §7110, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt.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
the following circumstances, provided any use of a trap
26 pursuant to this paragraph is undertaken in the most humane
manner practicable:

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

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

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

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

48 **Sec. A-21. 12 MRSA §7452, sub-§5**, as amended by PL 2003, c.
50 333, §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
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
unsportsmanlike practices that are Class D crimes:

34 (1) Unlawfully hunting or attracting bear using bait
36 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
following are unsportsmanlike practices that are Class C
48 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.

