

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

SECOND REGULAR SESSION

January 2, 1980 to April 3, 1980

AND AT THE

THIRD SPECIAL SESSION

May 22, 1980

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

K. J. Printing Co.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
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ONE HUNDRED AND NINTH LEGISLATURE
January 2, 1980 to April 3, 1980

CHAPTER 723

H. P. 1879 — L. D. 1962

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. 12 MRSA § 7055, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7055. Officials with full powers of game wardens

Sheriffs, deputy sheriffs, police officers, constables ~~and coastal wardens, marine patrol officers and special agents of the United States Fish and Wildlife Service~~ shall have the powers of game wardens ~~and shall receive for similar services the same fees as those of game wardens.~~

Sec. 2. 12 MRSA § 7056, sub-§ 3, as enacted by PL 1979, c. 420, § 1, is amended to read:

3. **Airmobile laws.** All foresters and rangers shall have the same powers and duties as game wardens to enforce chapter 715, subchapter ~~HH~~ **I**, as it applies to airmobiles.

Sec. 3. 12 MRSA § 7071, sub-§ 4, first sentence, as enacted by PL 1979, c. 420, § 1, is amended to read:

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

Sec. 4. 12 MRSA § 7076, sub-§ 4, 2nd sentence, as enacted by PL 1979, c. 420, § 1, is amended to read:

This application shall be accompanied by a ~~or~~ photo copy of the applicant's final DD form 214 or other evidence satisfactory to the commissioner that the applicant meets the requirements of this subsection.

Sec. 5. 12 MRSA § 7131, as amended by PL 1979, c. 543, §§ 12 and 13 is repealed.

Sec. 6. 12 MRSA § 7131-A, is enacted to read:

§ 7131-A. Trapping license

1. Eligibility.

- A. Any resident 16 years of age or older is eligible to purchase a resident trapping license.
- B. Any resident 10 years of age or older and under 16 years of age is eligible to purchase a resident junior trapping license.
- C. Any resident under 10 years of age may trap without a license.
- D. Any nonresident is eligible to purchase a nonresident trapping license.

2. Issuance. The commissioner may issue a license to engage in trapping.

3. Expiration. A resident junior trapping license issued to a person who has passed his 15th birthday is valid through the calendar year for which the license was issued.

4. Schedule of fees.

- A. Resident trapping \$15
- B. Resident junior trapping \$5
(10 years of age or older and under 16)
- C. Nonresident trapping.....\$255

5. Restrictions.

A. Any resident under 10 years of age shall be accompanied at all times while trapping by a parent or guardian or an adult approved by a parent or guardian.

Sec. 7. 12 MRSA § 7171, sub-§ 3, ¶ B, as enacted by PL 1979, c. 420, § 1, is amended to read:

B. The holder of a live bait dealer's license may take smelts in accordance with ~~section 7552, subsection 5, paragraph A and section 7554, subsection 1, paragraph C~~ rules promulgated in regard to the taking of smelts.

Sec. 8. 12 MRSA § 7173, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7173. Permit to take minnows for bait purposes from closed waters

1. Issuance. ~~The~~ Whenever any inland waters are closed to fishing, the commissioner may issue permits to take minnows for bait purposes from ~~certain inland those waters at any time.~~

Sec. 9. 12 MRSA § 7205, sub-§ 1, first sentence, as enacted by PL 1979, c. 420, § 1, is amended to read:

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

Sec. 10. 12 MRSA § 7231, sub-§ 1, ¶ A, sub-¶ (4), as enacted by PL 1979, c. 420, § 1, is amended to read:

(4) Purchase, sell and transport any wildlife kept by ~~virture~~ virtue of this section; and

Sec. 11. 12 MRSA § 7301, sub-§ 1, ¶ A, as repealed and replaced by PL 1979, c. 543, § 26, is amended to read:

A. The commissioner ~~of~~ or such subordinate officer of the department as the commissioner may designate;

Sec. 12. 12 MRSA § 7301, sub-§ 9, is enacted to read:

9. Use. Persons licensed under this section may hunt and fish by virtue of their guide licenses.

Sec. 12-A. 12 MRSA § 7303, sub-§ 1, first sentence, as repealed and replaced by PL 1979, c. 543, § 27, is 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 ~~other than those adjacent to the location of the main camp~~ shall:

Sec. 12-B. 12 MRSA § 7352, sub-§ 1, first sentence, as repealed and replaced by PL 1979, c. 543, § 32, is amended to read:

The commissioner may issue a hide dealer's license permitting a person to **commercially**:

Sec. 13. 12 MRSA § 7352, sub-§ 4, ¶ A, as enacted by PL 1979, c. 543, § 32, is amended to read:

A. Notwithstanding this section, a person who lawfully registers ~~possesses~~ possesses any deer, moose or bear, or lawfully possesses any furbearing animal, may sell the hide or head thereof.

Sec. 14. 12 MRSA c. 707, sub-c. X-A, is enacted to read:

SUBCHAPTER X-A

COMMERCIAL WHITEWATER OUTFITTERS

§ 7361. Legislative findings

The Legislature finds that:

1. Popular sport. The recreational use of watercraft upon so-called

whitewater and other highly turbulent and hazardous sections of rivers and streams in this State is becoming an increasingly popular sport;

2. **Risks.** This sport may post significant risks, particularly to those members of the public not skilled and knowledgeable in the same;

3. **Organized trips.** Many watercraft trips are organized and conducted by commercial operators who hold themselves out as possessing the skills and equipment necessary to navigate the waters with reasonable safety; and

4. **Safe equipment.** Accordingly, the public interest requires that commercial operators who conduct these trips utilize watercraft and equipment which are reasonably safe for these purposes and have sufficient training and skill in the operation of the watercraft and equipment in order to insure the safety of the public.

§ 7362. Commercial whitewater outfitters' license

1. **Issuance.** The commissioner may issue a license to conduct commercial whitewater rafting, dory or bateau trips on rapidly flowing rivers.

2. **Fee.** The annual fee for a commercial whitewater outfitter's license shall be \$250.

3. **Restrictions.**

A. There shall be at least one license guide in each watercraft during whitewater rafting trips.

B. Outfitters shall ensure that each person participating on a whitewater boating or rafting trip wears a securely fastened Type I or Type V personal flotation device.

C. Each watercraft shall be equipped with at least one throwline, not less than 50 feet long.

D. Each watercraft shall be equipped with an adequate first aid kit.

4. **Exceptions.** Nothing in this subchapter applies to the operation of canoes. This subchapter does not apply to guides or camp trip leaders licensed under subchapter VIII, or motorboat operators licensed under chapter 715, subchapter I, unless these persons are in the business of conducting commercial whitewater trips described in subsection 1.

Sec. 15. 12 MRSA § 7377, sub-§ 5, as enacted by PL 1979, c. 420, § 1, is amended to read:

5. **Importing live fresh-water fish or eggs.** Notwithstanding section 7371 as it applies to section 7202, section 7371 shall not apply to tropical fish and goldfish

(*Carassius auratus*) which are for aquarium purposes, except piranhas (Genus *Serrasalmus*), walking catfish, and white amur (grass carp), nor to the chemically preserved eggs of either the Atlantic sea run salmon or landlocked salmon. **For purposes of this subsection, "tropical fish" means any species of fish that cannot survive the year round in a wild environment north of 30 degrees north latitude or south of 30 degrees south latitude.**

Sec. 16. 12 MRSA § 7406, sub-§ 8, first paragraph, as enacted by PL 1979, c. 420, § 1, is amended to read:

A person is guilty, except as provided in subsection 20, paragraph A, of hunting from a **motor vehicle or motorboat** or having a loaded firearm in or on a motor vehicle if he:

Sec. 16-A. 12 MRSA § 7406, sub-§ 8, ¶ A, as enacted by PL 1979, c. 420, § 1, is amended to read:

A. Hunts any wild animal or wild bird from or with any motor vehicle, or trailer or motorboat; or

Sec. 17. 12 MRSA § 7432, sub-§ 2, as repealed and replaced by PL 1979, c. 543, § 36, is repealed and the following enacted in its place:

2. Failure to visit traps. A person is guilty of failure to visit traps if he:

A. While trapping in any organized or incorporated place, fails to visit each trap except beaver sets, so-called, or fails to cause the same to be visited at least once in every calendar day including Sunday; or

B. While trapping in any unorganized or deorganized place, fails to visit each trap, except water sets and killer-type traps, so-called, or fails to cause the same to be visited at least once in every 72-hour period.

Sec. 18. 12 MRSA § 7452, sub-§ 8, as enacted by PL 1979, c. 420, § 1, is amended to read:

8. Leaving a bear. A person is guilty of leaving a bear ~~in the woods~~ if he:

A. Kills a bear ~~in the woods~~;

B. Leaves the ~~woods~~ bear without taking ~~the bear~~ it with him; and

C. Fails to notify a warden within 12 hours of the location of the bear and the circumstances necessitating his leaving the bear ~~in the woods~~.

Sec. 18-A. 12 MRSA § 7452, sub-§ 9, ¶ C, as enacted by PL 1979, c. 543, § 39, is amended to read:

C. Counsels or otherwise aids in ~~procuring~~ buying, selling, offering for sale or bartering a bear.

Sec. 18-B. 12 MRSA § 7452, sub-§ 15, ¶ B, as enacted by PL 1979, c. 543, § 40, is repealed and the following enacted in its place:

B. Notwithstanding subsection 9, the head and hide of any bear may be sold;

Sec. 18-C. 12 MRSA § 7458, sub-§ 3, ¶ C, as enacted by PL 1979, c. 420, § 1, is amended to read:

C. Counsels or otherwise aids in ~~procuring~~ buying, selling, offering for sale or bartering a deer.

Sec. 18-D. 12 MRSA § 7458, sub-§ 4, as enacted by PL 1979, c. 420, § 1, is repealed and the following enacted in its place:

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

Sec. 18-E. 12 MRSA § 7458, sub-§ 4-A is enacted to read:

4-A. Keeping an unregistered deer. A person is guilty, except as provided in subsection 15, paragraph G, of keeping an unregistered deer if he keeps an unregistered deer at his home, or at any place of storage except a deer registration station, more than 12 hours.

Sec. 19. 12 MRSA § 7458, sub-§ 6, as enacted by PL 1979, c. 420, § 1, is 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. 19-A. 12 MRSA § 7458, sub-§ 15, ¶ A, as enacted by PL 1979, c. 420, § 1, is repealed and the following enacted in its place:

A. Notwithstanding subsection 3, the head and hide of any deer may be sold.

Sec. 19-B. 12 MRSA § 7458, sub-§ 15, ¶ G, as enacted by PL 1979, c. 543, § 47, is amended to read:

G. Notwithstanding subsection 4-A, a person may leave an unregistered deer in the woods if he notifies a warden within 12 hours as to the location of the deer and the circumstances necessitating his leaving the same in the woods.

Sec. 20. 12 MRSA § 7464, sub-§ 8, is enacted to read:

8. Buying or selling moose. A person is guilty, except as provided in subsection 9, paragraph A, of buying or selling moose if he:

- A. Buys, sells or offers for sale or barter any moose;
- B. Aids in buying, selling or offering for sale or barter any moose; or
- C. Counsels or otherwise aids in buying, selling, offering for sale or bartering a moose.

Sec. 21. 12 MRSA § 7464, sub-§ 9, is enacted as follows:

9. Exceptions.

- A. Notwithstanding subsection 8, the head and hide of any moose may be sold.

Sec. 22. 12 MRSA § 7502, sub-§ 4, as enacted by PL 1979, c. 420, § 1, is amended to read:

4. Warden's certificate. The game warden shall immediately investigate the case and, if he is satisfied that the deer or other wild animal was taken as provided in this section, he shall give the person who killed the deer or other wild animal a certificate of his finding in the matter. The certificate entitles the person to the ownership of the carcass or carcasses, to be possessed and consumed only within his the immediate family of the owner of the crops or the person who killed the deer or other wild animal.

Sec. 23. 12 MRSA § 7503, sub-§ 2, ¶ A as enacted by PL 1979, c. 420, § 1, is amended to read:

A. The owner operator or owner having knowledge of every motor vehicle which has encountered apparent damage by accidental collision with a deer or, moose or bear shall, by the quickest means, report the accident to a game warden.

Sec. 24. 12 MRSA § 7505, sub-§§ 1-2, as enacted by PL 1979, c. 420, § 1, are amended to read:

1. Failure to report accident with deer, moose or bear. A person is guilty of failure to report an accident with a deer or, moose or bear if he fails to report such an accident in accordance with section 7503, subsection 2, paragraph A.

2. Illegally removing portion of carcass. A person entitled to ownership of a deer or, moose or bear carcass under section 7503, subsection 2, paragraph B, is guilty of illegally removing a portion of a deer or, moose or bear carcass if he takes possession of or removes any portion of the carcass without taking possession of or removing the entire carcass from the scene of the collision.

Sec. 25. 12 MRSA § 7552, sub-§ 5, ¶ A, as repealed by PL 1979, c. 543, § 51, is reenacted to read:

- A. A person may take smelts at any time by the use of a dipnet in the usual and

ordinary way in inland waters or portions thereof which are naturally free of ice, and where the taking of smelts is not prohibited by rules of the commissioner;

Sec. 26. 12 MRSA § 7554, as amended by PL 1979, c. 543, §§ 53 to 55, is repealed.

Sec. 27. 12 MRSA § 7555, as amended by PL 1979, c. 543, §§ 56 and 57, is repealed.

Sec. 28. 12 MRSA § 7556, as amended by PL 1979, c. 543, §§ 58 and 59, is repealed.

Sec. 29. 12 MRSA § 7604, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7604. Violation of number, amount, weight or size limits

A person is guilty of a violation of a number, amount, weight or size limit if he fishes for or possesses fish in violation of the number, **amount**, weight or size limits ~~in sections 7554, 7555 or 7556, or in~~ of any rule promulgated by the commissioner ~~except that a person may fish for or possess more than 7 1/2 pounds in the aggregate of trout, salmon, togue and black bass if the last fish caught increases the combined weight to more than 7 1/2 pounds.~~

Sec. 30. 12 MRSA § 7612, as enacted by PL 1979, c. 420, § 1, is repealed.

Sec. 31. 12 MRSA § 7616, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7616. Illegal importation or sale of certain fresh or frozen fish

A person is guilty of illegal importation or sale of fresh or frozen ~~landlocked~~ salmon, brook trout, brown trout, rainbow trout ~~or~~, lake trout **or any member of the family salmonidae** if he imports or offers for sale any of those fish, fresh or frozen, whose source is outside of the continental United States ~~or~~, Canada **or Alaska or their adjacent waters.**

Sec. 32. 12 MRSA § 7618, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7618. Illegal angling or fishing

A person is guilty of illegal angling or fishing if he angles or fishes other than by the use of the single baited hook and line, artificial flies, artificial lures and spinners, except that a person may take smelts in ~~Fish River Chain of Lakes, Aroostook County, by use of 3 single baited hooks spaced a minimum of 4 inches apart~~ accordance with rules promulgated in regard to the taking of smelts.

Sec. 33. 12 MRSA § 7621, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7621. Use or possession of gill net

A person, **including any agent of the State**, is guilty of use or possession of a gill net if he uses or ~~possess~~ **possesses** a gill net.

Sec. 34. 12 MRSA § 7652, sub-§ 3, ¶ **B**, first sentence, as enacted by PL 1979, c. 420, § 1, is amended to read:

The following areas shall be classified as ~~state-owned~~ **state-owned** wildlife management areas:

Sec. 35. 12 MRSA § 7801, sub-§ 12, as amended by PL 1979, c. 543, § 73, is repealed and the following enacted in its place:

12. Operating a motorboat in bathing areas. A person is guilty of operating a motorboat in bathing areas if he:

A. Operates a motorboat within any bathing area marked or buoyed for bathing; or

B. Operates an airmobile on a beach adjacent to a bathing area marked or buoyed for bathing.

Sec. 36. 12 MRSA § 7801, sub-§ 26, as enacted by PL 1979, c. 543, § 76, is amended to read:

26. Operating an airmobile too close to certain buildings. A person is guilty, except as provided in subsection 27, **paragraph D**, of operating too close to a dwelling, hospital, nursing home, convalescent home or church if he operates an airmobile within 200 feet of any of those buildings.

Sec. 37. 12 MRSA c. 715, sub-c. **III**, as repealed and replaced by PL 1979, c. 543, § 81, is repealed.

Sec. 38. 12 MRSA § 7905, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7905. Clerks to notify commissioner

The clerks of the district court and the clerks of the Superior Court shall ~~immediately~~ notify the commissioner of the convictions of any person of any violation of chapters 701 to 721, the sentence of the court and any appeal taken therefrom.