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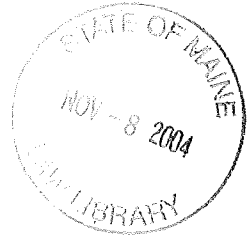
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ELECTIONS -2004
(Nov.)

**MAINE CITIZEN'S GUIDE TO THE
REFERENDUM ELECTION**

Tuesday, November 2, 2004



**In Accordance with
the May 10, 2004
Proclamations of the Governor**

**Dan A. Gwadosky
Secretary of State**

Appropriation 010-29A-4213-012

State of Maine
Office of the Secretary of State
Augusta, Maine 04333

Dear Fellow Citizen,

All eligible Maine residents may vote on November 2, 2004. The information in this booklet is intended to help you learn about the questions that will appear on the ballot, so you can make well-informed decisions about how to vote. Referendum elections are an important part of the heritage of public participation in Maine. I hope you will help keep our democracy strong by voting.

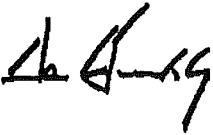
For information about how or where you vote, please contact your local municipal clerk or call Maine's Division of Elections at 624-7650. Information is also available online at www.maine.gov/sos.

Enclosed in this booklet you will find:

- ◆ each of the two referendum questions;
- ◆ the legislation each question represents;
- ◆ a summary of the intent and content of the legislation; and
- ◆ an explanation of the significance of a "yes" or "no" vote.

The Department of the Secretary of State and the Attorney General have worked together to prepare this booklet. We hope you find it helpful and that you will vote on November 2, 2004.

Sincerely,



Dan A. Gwadosky
Secretary of State

STATE OF MAINE
Referendum Election, November 2, 2004
LISTING OF REFERENDUM QUESTIONS

Question 1: Citizen Initiative

Do you want to limit property taxes to 1% of the assessed value of the property?

Question 2: Citizen Initiative

Do you want to make it a crime to hunt bears with bait, traps or dogs, except to protect property, public safety or for research?

Question 1: Citizen Initiative

Do you want to limit property taxes to 1% of the assessed value of the property?

STATE OF MAINE

“An Act to Impose Limits on Real and Personal Property Taxes”

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

Sec. 1. 36 MRSA c. 103, sub-c I, Art. 1-A is enacted to read:

ARTICLE 1-A

LIMITATIONS ON REAL AND PERSONAL PROPERTY TAXES

§351. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Base-year value. “Base-year value” means the 1996-97 full-cash value of real and personal property as shown on tax bills under “total value.”

2. Change in ownership. “Change in ownership” means the sale, transfer or acquisition of real or personal property. “Change in ownership” does not include the acquisition, prior to January 1, 1999, of real or personal property as a replacement for comparable property if the person acquiring the real or personal property has been displaced from the property by eminent domain proceedings, by acquisition by a public entity or by governmental action that has resulted in a judgment of inverse condemnation. “Change in ownership” also does not include transfer between spouses or transfers between parents and children.

3. Comparable property. “Comparable property” means real or personal property that is similar in size, utility and function to the property being replaced, or property that conforms to state regulations governing the relocation of persons displaced by disaster or government action.

4. Full-cash value. “Full-cash value” means the governmental entity’s total assessed valuation of real or personal property as shown on the 1996-97 tax bill under “total value.” For newly constructed or newly purchased

real or personal property that changes in ownership after the 1996-97 assessment, “full-cash value” means the appraised value.

5. Governmental entity. “Governmental entity” means any city, town, county, plantation, unorganized territory, district or other municipality that assesses ad valorem taxes on real or personal property as of the 1996-97 fiscal year.

6. Local affected agency. “Local affected agency” means any city, town, county, plantation, unorganized territory, school district or community college that receives an annual property tax revenue allocation from any governmental entity(s) listed above.

7. Newly constructed property. “Newly constructed property” means real property that is constructed after the April 1, 1999 local assessment. “Newly constructed property” does not include replacement property. “Newly constructed property” does not include the portion of reconstruction or improvement to a structure, constructed of reinforced masonry bearing wall construction necessary to comply with any local ordinance relating to seismic safety during the first 15 years following the reconstruction or improvement. “Newly constructed property” does not include the construction or addition of any active solar energy system or the construction or addition of a fire sprinkler system or other fire extinguishing system, fire detection system, fire-related egress improvement that is installed or constructed after the effective date of this article.

8. Replacement dwelling. “Replacement dwelling” means a building, structure or other shelter constituting a place of abode or business, whether real or personal property, and any land on which it may be situated.

9. Replacement property. “Replacement property” means any real or personal property that is reconstructed after being substantially damaged or destroyed in a disaster, as declared by the Governor, where fair market value of the real or personal property, as reconstructed or purchased, is comparable to its fair market value immediately prior to the disaster.

10. Substantially damaged or destroyed property. “Substantially damaged or destroyed property” means real or personal property that sustains physical damage amounting to 50% of its value immediately before a disaster, as declared by the Governor.

11. Transfer between parent and child. “Transfer between parent and child” means the purchase or transfer, either voluntarily or as a result of a court order or judicial decree, of the principal residence and the first \$1,000,000 of the full-cash value of all other real or personal property between a parent and child.

12. Transfer between spouses. “Transfer between spouses” means a transfer or purchase of real or personal property, on or after April 1, 1999, between spouses. “Transfer between spouses” includes, but is not limited to:

A. A transfer to a trustee for the beneficial use of a spouse, or to the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor;

B. A transfer to a spouse that takes effect upon the death of that person’s spouse;

C. A transfer by a person to that person’s spouse or former spouse in connection with a property settlement agreement or legal separation or dissolution of a marriage;

D. The creation, transfer or termination, solely between spouses, of any co-owner’s interest; or

E. The distribution of a legal entity’s property to a spouse or former spouse in exchange for the interest of the spouse or former spouse in the legal entity in connection with a property settlement agreement or legal separation or decree of dissolution of a marriage.

§352. Maximum ad valorem tax on real or personal property; apportionment of tax revenues

1. Maximum tax. The maximum amount of any ad valorem tax on real property and personal property shall not exceed 1% of the full-cash value of such property. The 1% tax must be collected by the governmental entity and apportioned according to the law within the city, county, town, plantation, unorganized territory or district.

2. Exemption. The limitation provided for in subsection 1 shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by voters prior to the effective date of this article.

3. Exceptions to limitations. The limitation provided for in subsection 1 shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1999 or to any bonded indebtedness for the acquisition or improvement of real or personal property approved on or after July 1, 1999, by 2/3 of the votes cast by voters voting on the proposition in a general election.

§353.Valuation of Real and Personal Property – Appraised Value After 1997 Assessment – Replacement Dwelling.

1. Full Cash Value. The full cash value means the city, town, plantation, unorganized territory or district assessors total valuation of real and personal property as shown on the 1996-97 tax bill under “Total Value” or, thereafter, the appraised value of real and personal property when purchased, newly constructed, or a change in ownership has occurred after the 1997 assessment. All real and personal property not already assessed up to the state regulation of 100% valuation of the 1996-97 total value, may be reassessed to reflect that valuation. For purposes of this section, “newly constructed” does not include real property, which is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term “newly constructed” shall not include the portion of reconstruction or improvement to a structure, constructed of reinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement. Depreciation on personal property shall be depreciated and listed from the annual form as supplied by the taxpayer.

However, the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property which is eligible for the homeowners exemption and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subsection (5), to any replacement dwelling of equal or lesser value located within the same state and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, “any person over the age of 55 years” includes a married couple one member of which is over the age of 55 years. For purposes of this section, “replacement dwelling” means a building, or structure, or other shelter constituting a place of abode, whether real property and personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling, which was purchased or newly constructed on or after passage of this article.

In addition, the Legislature may authorize a government entity, after consultation with the local affected agencies within the government entities boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that

government entity and the original properties are located in another county within this state. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district, which receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after the date the county adopted the provisions of the subdivision relating to the transfer of base year value, but shall not apply to any replacement dwelling which was purchased or newly constructed before the passage of this article.

2. Inflationary Rate. The full cash value, listed on real and personal property tax bills as "Total value", as the total base may reflect from year to year an inflationary rate not to exceed 2 percent for any given year or reduction as shown in the Consumer Price Index or comparable data for the area under tax jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

3. Newly Constructed. For purposes of subsection (1), the Legislature may provide that the term "newly constructed" shall not include both of the following:

A. The construction or addition of any active solar energy system.

B. The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, which is constructed or installed after the effective date of this paragraph.

4. Change in Ownership. For purposes of subsection 1 section, the term "change in ownership" shall not include the acquisition of real property and personal property as a replacement for comparable property if the person acquiring the real or personal property has been displaced from the property by eminent domain proceedings, by acquisition by a public entity, or a governmental action which has resulted in a judgement of inverse condemnation. The real and personal property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after the date of passage, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

5. Disasters. Notwithstanding any other provision of this section, the Legislature shall provide that the base-year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property, within the same town, city, plantation, unorganized territory of other district, that is

acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

This subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1999 and to the determination of base-year values for the 1996-97 fiscal year and fiscal years thereafter.

6. Replacement Property. For the purposes of subsection (5),

A. Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of real or personal property as a result of restricted access caused by the disaster.

B. Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the real and personal property which it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced said property prior to the disaster.

7. Property Transfers between Spouses. For the purpose of subsection (1), the terms “purchased” and “change in ownership” shall not include the purchase or transfer of real or personal property between spouses since April 1, 1999, including, but not limited to, all of the following:

A. Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

B. Transfer to a spouse which takes effect upon the death of a spouse.

C. Transfer to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

D. The creation, transfer, or termination, solely between spouses, of any co-owner’s interest.

E. The distribution of a legal entity’s property to a spouse or a former spouse in exchange for the interest of the spouses in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

8. Property Transfers between Parents and Child. For purposes of subsection (1), the terms “purchased” and “change of ownership” shall not include the purchase or transfer of the principal residence and personal property of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real and personal property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

§354. Imposition of special taxes

A governmental entity, by a 2/3 referendum vote of qualified voters held at a general election, held by referendum, may impose special taxes on a governmental entity, except no ad valorem taxes or special tax may be imposed on real and personal property or a transaction tax or sales tax on the sale of real and personal property within that governmental entity.

§355. Effective Date of Article

This article shall take effect for the tax year beginning on April 1 following the passage of this Amendment, except Section 354, which shall become effective upon the passage of this article.

§356. Condition

From and after the effective date of this article, any changes in the taxes on any ad valorem tax on real property and personal property for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in the methods of computation must be imposed by an Act passed by not less than two-thirds of the votes cast, and said vote shall be held in a state-wide Referendum in a General election.

§357. Real and Personal Property Transfers between Parents and Children.

A. For purposes of subdivision (A), the terms “purchased” and “change of ownership” shall not include the purchase or transfer of the principal residence and personal property of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real and personal property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

§358. Certain taxes prohibited

A special district tax, user fee tax or county tax may not be imposed on any real or personal property.

§359. Construction

This article may not be construed to prevent or prohibit a town, city, county, plantation, unorganized territory, county or district from initiating taxes or fees with a 2/3 vote in a general election, except no ad valorem tax on real and personal property or a transaction tax or sales tax on the sale of real and personal property within such city, county, town, plantation, unorganized territory, county or district may be imposed.

§360. Application

This Act applies to all government entities that assess ad valorem taxes on real and personal property tax. This Act does not preclude or prohibit a city, town, plantation, unorganized territory or district from assessing or collecting taxes and fees, except no ad valorem taxes on real and personal property or a transaction tax or sales tax on the sale of real and personal property within such City, Town, Plantation, unorganized territory, county or special district may be imposed.

§361. Severability.

If any portion, word, clause, phrase of this initiative, for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses and phrases may not be affected, but shall remain in full force and effect.

SUMMARY

This initiative limits the ad valorem taxes levied on real or personal property to a maximum rate of 1% of the value of the property. The base value of the property would be the 1996-97 assessed value. For property constructed, sold or transferred after the 1996-97 assessment, the base value would be the appraised value at the time of construction or acquisition. This base value could be adjusted up or down each year by a maximum of 2%. Certain exemptions, including transfers between spouses and transfers between a parent and child, are included.

This initiative also would prohibit any change in the maximum property tax rate except by a 2/3 vote of all voters in a statewide referendum. Localities could impose special taxes, except on property, and only by a 2/3 vote of the electors in the locality by referendum at a general election in November.

State of Maine



WHEREAS, written petitions bearing the signatures of 51,255 electors of this State, which number is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18, of the Constitution of Maine, were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on or before the twenty-fifth day after the convening of the One Hundred and Twenty-first Legislature in the Second Regular Session, requesting that the Legislature consider an act entitled "An Act to Impose Limits on Real and Personal Property Taxes"; and

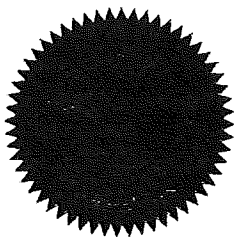
WHEREAS, the Secretary of State duly certified the initiative petition to be valid and submitted the measure to the Legislature in accordance with the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine; and

WHEREAS, on April 30, 2004, the Legislature of the State of Maine adjourned sine die, without enacting the aforementioned initiated bill without change; and

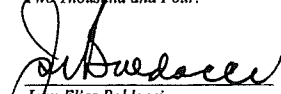
WHEREAS, Article IV, Part Third, Section 18, of the Maine Constitution provides that the Governor shall, by proclamation, order an initiated bill proposed to, but not enacted by, the Legislature without change to the people for referendum in November within 10 days following the recess of the Legislature to which the measure was proposed; and

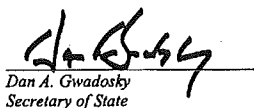
WHEREAS, under the provisions of Article IV, Part Third, Section 18, an election must be held in November of the year in which the petition is filed by proclamation;

NOW THEREFORE, I, John Elias Baldacci, Governor of the State of Maine, acting under the provisions of Article IV, Part Third, Section 18 of the Constitution of Maine, do hereby proclaim that an election shall be called for Tuesday, November 2, 2004, so that "An Act to Impose Limits on Real and Personal Property Taxes" may be submitted to the people of this State for a referendum vote.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this tenth day of May in the year Two Thousand and Four.


John Elias Baldacci
Governor


Dan A. Gwadosky
Secretary of State

Intent and Content

This citizen-initiated legislation would limit the assessment of property taxes by any municipality or other form of local government to 1% of the so-called “full cash value” of the property, which is defined in the legislation to mean the assessed value of property as of the 1996-1997 tax year provided the property has remained in the same ownership since 1997. If ownership of the property has changed, or the property has been newly constructed since 1997, the tax assessment could not exceed 1% of the property’s appraised value as of the date of the change in ownership or new construction. Property tax assessments (whether based on the 1996-1997 tax year assessment, or on an appraisal performed at a later date for properties purchased or constructed after 1997) could not be increased thereafter by more than 2% per year to reflect inflation based on the Consumer Price Index.

The definition of “change in ownership” excludes transfers between spouses that occur after April 1, 1999, as well as transfers between parents and children that occur after the 1996-1997 tax year. Accordingly, property could be transferred between such family members after those dates without any change in the value upon which tax is imposed. The definition of change in ownership also excludes the acquisition, prior to January 1, 1999 or after passage of this Act, of property that is similar in size, utility and function, in order to replace property acquired by the government by purchase or by eminent domain.

The definition of “newly constructed property” means property constructed after April 1, 1999, and excludes property that is reconstructed after being destroyed or after sustaining physical damage amounting to 50% of its value in a disaster declared by the Governor. Thus, such reconstruction could occur under those circumstances after April 1, 1999 without triggering any change in the valuation of the property for tax purposes.

The 1% cap on property taxes would not apply to property taxes or special assessments to pay the interest on or to retire any bonds approved by the voters prior to July 1, 1999, or to pay interest on or to retire any bonds for acquisition or improvement of real or personal property where the bonds were approved on or after July 1, 1999 by a 2/3 vote of the total votes cast on the particular bond proposal.

The initiated legislation provides that voters in any locality could decide, by a 2/3 vote at a general election, to impose other special taxes or fees, provided they were not imposed on real or personal property or on the sale of such property. Since municipalities are not authorized under existing Maine law to impose any special taxes, additional legislation would likely be required for this provision of the citizen initiative to be effective.

This citizen-initiated legislation, if approved by the voters, would take effect for the tax year beginning on April 1, 2005. It provides that any change in real or personal property taxes made after that date for the purpose of increasing revenues, whether by increased rates or changes in the methods of computation, could be accomplished only by a two thirds vote of electors at a statewide referendum in a general election. The latter provision may not be effective, however, since under Maine's Constitution the Legislature may amend any law whether it was originally enacted by the people or by the Legislature.

A "YES" vote approves the initiated legislation.

A "NO" vote disapproves the initiated legislation.

Question 2: Citizen Initiative

Do you want to make it a crime to hunt bears with bait, traps or dogs, except to protect property, public safety or for research?

STATE OF MAINE

“An Act Prohibiting Certain Bear Hunting Practices”

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;

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

C. The bait is 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-13. 12 MRSA §7452, sub-§1, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

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

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

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

(1) 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

(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 dog or dogs~~ person.

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

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

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

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

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

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

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

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

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

(2) The trap is 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-20. 12 MRSA §7452, sub-§3, as enacted by PL 1979, c. 420, §1, is amended to read:

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

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

5. Hunting bear near dumps. The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 500 yards from sites permitted or licensed for the disposal of solid waste. A person may not hunt, ~~trap~~, molest or harass a bear ~~or release dogs for the purpose of hunting bear~~ within this area. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live trapping nuisance bears pursuant to section 7452, subsection 2-A.

Sec. A-22. 12 MRSA §7452, sub-§15, ¶A, as amended by PL 2003, c. 331, §10, is repealed.

Sec. A-23. 12 MRSA §7458, sub-§15, ¶H, as enacted by PL 1993, c. 156, §2, is amended to read:

H. Subsection 9, paragraph B does not apply to hunting from an observation stand or blind overlooking:

- (1) Standing crops;
- (2) Foods that have been left as a result of normal agricultural operations or as a result of natural occurrence; or
- (3) Bear bait that has been placed at a bear hunting stand or blind in accordance with section 7451, subsection ~~3~~ 3-A.

Sec. A-24. 12 MRSA §7504, sub-§8, as amended by PL 1981, c. 563, §3, is amended to read:

8. Raccoons and bears.

A. The commissioner may suspend the game laws relating to raccoons and bears in such restricted localities and for such periods of time as he finds it advisable to relieve excessive damage being done by them to sweet corn or other crops. Nothing in this paragraph is intended to limit or create an exception to section 7451, subsection 3-A; section 7452, subsection 1; or section 7452, subsection 2-A.

B. The commissioner may suspend subsection 6 for the purpose only of allowing dogs to be used in hunting and killing raccoons ~~and bears~~, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable.

Sec. A-25. 12 MRSA §7861, sub-§1, ¶C, as enacted by PL 1989, c. 913, Pt. A, §18, is repealed.

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 repealing and replacing subparagraph (1) to read:

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

PART B

Sec. B-1. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

E. Buying or selling bear, ~~or hunting or trapping~~ bear after having killed one or exceeding the bag limit on bear, in violation of section 11217 or 11351;

Sec. B-2. 12 MRSA §10902, sub-§9 is enacted to read:

9. Mandatory hunting license revocation for unsportsmanlike practices regarding bear. The commissioner shall suspend a person's hunting license for at least 5 years if that person is convicted of:

A. Bear baiting in violation of section 11301-A;

B. Hounding in violation of section 11302-A; or

C. Illegal bear trapping in violation of section 12260-A.

If a person is convicted of any of the violations in paragraphs A to C for a 2nd or subsequent time, the commissioner shall revoke such person's hunting license permanently.

Sec. B-3. 12 MRSA §11151, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt for bear without a permit 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.~~

Each day a person violates this subsection that person commits a Class E crime for which a minimum of \$50 and an amount equal to twice the applicable license fee must be imposed.

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:

§11218. Game fees

A person may not charge any fee for access to land if the 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 authorized commercial shooting area licensed under section 12101. This section does not apply to:

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,~~

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

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

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:

§11251. Open and closed seasons

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

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 10104, subsection 1, adopt rules prohibiting the use of bait to hunt black bear during any portion of the open bear hunting season.~~

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

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:

(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.

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

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.

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

§11301-A. Bear baiting

1. Prohibition. 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, except as provided in subsection 2.

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

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;

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

C. The bait is 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 bear baiting, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

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

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

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

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

§12260-A. Illegal trapping of bear

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

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

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

B. The trap is used by the department or pursuant to a permit granted by the department to an credited 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 illegal bear trapping, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

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

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

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

Sec. B-15. Contingent effective date. This Part takes effect only if the Maine Revised Statutes, Title 12, Part 13, as enacted by Public Law 2003, chapter 414, Part A, section 2, takes effect.

SUMMARY

This initiated bill prohibits the use of bait to hunt or attract bear, the use of a dog to hunt or pursue bear and the use or setting of a trap to hunt or capture bear except under certain circumstances. The use of bait, a dog or a trap is permitted for certain scientific purposes or if undertaken by state or federal employees to kill or capture a specific animal that threatens livestock, domestic animals, threatened or endangered wildlife, property or public safety. Baiting is also permitted if used in conjunction with the operation of a feeding station for bear by owners or operators of commercial timberland or their employees in order to prevent damage to commercial timberland.

State of Maine



WHEREAS, written petitions bearing the signatures of 97,622 electors of this State, which number is in excess of ten percent of the total vote cast in the last gubernatorial election preceding the filing of such petitions, as required by Article IV, Part Third, Section 18, of the Constitution of Maine, were addressed to the Legislature of the State of Maine and were filed in the office of the Secretary of State on or before the twenty-fifth day after the convening of the One Hundred and Twenty-first Legislature in the Second Regular Session, requesting that the Legislature consider an act entitled "An Act Prohibiting Certain Bear Hunting Practices"; and

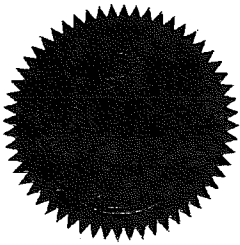
WHEREAS, the Secretary of State duly certified the Initiative petition to be valid and submitted the measure to the Legislature in accordance with the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine; and

WHEREAS, on April 30, 2004, the Legislature of the State of Maine adjourned sine die, without enacting the aforementioned initiated bill without change; and

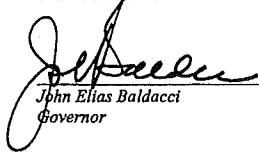
WHEREAS, Article IV, Part Third, Section 18, of the Maine Constitution provides that the Governor shall, by proclamation, order an initiated bill proposed to, but not enacted by, the Legislature without change to the people for referendum in November within 10 days following the recess of the Legislature to which the measure was proposed; and

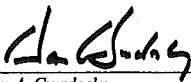
WHEREAS, under the provisions of Article IV, Part Third, Section 18, an election must be held in November of the year in which the petition is filed by proclamation;

NOW THEREFORE, I, John Elias Baldacci, Governor of the State of Maine, acting under the provisions of Article IV, Part Third, Section 18 of the Constitution of Maine, do hereby proclaim that an election shall be called for Tuesday, November 2, 2004, so that "An Act Prohibiting Certain Bear Hunting Practices" may be submitted to the people of this State for a referendum vote.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed. Given under my hand at Augusta this tenth day of May in the year Two Thousand and Four.


John Elias Baldacci
Governor


Dan A. Gwadosky
Secretary of State

Intent and Content

This citizen-initiated legislation would amend the laws pertaining to hunting of bear in Maine to prohibit certain practices which are currently regulated under Maine law. The amendments, if enacted, would prohibit hunters from using food as bait to attract or to hunt bear, using a dog or dogs to hunt or pursue bear, or setting a trap to hunt or capture bear. Violation of any of these new prohibitions would constitute a class D crime for the first offense, leading to a suspension of the person's hunting license for at least 5 years if convicted. A second or subsequent offense would be a class C crime and would lead to permanent revocation of the person's hunting license if convicted.

Exceptions to these prohibitions would allow bait, dogs or traps to be used by state or federal employees, acting in their official capacity, to attract or pursue a bear for the purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property, or public safety. Additional exceptions would allow an accredited university acting pursuant to a permit granted by the Department of Inland Fisheries and Wildlife, or the Department acting on its own, to use these techniques for scientific or research purposes but not for the purpose of killing bear. Owners or operators of commercial timberland with a permit from the Department of Inland Fisheries and Wildlife would be allowed to use bait at a feeding station for bear in order to prevent damage to their commercial timberland, but not for the purpose of killing bear.

A "YES" vote approves the initiated legislation.

A "NO" vote disapproves the initiated legislation.