

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1817

H. P. 1425

House of Representatives, April 7, 1975

Referred to the Committee on Fisheries and Wildlife. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Mills of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Revise the Fish and Game Laws.

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

Sec. 1. 7 MRSA § 3455, first ¶, as enacted by PL 1973, c. 45, § 1, is amended to read:

It shall be unlawful for ~~the owner of~~ any dog, licensed or unlicensed, ~~to permit such dog~~ to run at large, except when being used for hunting.

Sec. 2. 7 MRSA § 3456, first sentence, as enacted by PL 1973, c. 45, § 1, is amended to read:

Any police officer, sheriff, deputy sheriff, game warden or constable shall may seize, impound or restrain any dog in violation of section 3455 and deliver such dog to any person or shelter authorized to board dogs by the Department of Agriculture under section 3406.

Sec. 3. 7 MRSA § 3457, as enacted by PL 1973, c. 45, § 1, is amended to read:

§ 3457. Penalties

Instead of seizing and impounding the dog, the officer, having jurisdiction, may prosecute the owner, or keeper, of any dog running at large, and any person upon conviction shall be punished by a fine of not less than \$25 nor more than \$100.

Sec. 3-A. 12 MRSA § 1901, sub-§ 8, as last amended by PL 1971, c. 403, § 2, is further amended to read:

8. Wildlife management area. A "wildlife management area" is any tract of land or body of water owned or leased by the Department of Inland

Fisheries and Game for the purposes of wildlife management as defined in subsection 7 or created by an Act of the Legislature with the landowner's permission, and subject to the commissioner's authority under section 2155.

Sec. 3-B. 12 MRSA § 1901, sub-§ 10 is amended to read:

10. **Inland waters.** "Inland waters" means all waters within the State above the rise and fall of the tide, or to a line established as the "Head of Tide" on certain designated tidal rivers, streams, brooks, estuaries or bays, and wholly or partly within the territorial limits of the State and excepting private ponds as defined in section 2557.

Sec. 4. 12 MRSA § 2001, first sentence, is amended to read:

The commissioner shall appoint persons as fish and game wardens who shall have qualified under the written code prepared by the commissioner and approved by the Personnel Board and said wardens shall be considered as agents of the commissioner.

Sec. 4-A. 12 MRSA § 2101, first ¶, is amended to read:

No person shall, ~~except as provided~~ at any time, trap, hunt, pursue, shoot at or kill any wild animal or any game or other wild birds, ~~except as the commissioner may otherwise direct pursuant to his authority in chapters 301 to 335, and particularly as provided in section 1901, subsection 8 and section 2155,~~ within the following described territories:

Sec. 5. 12 MRSA § 2101, 29th ¶, that part which relates to the Rangeley Plantation Sanctuary, as enacted by PL 1973, c. 77, is repealed and the following enacted in place thereof:

Rangeley Plantation Sanctuary: The following tracts of land situated in Rangeley Plantation in the County of Franklin: Land of the Maine Conference Association of Seventh-day Adventists and the adjoining land now or formerly owned by Mrs. Franklin B. Stahl, said parcels laying southerly of Rangeley Lake. The commissioner may, after notice and public hearing, add adjacent property to said game sanctuary upon application of the owners of said adjacent property. If the commissioner determines that the public health and safety is threatened by diseased animals within the sanctuary, he may authorize the use of firearms or any other device he deems appropriate to eliminate said animals.

Sec. 5-A. 12 MRSA § 2107, as last amended by PL 1969, c. 425, § 33, is further amended to read:

§ 2107. **Hunting or possessing firearms restricted**

No person shall at any time hunt, trap, chase, catch, kill or destroy any wild birds or wild animals or have in his possession firearms of any description within the limits of any game sanctuary or closed territory, except as provided in chapters 301 to 335, and particularly as provided in sections 1901, subsection 7 and section 2155, and except that the commissioner is authorized to regulate the trapping of wild animals thereon and to use such means as

may seem necessary to exterminate vermin of any description in all game sanctuaries and in any other localities where damage is being done.

Sec. 5-B. 12 MRSA § 2154, first ¶, as last amended by PL 1971, c. 403, § 11, is further amended to read:

The following described territories shall be classified as wildlife management areas, to be managed by the commissioner, in accordance with section 1901, subsection 7, and subject to the commissioner's authority under section 2155:

Sec. 5-C. 12 MRSA § 2155, first sentence, as last amended by PL 1971, c. 568, is further amended to read:

The commissioner is authorized to regulate hunting, fishing, trapping, boating, camping and other public use on wildlife management areas, as described in section 1901, subsection 8 and designated and classified in sections 2154 and 2154-A, and sanctuaries as described in section 2101, and is authorized to close such areas to motorcycles, field bikes, all-terrain vehicles and snowmobiles and to close such areas to hunting, fishing, trapping, boating, camping and other public use or to permit the taking of any species which he shall designate for such periods, on such portions of the areas, and under such special regulations as are necessary to insure a desirable effect on wildlife populations and provide for human safety.

Sec. 5-D. 12 MRSA § 2155, as last amended by PL 1973, c. 562, § 5, is further amended by adding after the 2nd paragraph a new paragraph to read:

The commissioner's authority under this section includes his authority to authorize all public access to and on such areas for carrying out the public uses described in this section.

Sec. 6. 12 MRSA § 2205, as last repealed and replaced by PL 1971, c. 622, § 36, is repealed.

Sec. 7. 12 MRSA § 2212, first sentence, as enacted by PL 1973, c. 786, § 1, is amended to read:

This subchapter shall not apply to river, stream or brook crossings in connection with public works projects which shall alter not more than a total of ~~100~~ 300 feet in any mile of shore nor to private crossing or dam projects which shall alter not more than a total of ~~300~~ 100 feet in any mile of shore.

Sec. 8. 12 MRSA § 2302, first ¶, as last amended by PL 1973, c. 562, § 8, is repealed.

Sec. 9. 12 MRSA § 2302, 2nd ¶, as last amended by PL 1973, c. 562, § 8, is amended to read:

On conviction of any person holding a license or licenses issued under chapters 301 to 335 and Title 32, chapter 65, of the violation of any of the sections of said chapters ~~not mentioned~~ or of any rules or regulations of the commissioner, the commissioner may revoke any license or licenses held by such person for a period of not less than 3 months nor more than one year.

If a person's license is revoked for one or more years, the revocation shall become effective on January 1st of the next calendar year following the date of final disposition.

Sec. 10. 12 MRSA § 2302, 3rd ¶, is amended to read:

Any person whose license or licenses has been revoked under the provisions of the ~~end first~~ paragraph of this section may request a hearing by the commissioner, at which hearing all the facts concerning the violation shall be presented and the license or licenses may be reinstated.

Sec. 11. 12 MRSA § 2355-C, 4th and 5th ¶¶, as enacted by PL 1969, c. 289, § 3, are amended to read:

If any person leaves the woods without taking a bear which he has killed with him, he shall notify a warden within ~~72~~ 12 hours as to the location of the bear and the circumstances necessitating his leaving the same in the woods.

No person shall keep a bear at his home, or at any place of storage, except a bear registration station, more than ~~72~~ 12 hours unless said bear has been legally registered.

Sec. 12. 12 MRSA § 2401, sub-§ 3, 2nd ¶, is amended to read:

Such appointed clerk or other agent shall ~~receive~~ retain a fee of 50¢ for each licensed issued.

Sec. 13. 12 MRSA § 2401, sub-§ 3, 3rd ¶, as amended by PL 1973, c. 562, § 12, is further amended by adding at the end a new sentence to read:

A junior hunting license or junior fishing license issued to a nonresident under 16 years of age shall be considered valid through the calendar year in which the applicant reaches his 16th birthday.

Sec. 14. 12 MRSA § 2402, 13th ¶, as repealed and replaced by PL 1971, c. 231, § 9, is repealed as follows:

~~Any person who has been found guilty of breaking and entering, or of larceny, shall not be eligible thereafter to obtain a trapper's license.~~

Sec. 15. 12 MRSA § 2454, as amended by PL 1969, c. 425, § 47, is further amended to read:

§ 2454. Hunting on Sunday

It shall be unlawful to hunt wild birds or wild animals on Sunday. Possession of firearms in the fields and forests or on the waters or ice of this State or in a motor vehicle being operated on an unpaved ~~highway~~ road located in an unorganized township on Sunday shall be prima facie evidence of such hunting, unless such firearm is carried, securely wrapped in a complete cover, fastened in a case or carried in at least 2 separate pieces in such a manner that it cannot be fired unless the separate pieces are joined together again. For the purpose of this section a clip, magazine or cylinder of a firearm shall not be considered a piece of such firearm.

Sec. 16. 12 MRSA § 2455, first ¶, as last amended by PL 1969, c. 167, is further amended to read:

It shall be unlawful to hunt wild birds ~~including migratory game birds~~ in this State from sunset to ½ hour before sunrise of the following morning.

Sec. 17. 12 MRSA § 2455, 2nd ¶, as last amended by PL 1973, c. 625, § 78, is further amended by adding at the end a new sentence to read:

Any person convicted of hunting wild animals between sunset and ½ hour after sunset shall be subject to the penalties as provided in section 3060.

Sec. 18. 12 MRSA § 2456, first sentence, as last repealed and replaced by PL 1971, c. 300, § 1, is amended to read:

It shall be unlawful for any person to hunt or molest any wild bird or wild animal at any time from or with any motor vehicle, trailer, aircraft, motorboat or snowmobile, or by aid or use of any light or lights carried thereon, therein or attached thereto, except that migratory waterfowl may be hunted from a motorboat in accordance with federal regulations ~~and except that shags and seals may be hunted from a motorboat.~~

Sec. 19. 12 MRSA § 2461, 3rd ¶, is amended to read:

No ~~duck~~ decoys shall be allowed to remain in waters of Merrymeeting Bay at any time during the period from one hour after legal shooting time until one hour before legal shooting time.

Sec. 20. 12 MRSA § 2466, 3rd ¶, is amended to read:

The English or European house sparrow, ~~the common crow, the great horned owl, kingfishers, and cormorants or shag~~ and the European starling are not included among the birds therein protected; nothing herein contained shall be deemed to make it unlawful for the owner or occupant of land to kill hawks or owls when in the act of destroying poultry; and for the purpose of chapters 301 to 335 the partridge, grouse and pheasant, only, shall be considered game birds, and the following, only, shall be considered migratory game birds: Anatidae or waterfowl, including brant, wild ducks, geese and swans; gruidae or cranes, including little brown, sandhill and whooping cranes; rallidae or rails, including coots, gallinules, and sora and other rails; limicolae or shorebirds, including avocets, curlew, dowitchers, dogwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs; columbidae or pigeons, including doves and wild pigeons.

Sec. 20-A. 12 MRSA § 2502, first sentence, as last amended by PL 1973, c. 208, § 3, is further amended to read:

An archery license shall be issued by the commissioner to hunt deer from the first Monday of October to the beginning of the regular deer hunting season as described in section 2353, the fee for which shall be \$6.50 for hunting deer by residents of this State and ~~\$42.50~~ \$46.50 for hunting deer by nonresidents; the fee of 50¢ to be retained by the issuing agent; except that such archery licenses shall also permit the hunting of such wild birds

and animals which can be legally hunted from the first Monday of October to the beginning of the regular deer hunting season as described in section 2353.

Sec. 20-B. 12 MRSA § 2553, sub-§ 2, as enacted by PL 1969, c. 169, is amended to read:

2. **Trout.** A trout less than 6 inches in length, except that there shall be no length limit for trout taken from brooks and streams, and except a brown trout or a rainbow trout taken from lakes and ponds less than 12 inches in length;

Sec. 20-C. 12 MRSA § 2558-A, first sentence, as enacted by PL 1969, c. 245, is repealed.

Sec. 20-D. 12 MRSA § 2558-A, 2nd sentence, as enacted by PL 1969, c. 245, is amended to read:

The fee for ~~such~~ a live smelt bait dealer's license shall be \$50 for each calendar year.

Sec. 20-E. 12 MRSA § 2559, first sentence, is amended to read:

The provisions of chapters 301 to 335, so far as they relate to fish of all varieties and fishways, apply to fish and fishways down to tidewaters, or to a line established as the "Head of Tide" on certain tidal rivers, streams, brooks, estuaries or bays.

Sec. 21. 12 MRSA § 2801, first ¶, last sentence, is amended to read:

Any agent of the commissioner may buy or sell ~~deer, or parts thereof~~ any wild bird, wild animal, fish or parts thereof, for use as evidence in prosecution of a violation of chapters 301 to 335.

Sec. 22. 12 MRSA § 2851, first and 2nd ¶¶, as amended by PL 1971, c. 403, § 41, are further amended to read:

The commissioner may issue a license at an annual fee of \$10 to any person, firm or corporation, permitting the licensee to breed, rear or keep game birds or migratory game birds. Said licensee shall fence in land for these purposes and such fence shall be of a type which will prevent game birds or migratory game birds from entering or leaving the fenced-in area.

No person shall breed, rear or keep any game birds or migratory game birds, except those that are owned by the department, at any time, without first having procured said license. No game birds or migratory game birds, either live or dressed, shall be removed from said premises until there shall have been securely attached to each bird a metallic seal. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the commissioner at a cost of 5¢. Such licensed breeders may, at any time, consume, sell, transport or kill and sell, and any person, firm or corporation, resident of the State, may purchase, have in possession or transport any game birds or migratory game birds raised, by virtue of this section. Such licensed breeders may also sell live

or dressed game birds or migratory game birds outside the State, subject to regulations governing the importation of game birds or migratory game birds of the state in which sold.

Sec. 23. 12 MRSA § 2953, first ¶, as amended by PL 1965, c. 374, is further amended by adding a new sentence after the first sentence to read:

Any officer authorized to arrest for violations of this section may arrest, without a warrant, any person involved in a hunting accident, if the officer has probable cause to believe that such person has violated this section.

STATEMENT OF FACT

The intent of this legislation is as follows:

Sec. 1 to 3. These changes would make the statutes much easier to enforce.

Sections 3-A, 4-A, 5-A, 5-B, 5-C, and 5-D. These changes would just clarify the commissioner's authority regarding Wildlife Management Areas and Sanctuaries.

Sec. 4. Presently the statute, section 2801, setates that only an agent of the commissioner may buy deer for use as evidence in the prosecution of a violation. The commissioner now gives certain wardens a letter designating them as agents in order to buy deer. This change would, by statute, give all wardens this authority.

Sec. 5. Effective October 20, 1974 the commissioner promulgated a regulation adding the property of Mrs. Franklin B. Stahl to the Rangeley Plantation Sanctuary. This change would make the statute compatible with the regulation.

Sec. 6 and 7. This change will correct errors made by the 106th legislature.

Sec. 8 to 10. This change would eliminate the mandatory revocation of licenses and permit the commissioner to revoke licenses at his discretion.

Sec. 11. This change would make this time requirement the same as deer.

Sec. 12. The purpose of this amendment is to change the word receive to retain.

Sec. 13. This change would make the junior nonresident licenses valid for the same period as the resident junior hunting license.

Sec. 14. This paragraph serves no useful purpose.

Sec. 15. This change would eliminate the confusion now caused by the word highway and include all unpaved roads.

Sec. 16. This change will remove the duplication and conflict with the Federal Migratory Bird Regulations promulgated by the commissioner each year.

Sec. 17. Reduce the mandatory \$200 minimum fine for hunting during this time period and would allow for prosecution under the general penalties of \$20 to \$300.

Sec. 18. This change would make our statute compatible with the federal regulations. Shags and seals are protected by federal regulation.

Sec. 19. This change would clarify the wording to include all decoys.

Sec. 20. This change would make our statute compatible with the federal regulations. The common crow, great-horned owl, kingfisher, and cormorants or shag are now protected by federal regulation.

Sec. 20-A. This will correct the discrepancy in price between the non-resident archery and nonresident firearm license.

Sections 3-B and 20-E. These 2 changes would just clarify the jurisdiction of the commissioner in certain tidal areas where the Legislature has designated a "Head of Tide".

Sec. 20-B. This change would place a greater length limit on brown and rainbow trout in lakes and ponds only.

Sections 20-C and 20-D. These changes would clarify and remove the confusion in the 2 types of bait dealers licenses.

Sec. 21. This change would permit wardens, working undercover, to buy any wild animal or fish being sold illegally.

Sec. 22. This change would change the law back to require waterfowl breeders to obtain a license from the commissioner.

Sec. 23. This change would permit wardens to make arrests, with probable cause, persons involved in shooting accidents. This would be a great help in cases involving nonresidents.