

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1962

H. P. 1879

House of Representatives, February 26, 1980

The Committee on Fisheries and Wildlife suggested and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Dow of West Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

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~~, **coastal wardens 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Sec. 5. 12 MRSA § 7131, as amended by PL 1979, c. 543, §§ 12 and 13 is repealed.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. **Issuance.** The commissioner may issue a license to engage in trapping.
- 2. **Schedule of fees.**

- A. **Resident trapping** \$15
- B. **Nonresident trapping**\$255

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. 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 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 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 beaver 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. 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. 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 procuring a moose.

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

9. Exceptions.

A. Notwithstanding subsection 8, the heads and hides of any moose may be sold to a properly licensed taxidermist for the purpose of preserving and mounting as provided in section 7351, and to a dealer as provided in section 7352.

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** 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.

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 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.

STATEMENT OF FACT

- Sec. 1. The amendment of this section will allow special agents of the United States Fish and Wildlife Service, who work closely with game wardens, the same powers of game wardens. It has recently been brought to light that special agents were omitted in Title 12, section 7055 and were not covered by state statutes while working with state game wardens.
- Sec. 2. Corrects reference to correspond to change in location of laws relating to airmobiles.
- Sec. 3. The intent of this section is to give servicemen who are permanently stationed in the State of Maine the same privileges as Maine residents, such as hunting the Saturday before the regular open season on deer. When the Legislature passed the law, regarding "The Saturday before the regular open season on deer for residents only," this amendment was omitted.
- Sec. 4. Repeals extraneous word.
- Sec. 5. Repeals Title 12, section 7131 which omitted language authorizing commissioner to issue trapping licenses.
- Sec. 6. Enacts Title 12, section 7131-A, which now includes language authorizing commissioner to issue trapping licenses.
- Sec. 7. Deletes references to repealed sections.
- Sec. 8. In the revision of the Department of Inland Fisheries and Wildlife laws, part of this statute was omitted and without this amendment, a person would have to obtain a permit to take bait during the open fishing season.
- Sec. 9. In the revision of the Department of Inland Fisheries and Wildlife laws, the intent of the statute was changed. The intent of this statute is that the licensing requirement shall apply only to commercial activities.
- Sec. 10. Corrects misspelled word.
- Sec. 11. Corrects typographical error.

- Sec. 12. In the revision of the Department of Inland Fisheries and Wildlife laws, this provision was omitted.
- Sec. 13. This amendment will allow a person who legally possesses a deer, moose or bear to lawfully sell a hide or head. There should be no reason to restrict a person from selling a deer, moose or bear hide which they legally obtained.
- Sec. 14. This section relocates the provisions of the Inland Fisheries and Wildlife laws relating to commercial whitewater outfitters' licenses from the chapter on watercraft, snowmobiles and airmobiles to that on licenses.
- Sec. 15. This amendment to the exceptions of importing live fresh-water fish or eggs will add goldfish to this section, in that there was no intent to exclude goldfish from legal importation. The amendment further clarifies the meaning of the term "tropical fish."
- Sec. 16.
& 16-A. In the revision of the Department of Inland Fisheries and Wildlife laws, the term "motor vehicle" was defined to exclude "motorboat" and thus inadvertently it was made legal to hunt from a motorboat. This section corrects that error.
- Sec. 17. This section conforms statutory language to that of the Criminal Code and changes the term "water set" to "beaver set" and the term "conibear traps" to "killer-type traps" to more accurately reflect legislative intent.
- Sec. 18. This section eliminates the vague term "woods" from the prohibited act of leaving a bear after having killed it.
- Sec. 19. Adds omitted cross reference.
- Sec. 20. The intent of this amendment is to make clear that the sale of moose is illegal. The statutes make it illegal to sell moose that have been imported into the State, but they do not speak to domestic moose. Before the advent of the open season on moose and the statute allowing a person to keep a moose as a result of a motor vehicle accident, domestic moose were illegal to possess and, therefore, this amendment was not needed.
- Sec. 21. See section 20.
- Sec. 22. This section restores the words "or other wild animal" which were omitted from the revision of the Department of Inland Fisheries and Wildlife laws, and further clarifies that a carcass of a wild animal killed in accordance with Title 12, section 7502 may be possessed either by the person killing the animal or the person whose crops were being destroyed.

- Sec. 23. The 1979 first regular session enacted a law making the possession of an unregistered bear, like that of deer or moose, illegal. Since Title 12, section 7503 makes it possible for persons to possess deer and moose without registering them if they were killed in an accident with a motor vehicle, it should be now expanded to include bear as well.
- Sec. 24. See section 23.
- Sec. 25. This provision was inadvertently repealed in the errors bill last session.
- Sec. 26. The revision of the Department of Inland Fisheries and Wildlife laws repealed the specific statutory limitations on number and amount of certain fish that may be taken, for the reason that these are now set by rule. The revision neglected, however, to repeal all the exceptions from the limits. This section corrects this error, as do the 2 succeeding sections of the bill with regard to exceptions from the weight and length limits.
- Sec. 27. See section 26.
- Sec. 28. See section 26.
- Sec. 29. This section amends the prohibited act relating to number, amount, weight and size limits on certain fish in accordance with the reasons set forth in the Statement of Fact for section 26.
- Sec. 30. This section repeals a prohibited act which is part of the Department's rules.
- Sec. 31. This section clarifies the fact that no member of the salmon family, and not just landlocked salmon, may be imported from outside the continental United States and Canada.
- Sec. 32. The taking of smelts in Fish River Chain of Lakes is covered by department rule. The statutes regarding the taking of smelts with a dipnet were repealed by the 109th Legislature and are now covered by rules and regulations.
- Sec. 33. Corrects typographical error.
- Sec. 34. Corrects typographical error.
- Sec. 35. This section is redrafted to conform to the standard form for prohibited acts in the Department of Inland Fisheries and Wildlife laws.
- Sec. 36. Adds omitted cross reference.
- Sec. 37. See section 14.
- Sec. 38. This section eliminates an unnecessarily burdensome requirement unintentionally imposed upon town clerks.