

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 9

H. P. 15

Office of the Clerk of the House

Submitted by the Department of Inland Fisheries and Wildlife pursuant to
Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. MacEachern of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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. 4 MRSA § 164, sub-§ 15, ¶ A, as enacted by PL 1977, c. 392, is amended to read:

A. A fisheries and wildlife offense shall mean any violation of any provision of Title 12, Part-3 10, any provision of law enumerated in Title 12, section ~~2001~~ 7053, or any regulation promulgated by the Commissioner of Inland Fisheries and Wildlife pursuant thereto.

Sec. 2. 7 MRSA § 3455, first ¶, as last amended by PL 1979, c. 541, Part A, § 76, is further amended by adding a new sentence at the end to read:

The owner or keeper of any dog found running at large is guilty of a Class E crime.

Sec. 3. 12 MRSA § 7001, sub-§ 38, as enacted by PL 1979, c. 420, § 1, is amended to read:

38. Tributary. "Tributary" means a river, brook or stream flowing directly or indirectly into a lake, pond or another river, stream or brook. A lake or great pond shall not be construed to mean tributary. The tributary to a great pond shall not be considered a tributary to the outlet of that great pond.

Sec. 4. 12 MRSA § 7034, sub-§ 8, as enacted by PL 1979, c. 679, § 1, is repealed.

Sec. 5. 12 MRSA § 7035, sub-§ 11 is enacted to read:

11. Promotion of hunting, fishing and camping. The commissioner may implement a program designed to promote fisheries and wildlife resources and attract hunters and fishermen to the State. This program may include coordination of activities between the public and private sectors and utilization of promotional missions, exhibits, brochures, technical assistance and expertise as necessary to develop and promote hunting, fishing and camping activities within the State. The commissioner shall coordinate this program with the activities of the State Development Office and the Maine Publicity Bureau.

Sec. 6. 12 MRSA § 7053, sub-§ 4 is enacted to read:

4. Agents of the commissioner. Wardens shall act as agents of the commissioner.

Sec. 7. 12 MRSA § 7071, sub-§ 4, as last amended by PL 1979, c. 723, § 3, is further amended to read:

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

A. Any person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of that person, provided that the spouse and children permanently reside with that person.

Such a member of the Armed Forces desiring a hunting, fishing or combination license or permit shall present certification from the commander of his post, station or base, or from the commander's designated agent, that the person mentioned in the certificate is permanently stationed at that post, station or base. Licenses and permits shall be issued by the clerk or agent of the town in which that military or naval post, station or base is situated.

Sec. 8. 12 MRSA § 7102, sub-§ 1, ¶¶ B and C, as repealed and replaced by PL 1979, c. 543, § 9, are amended to read:

B. Any person ~~12~~ 10 years of age or older and under 16 may hunt with bow and arrow, provided he holds a valid junior hunting license; and

C. No person under the age of ~~12~~ 10 may hunt with bow and arrow at any time.

Sec. 9. 12 MRSA § 7102, sub-§ 5, ¶ C, as repealed and replaced by PL 1979, c. 543, § 9, is amended to read:

C. Any person ~~at~~ 10 years of age or older and under 16 shall be accompanied at all times while hunting by a parent or guardian or an adult approved by a parent or guardian;

Sec. 10. 12 MRSA § 7102, sub-§ 5, ¶ L is enacted to read:

L. An archery hunting license is required for persons 16 years or older to hunt during the special archery season on deer.

Sec. 11. 12 MRSA § 7171, sub-§ 3, ¶ D, as enacted by PL 1979, c. 420, § 1, is amended to read:

D. Any bait trap used for the taking of bait in accordance with this section or any bait holding box shall bear the name and address of the person who is taking the bait.

Sec. 12. 12 MRSA § 7205, sub-§ 1, first sentence, as amended by PL 1979, c. 723, § 9, is further amended to read:

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

Sec. 13. 12 MRSA § 7303, sub-§ 1, first sentence, as amended by PL 1979, c. 723, § 12-A, is further amended to read:

Boys' and girls' summer camps located in Maine and duly licensed by the Department of Human Services or located in another state and duly licensed in a similar manner, if the laws of the other state so require, conducting trip camping ~~on waters~~ shall:

Sec. 14. 12 MRSA § 7406, sub-§ 1, as enacted by PL 1979, c. 420, § 1, is amended to read:

1. **Closed season violation.** A person is guilty of a closed season violation if he hunts or possesses any wild animal or wild bird **during the closed season** or possesses any wild animal or wild bird taken during the closed season on that wild animal or wild bird, except that a person lawfully killing ~~a deer~~ **any wild animal or wild bird** during the open season may possess the ~~deer~~ **wild animal or wild bird** during a closed season ~~provided that the deer has been properly registered in accordance with section 7457, subsection 2.~~

Sec. 15. 12 MRSA § 7458, sub-§ 4, as repealed and replaced by PL 1979, c. 723 § 18-D, is amended to read:

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

Sec. 16. 12 MRSA § 7458, sub-§ 15, ¶ G, as last amended by PL 1979, c. 723 § 19-B, is further amended to read:

G. Notwithstanding ~~subsection~~ subsections 4-A and 6, a person may leave an unregistered deer in the woods if he notifies a warden within 12 hours as to the

location of the deer and the circumstances necessitating his leaving the same in the woods.

Sec. 17. 12 MRSA § 7553, sub-§ 2, as enacted by PL 1979, c. 420, § 1, is amended to read:

2. Fish hatcheries or rearing stations. All waters within the property boundaries or within 200 feet of the property boundaries of any fish hatchery or rearing station.

Sec. 18. 12 MRSA § 7602, as enacted by PL 1979, c. 420, § 1, is amended to read:

§ 7602. Fishing in inland waters closed to fishing

A person is guilty of fishing in inland waters closed to fishing if he fishes in inland waters closed to fishing as described in sections 7552 and 7553 or in inland waters closed to ice fishing as described in section 7571, except that a person may fish for alewives and smelts in the manner provided under the laws regulating marine resources accordance with rules established by the commissioner under section 7153.

Sec. 19. 12 MRSA § 7653, sub-§ 4 is enacted to read:

4. Fees. The commissioner may establish reasonable fees for admission to state-owned wildlife management areas.

Sec. 20. 12 MRSA § 7673-A is enacted to read:

§ 7673-A. Fees

The commissioner may establish reasonable fees for admission to fish hatcheries and feeding stations.

Sec. 21. 12 MRSA § 7863, sub-§ 1, as enacted by PL 1979, c. 420, § 1, is amended to read:

1. Possessing a firearm while training dogs. A person is guilty of possessing a firearm while training dogs if he possesses any firearm while training any dog outside of the open training season on foxes, rabbits and raccoons as set out in section 7861, subsection 1.

STATEMENT OF FACT

This bill has the following purposes.

Section 1 — This bill corrects references to repealed and replaced sections of the fisheries and wildlife laws.

Section 2 — This reinstates a sentence in the so-called "leash law" repealed in a 1979 errors and inconsistencies bill, correcting a cross reference in the repealed sentence to a repealed part of the fisheries and wildlife laws.

Section 3 — The term “river” was omitted from the definition of tributary. Rivers are considered to be tributaries in many of the rules promulgated by the department.

Section 4 and Section 5 — These relocate a provision of law enacted in 1979 from the list of the commissioner’s duties to the list of his powers.

Section 6 — Game wardens have traditionally been considered to be agents of the commissioner. Nowhere in the present revision of Title 12 does it plainly state this. This would correct that situation.

Section 7 — This conforms the language of the section granting special eligibility for licenses and permits of servicemen permanently stationed in Maine to that of the other special license or permit eligibility provisions of Section 7071.

Section 8 and Section 9 — The age requirement for a resident to hunt with a firearm is 10 years of age. The purpose of these sections is to make the archery hunting license section consistent with the hunting license section.

Section 10 — In the biennial revision of Title 12 by the 109th Legislature, the requirement of an archery license for a person to hunt during the special archery season on deer is omitted.

Section 11 — After being trapped, live bait is often put into a holding box. It is important for enforcement purposes that the bait holding box, as well as the bait trap, be identified as to ownership.

Section 12 — The purpose of this change is to have the word “commercial” refer to the activity rather than the license. This would make this section consistent with the similar sections in Title 12.

Section 13 — This removes words inadvertently left in the section in question during an amendment of it in the 1979 errors and inconsistencies bill.

Section 14 — In the biennial revision of Title 12 of the 109th Legislature, the first part of this section, in particular the phrase “during the closed season,” was omitted. The parts of this section that refer to deer should refer to any wild animal or wild bird. The last part of this section that is being omitted is already covered in other sections of Title 12.

Section 15 — This reinstates a word accidentally changed in a reenactment of this section in the 1979 errors and inconsistencies bill.

Section 16 — This restores a cross-reference mistakenly repealed in the 1979 errors and inconsistencies bill.

Section 17 — The purpose of this section is to clarify the intent of Title 12, section 7602.

Section 18 — Title 12, section 7653, subsection 4, refers to inland waters of the State; therefore, the reference to the laws regulating marine resources was in error.

Section 19 — The purpose of this section is to make clear that the commissioner may charge admission to defray administrative expenses of providing public access to state-owned wildlife management areas, such as the Steve Powell Sanctuary or Swan Island in Richmond.

Section 20 — The purpose of this section is to make it clear that the commissioner may charge admission to defray administrative expenses of providing public access to fish hatcheries and feeding stations.

Section 21 — The word “training” changes the intent of Title 12, section 7863, subsection 1. Title 12, section 7863, subsection 1, is meant to refer to the time outside of the open season and not to the time outside of the open training season.