

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1731, L.D. 1716)
(New Title)
SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document **No. 2079**

H. P. 2200 House of Representatives, March 19, 1982
Reported by Representative MacEachern from the Committee on
Fisheries and Wildlife. Printed under Joint Rules No. 2.
EDWIN H. PERT, Clerk

STATE OF MAINE

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

**AN ACT to Clarify and Make Corrections
in the Inland and Fisheries
and Wildlife Laws.**

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

Sec. 1. 12 MRSA §7001, sub-§37, as enacted by PL 1979,
c. 420, §1, is repealed and the following enacted in its
place:

37. Trap. To "trap" means to set, place or tend
within the fields, forests or waters of the State any trap
or device which is designed primarily to take, catch or kill
wild animals. To aid or assist another person in setting,
placing or tending traps shall be considered trapping.

Sec. 2. 12 MRSA §7001, sub-§38, as enacted by PL
1979, c. 420, §1, is amended to read:

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

7 **Sec. 3.** 12 MRSA §7051, sub-§2, as enacted by PL 1979,
8 c. 420, §1, is amended to read:

9 2. Assistants. The commissioner may appoint, on a
10 temporary basis, as assistant game wardens, duly retired
11 game wardens, in accordance with rules and regulations
12 established by the Personnel Board.

13 **Sec. 4.** 12 MRSA §7055, as amended by PL 1979, c.723,
14 §1, is further amended to read:

15 §7055. Officials with full powers of game wardens

16 Sheriffs, deputy sheriffs, police officers, constables,
17 marine patrol officers, wardens of the Penobscot Indian
18 Nation within the Penobscot Indian Territory, as defined by
19 Title 30, section 6205, subsection 2, and special agents of
20 the United States Fish and Wildlife Service shall have the
21 powers of game wardens.

22 **Sec. 5.** 12 MRSA §7076, sub-§6, first sentence, as last
23 amended by PL 1981, c. 414, §9, is further amended to read:

24 A combination fishing and hunting license shall be issued
25 upon payment of \$5, plus the issuing fee, to a Maine resi-
26 dent on active duty in the Armed Forces of the United
27 States, his spouse and children.

28 **Sec. 6.** 12 MRSA §7101, sub-§7, as enacted by PL 1979,
29 c. 420, §1, is amended to read:

30 7. Restrictions. Any resident or nonresident hunter
31 10 years of age or older and under 16 may hunt with firearms
32 only if accompanied at all times while hunting by his parent
33 or guardian or by an adult person, at least 18 years of age,
34 approved by his parent or guardian.

35 **Sec. 7.** 12 MRSA §7102, sub-§5, ¶C, as amended by PL
36 1981, c. 414, §18, is further amended to read:

37 C. Any person 10 years of age or older and under 16
38 shall be accompanied at all times while hunting by a
39 parent or guardian or an adult, at least 18 years of
40 age, approved by a parent or guardian;

1 Sec. 8. 12 MRSA §7131-A, sub-§4-A, as enacted by PL
2 1981, c. 244, is repealed.

3 Sec. 9. 12 MRSA §7133, sub-§5, ¶A, as enacted by PL
4 1979, c. 729, §2, is amended to read:

5 A. Any ~~resident~~ person under 10 years of age shall be
6 accompanied, at all times while trapping, by a parent
7 or guardian or an adult, at least 18 years of age,
8 approved by a parent or guardian.

9 Sec. 10. 12 MRSA §7133, sub-§6 is enacted to read:

10 6. Licenses for persons 70 years of age and older.
11 Notwithstanding subsection 4, the commissioner shall issue a
12 trapping license, without a fee, to any applicant who fur-
13 nishes such proof as the commissioner may require that the
14 applicant is 70 years of age or older and is a resident of
15 the State.

16 Sec. 11. 12 MRSA §7205, sub-§1, ¶B, first sentence, as
17 enacted by PL 1979, c. 420, §1, is amended to read:

18 The riparian proprietor of such a private pond, or his
19 designee, may fish for, possess, sell, transport or
20 have transported fish cultivated in a private pond as
21 set forth in this section.

22 Sec. 12. 12 MRSA §7205, sub-§2, as amended by PL 1979,
23 c. 543, § 22, is further amended to read:

24 2.Fee. The fee for such a license shall be ~~\$12~~ \$17.

25 Sec. 13. 12 MRSA §7241, sub-§1, as enacted by PL
26 1979, c. 420, §1, is amended to read:

27 1. Issuance. The commissioner may issue a permit to
28 anyone, permitting him to take and transport in and beyond
29 within the limits of the State, fish and wildlife taken in
30 the State for breeding or advertising purposes.

31 Sec. 14, 12 MRSA §7351, sub-§3, as enacted by PL 1979,
32 c. 420, §1, is amended to read:

33 3. Restrictions. Each licensed taxidermist shall, on
34 or before the ~~31st day of December~~ June 30th of each year,
35 make a detailed report to the commissioner of all he has
36 done during the year by virtue of his license.

37 Sec. 15. 12 MRSA §7352, sub-§3, ¶B, as repealed and
38 replaced by PL 1979, c. 543, §32, is amended to read:

1 B. The record shall be open for inspection by the com-
2 missioner or his agent, and shall be filed with the
3 commissioner, after being notarized, on or before
4 December 31~~st~~ June 30th of each year.

5 **Sec. 16.** 12 MRSA §7406, sub-§8, ¶A, as last amended by
6 PL 1979, c. 723, §16-A, is further amended to read:

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

9 **Sec. 17.** 12 MRSA §7406, sub-§8, ¶C, as amended by PL
10 1981, c. 461, §3, is repealed and the following enacted in
11 its place:

12 C. Has in or on a motor vehicle or trailer any firearm
13 with a cartridge or shell in the chamber or in an
14 attached magazine, clip or cylinder, or muzzle-loading
15 firearm charged with powder, lead and a primed-ignition
16 device or mechanism; or

17 **Sec. 18.** 12 MRSA §7406, sub-§8, ¶D is enacted to read:

18 D. Intentionally kills, injures or molests any wild
19 animal or wild bird with any motor vehicle, motorboat
20 or aircraft.

21 **Sec. 19.** 12 MRSA §7406, sub-§13, as enacted by PL
22 1979, c. 420, §1, is amended to read:

23 13. Discharging firearm near dwelling. A person is
24 guilty of discharging a firearm near a dwelling if he dis-
25 charges a firearm within ~~100~~ 300 feet of a residential
26 dwelling without the permission of the owner or, in his ab-
27 sence, of an adult occupant of that dwelling.

28 **Sec. 20.** 12 MRSA §7432, sub-§1, as amended by PL 1981,
29 c. 414, §28, is further amended to read:

30 1. Closed season violation. A person is guilty of a
31 closed season violation if he traps, or attempts to trap,
32 any wild animal or wild bird during the closed season or
33 possesses any wild animal or wild bird taken during the
34 closed season on that wild animal or wild bird.

35 **Sec. 21.** 12 MRSA §7451, sub-§1, ¶C, as repealed and
36 replaced by PL 1981, c. 224, §1, is amended to read:

37 C. There shall be an open season on using a dog or
38 dogs in conjunction with bear hunting from September

1 1st, to the business day next preceding the open fire-
2 arm season on deer provided in section 7457, subsection
3 1, paragraph A.

4 Sec. 22. 12 MRSA §7452, sub-§15, ¶E, last sentence, as
5 enacted by PL 1979, c. 543, §40, is amended to read:

6 The bear transportation tag shall cost \$5, 50¢ to be
7 retained by the issuing agent;

8 Sec. 23. 12 MRSA §7452, sub-§15, ¶F, last sentence, as
9 enacted by PL 1979, c. 543, §40, is amended to read:

10 The bear transportation tag shall cost ~~\$55.50~~, 50¢ to
11 be retained by the issuing agency \$55, except that no
12 fee shall may be required of any resident of this State
13 who is serving in the Armed Forces of the United
14 States; and

15 Sec. 24. 12 MRSA §7452, sub-§15, ¶G, last sentence, as
16 enacted by PL 1979, c. 543, §40, is amended to read:

17 If transported by other than a Maine licensed trans-
18 portation company, the bear or its parts shall be ac-
19 companied by a nonresident transportation permit which
20 may be obtained by the licensee from a any game warden
21 in whose district the bear was killed, or from any
22 warden supervisor.

23 Sec. 25. 12 MRSA §7457, sub-§1, ¶D, sub-¶(7), as
24 amended by PL 1981, c. 414, §32, is further amended to read:

25 (7) The Town of Islesboro in Waldo County, except
26 that a person may hunt deer in that town with bow
27 and arrow from the first day of October to ~~Novem-~~
28 ~~ber 30th~~ the end of the regular firearm season on
29 deer of each calendar year in Waldo County;

30 Sec. 26. 12 MRSA §7458, sub-§15, ¶D, last sentence, as
31 amended by PL 1979, c. 704, §11, is further amended to read:

32 The deer transportation tag shall cost ~~\$4.50~~, \$1 to be
33 charged by the issuing agent \$5.

34 Sec. 27. 12 MRSA §7458, sub-§15, ¶E, last sentence, as
35 amended by PL 1979, c. 704, §12, is further amended to read:

36 The deer transportation tag shall cost ~~\$55~~, \$1 to be
37 charged by the issuing agent, except that no fee shall
38 may be required of any resident of this State who is
39 serving in the Armed Forces of the United States.

1 Sec. 28. 12 MRSA §7458, sub-§15, ¶F, last sentence, as
2 enacted by PL 1979, c. 420, §1, is amended to read:

3 If transported by other than a Maine licensed trans-
4 portation company, the deer or its parts shall be ac-
5 companied by a nonresident transportation permit which
6 may be obtained by the licensee from a any game warden
7 in whose district the deer was killed, ~~or from any~~
8 warden supervisor.

9 Sec. 29. 12 MRSA §7503, sub-§2, as amended by PL 1979,
10 c. 723, §23, is further amended to read:

11 2. Deer, moose and bear.

12 A. The operator or owner having knowledge of every any
13 motor vehicle which has encountered apparent damage by
14 been involved in an accidental collision with a deer,
15 moose or bear shall, by the quickest means, report the
16 accident to a game warden.

17 B. The warden shall investigate and, if he finds the
18 damage has been done as alleged that the motor vehicle
19 has encountered apparent damage as the result of the
20 collision, he shall give a certificate to the person
21 entitling him to the ownership of the carcass. The
22 person may then take possession and immediately remove
23 the entire carcass from the scene of the collision.

24 Sec. 30. 12 MRSA §7652, sub-§3, ¶B, 4th ¶, as enacted
25 by PL 1979, c. 420, §1, is amended to read:

26 Coast of Maine--certain coastal islands in Washington,
27 Hancock, Knox, Lincoln and , Cumberland, Waldo,
28 Sagadahoc and York Counties.

29 Sec. 31. 12 MRSA §7654, sub-§3, as enacted by PL 1979,
30 c. 420, §1, is amended to read:

31 3. Possessing hunting implements in a wildlife
32 sanctuary. A person is guilty, except as provided in sub-
33 section 8, of possessing firearms hunting implements in a
34 wildlife sanctuary if he possesses firearms a firearm or bow
35 and arrow within the limits of any wildlife sanctuary,
36 except that a person may carry unloaded firearms in the area
37 designated for motorboat use in subsection 4.

38 Sec. 32. 12 MRSA §7731, as enacted by PL 1979, c. 420,
39 §1, is amended to read:

1 §7731. Wildlife exhibits

2 The possessing, breeding, exhibiting, purchasing,
3 selling, importing and transporting of wildlife in captivity
4 in ~~roadside menageries~~ wildlife exhibits is governed by sec-
5 tions 7231, 7232, 7233 and 7234.

6 **Sec. 33.** 12 MRSA §7736, sub-§1, ¶B, as enacted by PL
7 1979, c. 420, §1, is amended to read:

8 B. A person may keep a wild animal in captivity if the
9 animal was purchased or obtained originally from a
10 dealer, pet shop or licensed ~~roadside menagerie~~ wild-
11 life exhibit.

12 **Sec. 34.** 12 MRSA §7736, sub-§3, as enacted by PL 1979,
13 c. 420, §1, is repealed and the following enacted in its
14 place:

15 3. Hunting in a licensed wildlife exhibit. A person
16 is guilty of hunting in a licensed wildlife exhibit if he
17 hunts in a licensed wildlife exhibit at any time.

18 **Sec. 35.** 12 MRSA §7801, sub-§19, ¶B, as enacted by PL
19 1979, c. 420, §1, is amended to read:

20 B. A report of the occurrence, by the quickest means
21 of communication, to the nearest available law enforce-
22 ment officer to the place where the accident occurred.

23 **Sec. 36.** 12 MRSA §7827, sub-§4, as enacted by PL
24 1979, c. 420, §1, is amended to read:

25 4. Operating a snowmobile on a public way. A person
26 is guilty, except as provided in subsection 3 and subsection
27 23, paragraph D, of operating a snowmobile on a public way
28 if he operates a snowmobile upon the main traveled portion,
29 the sidewalks or the plowed snowbanks of a public way.

30 **Sec. 37.** 12 MRSA §7827, sub-§22, ¶B, as enacted by PL
31 1979, c. 420, §1, is amended to read:

32 B. He fails to give notice of the accident, by the
33 quickest means of communication, to a law enforcement
34 officer available nearest to the place where the acci-
35 dent occurred.

1 Section 1 clarifies the definition of the verb "trap."

2 Section 2 clarifies the intent of Title 12, section
3 7001, subsection 38 and brings it in line with existing
4 fishing regulations.

5 Section 3 makes it clear that the Commissioner of
6 Inland Fisheries and Wildlife may appoint assistant game
7 wardens to assist in the enforcement of inland fisheries and
8 wildlife laws.

9 Since wardens of the Penobscot Indian Nation have met
10 the training requirements of the Maine Warden Service,
11 section 4 now gives them the same powers as Maine game war-
12 dens. This change is in accordance with Title 30, section
13 6210, of the Maine Indian Claims Settlement.

14 Section 5 clarifies the meaning of this section con-
15 cerning the license eligibility of Maine residents while
16 serving in the Armed Forces of the United States.

17 Section 6 clarifies the intent of this subsection.

18 Section 7 clarifies the intent of this paragraph.

19 Sections 8 and 10 make it clear that a person must be a
20 Maine resident in order to be eligible for a free trapping
21 license.

22 Section 9 makes it clear that any trapper under 10
23 years of age must be accompanied, while trapping, by a
24 person who is at least 18 years old.

25 Section 11 makes it clear that fish raised in private
26 ponds by virtue of a fish cultivation license may be sold.

27 Section 12 increases the fee for a fish cultivation li-
28 cense from \$12 to \$17 in order make the fee consistent with
29 the commercial fish selling license. The fee for both
30 licenses was the same until 1975 when, through an oversight,
31 only one was increased.

32 Section 13 limits live transportation permits to trans-
33 portation of fish and wildlife within the State. It also
34 provides that these permits may be used to take fish and
35 wildlife for breeding or advertising purposes.

36 Section 14 changes the reporting date for licensed
37 taxidermists so that their annual reports will be consistent
38 with the date during which their licenses are valid.

1 Section 15 changes the reporting date for licensed hide
2 dealers so that their annual reports will be consistent with
3 the dates during which their licenses are valid.

4 Sections 16, 17 and 18 make it clear than any person
5 who intentionally runs down a wild bird or wild animal with
6 a motor vehicle is in violation of Title 12, section 7406.
7 This change will resolve recent enforcement problems involv-
8 ing this law.

9 Section 19 prohibits the discharge of a firearm within
10 300 feet of a residential dwelling without the permission of
11 the owner or, in his absence, an adult occupant.

12 Section 20 makes it clear that a person is guilty of a
13 closed season violation if he attempts to trap any wild ani-
14 mal or wild bird during the closed season.

15 Section 21 makes it clear that the hunting of bear with
16 dogs comes to a close on the day before the opening of the
17 firearm season on deer. The term "business" day has caused
18 confusion to members of the public, and deletion of this
19 word does not change the intent of the law.

20 Sections 22 and 23 clear up inconsistencies between
21 bear transportation tag fees and deer transportation tag
22 fees. Also, since these tags are always issued by fish and
23 wildlife employees, the 50¢ agent fee is unnecessary and
24 creates bookkeeping difficulties.

25 Section 24 makes it clear that any game warden may
26 issue a nonresident bear transportation tag. Limiting this
27 authority to the warden in whose district the bear was
28 killed often creates unreasonable hardship on the hunter in
29 wasted time and mileage.

30 Section 25 makes it clear that the archery season on
31 deer in the Town of Islesboro comes to a close on the same
32 day as the regular firearm season on deer in Waldo County.

33 Sections 26 and 27 clear up inconsistencies between
34 deer transportation tag fees and bear transportation tag
35 fees. Also, since these tags are always issued by fish and
36 wildlife employees, the \$1 agent fee is unnecessary and cre-
37 ates bookkeeping difficulties.

38 Section 28 makes it clear that any game warden may
39 issue a nonresident deer transportation tag. Limiting this
40 authority to the warden in whose district the deer was
41 killed often creates unreasonable hardship on the hunter in
42 wasted time and mileage.

1 Section 29 makes it clear that all accidental colli-
2 sions between motor vehicles and deer, moose or bear must be
3 reported to a game warden, even when the motor vehicle has
4 not sustained apparent damage.

5 Section 30 makes it clear that certain state-owned
6 coastal islands in Waldo, Sagadahoc and York Counties are
7 classified as state-owned wildlife management areas.

8 Section 31 makes it clear that a person may not possess
9 a bow and arrow within a wildlife sanctuary.

10 Sections 32, 33 and 34 change "roadside menagerie" to
11 "wildlife exhibit" as was done in other sections of Title 12
12 during the First Regular Session of the 110th Legislature.

13 Section 35 makes it clear that watercraft accidents
14 must be reported to law enforcement officials by the
15 quickest means available.

16 Section 36 clears up a conflict which now exists
17 between Title 12, section 7827, subsection 3 and subsection
18 4.

19 Section 37 makes it clear that snowmobile accidents
20 must be reported to law enforcement officials by the
21 quickest means available.

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