

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1194, L.D. 1691)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2190

7  
8 H.P. 1552

House of Representatives, March 17, 1986

9 Reported by Representative Murphy from the Committee on Legal  
10 Affairs and printed under Joint Rule 2. Original bill sponsored by  
Representative Cashman of Old Town. Cosponsored by Senator Pearson of  
Penobscot.

11 EDWIN H. PERT, Clerk

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT Relating to Penobscot Nation Game  
19 Wardens.  
20

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

23 12 MRSA §7055, as amended by PL 1985, c. 304, §2,  
24 is further amended by adding at the end a new para-  
25 graph to read:

26 The commissioner shall grant the powers of game  
27 wardens outside the Penobscot Indian Territory to  
28 wardens of the Penobscot Indian Nation who have qual-  
29 ified under the written code prepared by the commis-  
30 sioner and approved by the Commissioner of Personnel,  
31 as specified in section 7051. The commissioner may  
32 revoke these powers for good cause shown and shall  
33 provide a subsequent hearing on the revocation under  
34 Title 5, chapter 375, subchapter IV, if requested.

1

STATEMENT OF FACT

2           Current law states that Penobscot Indian Nation  
3 warden have the powers of state game wardens only  
4 within the boundaries of the Penobscot Indian Terri-  
5 tory. Because they do not have law enforcement powers  
6 outside their territory, the Penobscot wardens are  
7 hampered in their enforcement efforts by lawbreakers  
8 who simply cross out of the territory to avoid appre-  
9 hension. The wardens may also not stop violations  
10 they see occurring when traveling between trust lands  
11 and the territory.

12           This new draft permits the Commissioner of Inland  
13 Fisheries and Wildlife to grant the Penobscot wardens  
14 the powers of state game wardens outside the territo-  
15 ry, but only if the wardens meet the qualifications  
16 that all state game wardens must meet.

17           The department currently has no authority to re-  
18 move or discipline Penobscot wardens. This new draft  
19 provides that the commissioner may revoke the  
20 extra-territorial powers of the Penobscot wardens  
21 when good cause is shown to do so. The "good cause"  
22 requirement is the procedure currently followed for  
23 state game wardens. If the warden requests a hearing  
24 on the revocation, the commissioner shall provide a  
25 hearing under the adjudicatory proceedings subchapter  
26 of the Maine Administrative Procedure Act, the Maine  
27 Revised Statutes, Title 5, chapter 375. Because it  
28 may be in the interests of public safety to revoke  
29 the warden's powers immediately, the hearing is not  
30 required before the revocation is announced or effec-  
31 tive. The Administrative Procedure Act also provides  
32 that any person who is aggrieved by the final action  
33 of a state agency is entitled to judicial review of  
34 the action in Superior Court.

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