

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1586

H.P. 1143

House of Representatives, May 9, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ALLEN of Washington.

STATE OF MAINE

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

An Act to Amend the Fish and Wildlife Laws.

(AFTER DEADLINE)



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

3 **Sec. 1. 12 MRSA §7451, sub-§1, as amended by PL 1987, c. 171,**
5 **is further amended to read:**

7 **1. Open and closed season.**

9 A. There shall be an open season on hunting bear from the
11 first Monday preceding September 1st to November 30th
13 annually.

15 B. There shall be an open season on trapping bear from the
17 first Monday preceding September 1st to ~~October--31st~~
19 November 30th annually.

21 C. There shall be an open season on using a dog or dogs in
23 conjunction with bear hunting from the first Monday
25 preceding September 1st, to the day preceding the open
27 firearm season on deer provided in section 7457, subsection
29 1.

31 D. The commissioner may shorten the open seasons on bear as
33 established in paragraphs A, B and C in any part of the
35 State provided that:

37 (1) The demarcation of the areas with a shortened
39 season follows recognizable physical boundaries such as
41 rivers and railroad rights-of-way; and

43 (2) The decision is made and published prior to
45 January 15th, of any year.

47 E. The commissioner may terminate the open season on bear
49 as established in ~~paragraph~~ paragraphs A, B and C at any
51 time in any part of the State, if in ~~his~~ the commissioner's
opinion, an immediate emergency action is necessary due to
adverse weather conditions or severe hunting or trapping
pressure.

Sec. 2. 12 MRSA §7452, as amended by PL 1987, c. 742, §8, is
further amended to read:

§7452. Prohibited acts relating to bear

1. **Unlawfully hunting bear with dogs.** A person is guilty of
unlawfully hunting bear with dogs if he the person, while either
hunting alone or hunting in conjunction with other persons, uses
more than 4 6 dogs at any one time to hunt chase, tree or hold at
bay any bear.

1-A. **Nonresident hunting bear with dogs.** A nonresident is
guilty of unlawfully hunting bear with dogs if he the individual:

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A. Hunts bear with the use of a dog or dogs; and

B. Does not employ and hunt in the presence of a resident Maine guide. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios.

1-B. **Illegal harvest of bear.** A person is guilty of illegally harvesting bear if without the permission of the person conducting the hunt that person kills or wounds a bear that is treed or held at bay by another person's dog or dogs.

2. **Using an illegal bear trap.** A person is guilty, except as provided in subsection 15, paragraph A, of using an illegal bear trap if he the individual sets a bear trap that does not conform to the following specifications+.

A. The trap shall be enclosed by at least 2 strands of wire, one strand 2 feet from the ground and one strand 4 feet from the ground.

B. The wire shall be securely held in position.

C. The wire shall be not less than 5 yards nor more than 10 yards at any point from the enclosed trap.

D. The trap enclosure shall be marked by substantial signs with the words "BEAR TRAP" in letters not less than 3 inches in height.

E. The signs shall be spaced around each enclosure at intervals of not more than 20 feet.

F. Each sign shall be securely fastened to the top strand of wire.

3. **Hunting or trapping bear after having killed one.** A person is guilty of hunting or trapping bear after having killed one if he the individual hunts or traps bear after he ~~has~~ having killed or registered one during any open season.

4. **Exceeding the bag limit on bears.** Except as otherwise provided, a person is guilty of exceeding the bag limit on bears if he the individual possesses more than one bear in any calendar year.

5. **Hunting or trapping bear near dumps.** The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 200 yards from sites permitted or licensed for the disposal of solid waste. A person is guilty of hunting or trapping bear near dumps if that person hunts, traps, molests

1 or harasses bear or releases dogs for the purpose of hunting bear
within this area. The commissioner, or the commissioner's agent,
3 is exempt from this prohibition for the purpose of live trapping
nuisance bears.

5
6. Failure to register bear. A person is guilty of failure
7 to register a bear if he the individual:

9 A. Possesses a bear which has not been legally registered
as provided in section 7451 except in accordance with
11 chapter 709, subchapter IV;

13 B. Kills a bear and fails to present it for registration in
his the individual's name at the first open bear
15 registration station on the route taken by him the
individual; or

17 C. Keeps an unregistered bear at his home, or at any place
19 of storage except a bear registration station, more than 12
hours.

21 7. False registration of bear. A person is guilty of false
23 registration of bear if he the individual presents a bear for
registration or allows to be registered in his the individual's
25 name any bear:

27 A. Which he-himself the individual did not kill; or

29 B. Which he-himself the individual did not catch in a trap
and kill.

31 8. Leaving a bear. A person is guilty of leaving a bear if
33 he the individual:

35 A. Kills a bear;

37 B. Leaves the bear ~~without-taking-it-with-him~~; and

39 C. Fails to notify a warden within 12 hours of the location
of the bear and the circumstances necessitating his leaving
41 the bear.

43 9. Buying or selling bear. A person is guilty, except as
provided in subsection 15, paragraph B, of buying or selling bear
45 if he the individual:

47 A. Buys, sells or offers for sale or barter any bear;

49 B. Aids in buying, selling or offering for sale or barter
any bear; or

1 C. Counsels or otherwise aids in buying, selling, offering
for sale or bartering a bear.

3

5 10. Possessing unregistered bear. A person is guilty,
except as provided in subsection 15, paragraph C, of possessing
unregistered bear if he the individual possesses any bear which
7 has not been legally registered as provided in section 7451,
subsection 2.

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11 11. Failure to attach bear tag to bear. A person is guilty
of failure to attach a bear tag to a bear if, prior to presenting
a bear for registration, he the individual possesses or leaves in
13 the fields or forests a bear which he the individual has killed
and which does not have securely attached to it and plainly
15 visible the bear tag portion of his the individual's hunting
license bearing his the individual's full name and address, or if
17 the bear was taken by trapping, a tag bearing his the
individual's full name, address and trapping license number.

19

21 12. Illegal possession of a gift bear. A person is guilty,
except as provided in subsection 15, paragraph D, and
notwithstanding the provisions of subsection 13, of illegal
23 possession of a gift bear if he the individual possesses any part
or parts of a bear given to him the individual and:

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27 A. Each part is not plainly labeled with the name and
address of the person who registered the bear;

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29 B. Each part is not plainly labeled with the name and
address of the person to whom it was given; or

31

33 C. Each part is not plainly labeled with the name and
address of the party transporting the part or parts, if a
3rd party transports a part or parts.

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37 13. Illegally transporting bear. A person is guilty, except
as otherwise provided in chapters 701 to 721 and except as
provided in subsection 15, paragraph E, of illegally transporting
39 bear if he the individual, at any time and in any manner, moves
or transports any bear, and:

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43 A. The bear is not open to view;

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45 B. The bear tag portion of the hunting license bearing the
name and address of the person who killed the bear is not
securely attached to the bear; or

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49 C. The person who killed the bear does not accompany the
bear while it is being moved or transported.

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51 14. Transporting bear out-of-state. A person is guilty,
except as provided in subsection 15, paragraphs F and G, of

1 transporting bear out of this State if he the individual
2 transports or attempts to transport any bear beyond the limits of
3 this State.

4 14-A. Placing of bear bait. A person is guilty of illegal
5 placing of bear bait if the individual hunts black bear with the
6 use of bait in violation of the provisions of section 7451,
7 subsection 3.

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10 **15. Exceptions.**

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12 A. Notwithstanding subsection 2, a person may use a cable
13 trap with a closing diameter of not less than 2 1/2 inches
14 to trap bear in the State during the open season on bear;

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16 A-1. Notwithstanding subsection 6, paragraph C, a person on
17 a hunting trip in an unorganized township and staying at a
18 temporary place of lodging during the open firearm season on
19 deer, may keep an unregistered bear at that temporary place
20 of lodging for a period not to exceed 7 days or until he the
21 individual leaves the woods, whichever comes first.

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23 B. Notwithstanding subsection 9, the head, teeth, gall
24 bladder, claws and hide of any bear may be sold;

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26 C. Notwithstanding subsection 10, a person may lawfully
27 possess an unregistered bear in accordance with chapter 709,
28 subchapter IV;

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30 D. Notwithstanding subsection 12, that provision does not
31 apply to any bear or parts of bear being transported by a
32 Maine licensed transportation company, including common
33 carriers, in accordance with other provisions of chapters
34 701 to 721;

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36 E. Notwithstanding subsection 13, a resident of this State,
37 who has legally killed and registered a bear may have the
38 bear transported within the State, without accompanying the
39 bear, by purchasing a bear transportation tag which shall be
40 attached to the bear while being transported. The bear
41 transportation tag shall cost \$5;

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43 F. Notwithstanding subsection 14, any resident of this
44 State who has legally killed and registered a bear may
45 transport the bear or have it transported beyond the
46 boundaries of this State by purchasing a bear transportation
47 tag which shall be attached to the bear while being
48 transported. The bear transportation tag shall cost \$55,
49 except that no fee may be required of any resident of this
50 State who is serving in the Armed Forces of the United
51 States; and

1 G. Notwithstanding subsection 14, any nonresident who has
2 legally killed and registered a bear may have the bear or
3 its parts transported beyond the boundaries of the State by
4 a transportation company, including common carriers, whether
5 or not licensed in Maine. If transported by other than a
6 Maine licensed transportation company, the bear or its parts
7 shall be accompanied by a nonresident transportation permit
8 which may be obtained by the licensee from any game warden,
9 and

11 H. Notwithstanding subsection 13, any resident or
12 nonresident who has legally killed and registered a bear may
13 transport the whole bear or any of its parts during the
14 months of August, September and October without being open
15 to view provided that each part or container containing
16 parts is plainly labeled with the name and address of the
17 person who killed and registered the bear.

19 Sec. 3. 12 MRSA §7907, as enacted by PL 1979, c. 420, §1, is
20 repealed and the following enacted in its place:

21 **§7907. Seizure of fish, wildlife and equipment**

23 All fish or wildlife hunted, trapped, fished for, bought and
24 sold, carried, transported or found in possession of any person
25 in violation of chapters 701 to 721, and all equipment described
26 as prohibited or illegal implements or aids in sections 7406 and
27 7608, possessed or used in violation of chapters 701 to 721, or
28 any firearm seized in connection with a violation of section
29 7406, subsection 5, night hunting shall be contraband and shall
30 be subject to seizure by an officer authorized to enforce
31 chapters 701 to 721. Any officer shall, within 10 days, file
32 with the court a libel against the seized items, except that
33 articles less than \$50 in value shall not be libeled unless
34 reasonable doubt exists as to their ownership. All seized items
35 shall be retained by the commissioner and shall be stored in a
36 manner so as to minimize damage or deterioration pending final
37 disposition of criminal proceedings and forfeited to the State
38 upon conviction. The libel shall describe the seized items and
39 the date and place of their seizure, cite the provision of law
40 which is alleged to have been violated, and pray for a decree for
41 forfeiture thereof. The libel shall be heard and the seized
42 items disposed of according to section 7909.

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47 **STATEMENT OF FACT**

49 This bill proposes the following changes to the Maine
50 Revised Statutes, Title 12, inland fisheries and wildlife laws.
51 Section 7451 establishes that the open season for bear trapping
and the bear hunting season with the use of dogs be the same as

1 the general open season for the hunting of bear; section 7452,
2 subsection 1, increases the number of dogs from 4 to 6 for the
3 purpose of bear hunting and clarifies what constitutes the use of
4 dogs; section 7452, subsection 14-A, adds a provision concerning
5 the placing of bear bait; section 7452, subsection 15, paragraph
6 H, is added to allow the transporting of bear or bear parts in
7 closed containers during months when exposure could cause
8 spoilage; and section 7907 is replaced to specifically define
9 what shall be contraband and, therefore, subject to seizure and
10 forfeiture, and also increases the value of seized items which do
11 not have to be libeled and mandates that seized items be stored
properly.