

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1784

H.P. 1226

House of Representatives, May 3, 1991

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 ROTONDI of Athens.

Cosponsored by Senator SUMMERS of Cumberland, Senator MATTHEWS of Kennebec and Representative CARROLL of Southwest Harbor.

STATE OF MAINE

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

**An Act to Amend Certain Provisions of the Inland Fisheries and Wildlife
Laws.**



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

2 **Sec. 1.** 12 MRSA §7001, sub-§1-A, ¶¶T and U, as enacted by PL
4 1985, c. 607, §1, are amended to read:

6 T. White sucker, (*Catostomus commersoni*); and

8 U. Creek chubsucker, (*Erimyzon oblongus*); and

10 **Sec. 2.** 12 MRSA §7001, sub-§1-A, ¶V is enacted to read:

12 V. American eel (*Anquilla rostrata*)

14 **Sec. 3.** 12 MRSA §7001, sub-§13-A, as enacted by PL 1983, c.
16 329, §1, is amended to read:

18 **13-A. Habitual violator.** "Habitual violator" means any
20 person whose record, as maintained by the department, shows that
22 the person has been convicted of 3 or more of the prohibited acts
24 contained in chapters 701 to 713 and 717 to 721 within the
26 previous 5-year period, provided except that, whenever more than
one prohibited act is violated at the same time, multiple
convictions shall-be-considered-as are deemed to be one offense.
For--purposes--of--this--subsection,--records--maintained--by--the
department--shall--commence--on--January--1,--1984.

28 **Sec. 4.** 12 MRSA §7034, sub-§2, as enacted by PL 1979, c. 420,
§1, is amended to read:

30 **2. Administration and enforcement.** Except as provided by
32 existing statute, the commissioner shall--have has general
34 supervision of the administration and enforcement of the inland
36 fisheries and wildlife laws and shall-have has the responsibility
38 for the management of all inland fish and wildlife in the State.
The commissioner has responsibility for investigations carried
out on behalf of the State in matters related to the status and
needs of any inland fisheries and wildlife species and is the
representative of the State in providing information associated
with the status and needs of these natural resources to
municipalities, political subdivisions of the State and the
Federal Government.

42 **Sec. 5.** 12 MRSA §7076, sub-§4-A, as amended by PL 1989, c.
44 493, §12, is further amended to read:

46 **4-A. Resident disabled veterans.** A complimentary license to
48 hunt or fish, or a combination hunting and fishing license and,
50 if requested, a pheasant hunting permit, ---shall and a
muzzle-loading hunting license under section 7107-A may be issued
to any resident of the State who:

2 A. Is a veteran, as defined in Title 37-B, section 505,
subsection 1, paragraph A, subparagraph (5);

4 B. Has a service-connected disability evaluated at 100%;
and

6 C. Applies for that license to the commissioner.

8
10 This application shall ~~must~~ be accompanied by evidence
12 satisfactory to the commissioner that the applicant meets the
14 requirements of this subsection. Each license issued under this
subsection shall-remain remains valid through December 31st of
the 2nd complete calendar year following the year of issuance.

16 **Sec. 6. 12 MRSA §7102, sub-§4, ¶A,** as amended by PL 1989, c.
913, Pt. A, §2, is further amended to read:

18 A. It is legal, except as otherwise provided in chapters
20 701 to 721, to hunt any wild animal or wild bird by bow and
arrow during any open season on that animal or bird.

22 **Sec. 7. 12 MRSA §7102, sub-§4, ¶C,** as enacted by PL 1981, c.
414, §17, is amended to read:

24 C. An archery hunting license is required for persons 16
26 years of age or older to hunt any species of wild animal or
28 wild bird with bow and arrow during the special ~~archery~~
season-on-deer open season described in paragraph B.

30 **Sec. 8. 12 MRSA §7102, sub-§7,** as enacted by PL 1987, c. 354,
§1, is amended to read:

32
34 **7. Archery hunter training program requirements.** Any
36 person who applies for an archery hunting license, other than a
junior license, shall must submit proof of having successfully
38 completed an education course of the type described in subsection
8 and approved by the commissioner, or satisfactory evidence of
40 having previously held an adult ~~archery~~ hunting license, which
42 allowed hunting with bow and arrow, in this State or any other
state, province or country in any year after 1977, or having
successfully completed a hunter safety course as provided in
section 7035, subsection 10.

44 When proof or evidence ~~eannot~~ can not otherwise be provided, the
46 person may substitute a signed affidavit that he the person has
previously held the required adult ~~archery~~ hunting license or
48 ~~that-he~~ has successfully completed the required ~~archery~~ hunter
education course.

50 **Sec. 9. 12 MRSA §7103,** as amended by PL 1983, c. 807, Pt. P,
§5, is repealed.

52 **Sec. 10. 12 MRSA §7103-A** is enacted to read:

2 **§7103-A. Falconry hunting permit**

4 **1. Eligibility.** Any person who possesses a valid hunting
6 license is eligible to obtain a permit from the commissioner to
 engage in the practice of falconry.

8 **2. Issuance.** The commissioner shall issue permits to
10 eligible persons to engage in the practice of falconry at a fee
 of \$20.

12 **3. Restrictions.** Falconry hunting is subject to the
14 following limitations.

16 **A. Persons who hold valid falconry hunting permits may**
 take, possess and use any raptor, except as provided in
18 chapters 701 to 721 or by federal regulation and except as
 the commissioner may by rule provide.

20 **B. Persons engaged in the practice of falconry are subject**
 to all rules adopted by the commissioner pertaining to
22 seasons and bag limits on wild birds and wild animals.

24 **4. Exceptions.** A person not a resident of the State who
26 holds a valid permit to engage in the practice of falconry in
 another state may import and use raptors in this State for up to
28 30 days solely for the purpose of hunting without the permit
 described in this section if that person holds a valid Maine
30 hunting license issued in accordance with section 7101. A person
 must have both the permit to engage in the practice of falconry
32 in the other state and the Maine hunting license in possession at
 all times while engaged in the practice of falconry in this
34 State. These documents must be exhibited to any warden or
 employee of the department upon request.

36 **5. Rules.** The commissioner may adopt any rules necessary
38 for the proper administration and enforcement of this section.

40 **Sec. 11.** 12 MRSA §7110, sub-§5, as repealed and replaced by PL
 1989, c. 878, Pt. A, §34, is repealed.

42 **Sec. 12.** 12 MRSA §7154, sub-§3, as repealed and replaced by PL
 1989, c. 493, §19, is amended to read:

44 **3. Fee.** The fee for a permit to conduct a one-day bass
46 tournament shall-be-\$35 is \$20.

48 **Sec. 13.** 12 MRSA §7155, sub-§3, as enacted by PL 1985, c. 234,
50 §2, is amended to read:

2 3. **Issuance.** The commissioner, following a determination
4 that the person has complied with all rules promulgated pursuant
6 to this section, may issue a permit to the applicant authorizing
8 the conduct of the derby or tournament. Persons who have
conducted derbies or tournaments in the requested body of water
in the past which have conformed with all rules shall must be
given preference in the issuance of permits.

~~The fee for a permit shall be \$10.~~

10 **Sec. 14. 12 MRSA §7155, sub-§4** is enacted to read:

12 4. Fee. The fee for a permit to conduct a fishing derby or
14 fishing tournament is \$20.

16 **Sec. 15. 12 MRSA §7315**, as enacted by PL 1987, c. 742, §7, is
18 repealed and the following enacted in its place:

20 **§7315. Guide license revocation**

22 1. Conditions for revocation. The commissioner may suspend
24 or revoke a guide license pursuant to section 7077 to 7079 and
26 Title 5, section 10004. The commissioner may revoke, suspend,
refuse to issue or refuse to renew a guide license or the
Administrative Court may revoke or suspend a guide license in any
one of the following circumstances:

28 A. If the guide fails to meet the standards of competency
30 established pursuant to section 7314;

32 B. If the guide fails to meet the qualifications for a
34 guide license, including, but not limited to, failure to
pass a reexamination conducted pursuant to section 7313,
subsection 4; or

36 C. If the guide is found to be incompetent, negligent or
38 neglectful in the conduct of guiding activities, including,
40 but not limited to, entering into a contractual agreement
with a client to provide services and then failing, without
just cause, to provide the services as agreed.

42 **Sec. 16. 12 MRSA §7316**, as enacted by PL 1987, c. 742, §7, is
44 repealed.

46 **Sec. 17. 12 MRSA §7377, sub-§1**, as enacted by PL 1979, c. 420,
§1, is amended to read:

48 **1. Hunting.** Notwithstanding section 7371 as it applies to
50 subchapter II, any resident over 10 years of age and any member
of his the resident's immediate family over 10 years of age may
52 hunt without a license, including an archery hunting license and
a muzzle-loading license, on any single plot of land:

- 2 A. To which they are legally entitled to possession;
- 4 B. On which they are actually domiciled;
- 6 C. Which is used exclusively for agricultural purposes;
and
- 8 D. Which is in excess of 10 acres.

10 **Sec. 18. 12 MRSA §7406, sub-§5**, as enacted by PL 1979, c. 420,
12 §1, is amended to read:

14 **5. Night hunting.** A person is guilty of night hunting if
he that person:

- 16 A. Hunts wild birds from sunset to 1/2 hour before sunrise
18 of the following day; or
- 20 B. Hunts wild animals, except raccoons and coyotes as
22 provided in chapters 701 to 721, from 1/2 hour after sunset
until 1/2 hour before sunrise the following day.

24 **Sec. 19. 12 MRSA §7454, sub-§4**, as enacted by PL 1979, c. 420,
26 §1, is repealed,

28 **Sec. 20. 12 MRSA §7456, sub-§§3 and 4**, as enacted by PL 1979,
c. 420, §1, are amended to read:

30 **3. Illegally hunting wild birds.** A person is guilty of
illegally hunting wild birds if he that person hunts any wild
32 bird, except the English or European house sparrow and the
European starling or the rock dove, except as provided in
34 chapters 701 to 721.

36 **4. Illegal possession of wild birds.** A person is guilty of
illegal possession of wild birds if he that person possesses,
38 alive or dead, any wild bird, except the English or European
house sparrow and the European starling or the rock dove, except
40 as provided in chapters 701 to 721.

42 **Sec. 21. 12 MRSA §7466**, as amended by PL 1979, c. 732, §§11
and 31, is repealed.

44 **Sec. 22. 12 MRSA §7503, sub-§2**, as amended by PL 1981, c. 644,
46 §28, is further amended to read:

48 **2. Deer, moose and bear.**

50 A. The operator or owner having knowledge of any motor
vehicle which has been involved in an accidental collision
52 with a deer, moose or bear shall, by the quickest means,

2 report the accident to a game--warden law enforcement
3 officer.

4 B. The warden officer shall investigate and, if he the
5 officer finds that the motor vehicle has encountered
6 apparent damage as the result of the collision, he--shall
7 give a certificate ~~to--the--person--entitling--him~~ which
8 entitles the person to the ownership of the carcass. The
9 person may then take possession and immediately remove the
10 entire carcass from the scene of the collision.

12 **Sec. 23. 12 MRSA §7552, sub-§5, ¶B,** as enacted by PL 1979, c.
13 420, §1, is repealed.

14 **Sec. 24. 12 MRSA §7552, sub-§5, ¶C,** as amended by PL 1989, c.
15 913, Pt. A, §10, is repealed.

18 **Sec. 25. 12 MRSA §7652, sub-§3, ¶B,** as amended by PL 1985, c.
19 304, §19, is further amended to read:

20 B. The following areas shall--be are classified as
21 state-owned wildlife management areas:

24 Alonzo H. Garcelon (Mud Mill Flowage) -- Augusta, Windsor --
25 Kennebec County.

26 Brownfield -- Brownfield, Denmark, Fryeburg -- Oxford
27 County.

30 Bud Leavitt (Bull Hill) -- Atkinson, Charleston, Dover
31 Foxcroft and Garland -- Penobscot and Piscataquis Counties.

32 Cesar Pond -- Bowdoin -- Sagadahoc County.

34 Chesterville -- Chesterville -- Franklin County.

36 Coast of Maine -- certain-coastal-islands--in--Washington,
37 Hancock,--Knox,--Lincoln,--Cumberland,--Waldo,--Sagadahoc--and
38 York-Counties all state-owned coastal islands that are owned
39 or managed by the Department of Inland Fisheries and
40 Wildlife.

42 David Priest (Dwinal Pond) -- Lee, Winn -- Penobscot County.

44 Dickwood Lake -- Eagle Lake -- Aroostook County.

46 Earle R. Kelley (Dresden Bog) -- Alna, Dresden -- Lincoln
47 County.

50 Fahi Pond -- Embden -- Somerset County.

2 Francis D. Dunn (Sawtelle Deadwater) -- T6 R7 WELS --
Penobscot County.

4 Gene Letourneau (Frye Mountain) -- Montville, Knox, Morrill
-- Waldo County.

6 George Bucknam (Belgrade Stream) -- Mount Vernon -- Kennebec
8 County.

10 Great Works -- Edmunds Twp. -- Washington County.

12 Jonesboro -- Jonesboro -- Washington County.

14 Long Lake -- St. Agatha -- Aroostook County.

16 All of Long Lake within the Town of St. Agatha.

18 Lyle Frost -- (formerly Scammon), Eastbrook, Franklin --
Hancock County.

20 Madawaska -- Palmyra -- Somerset County.

22 Mainstream -- Cambridge -- Somerset County.

24 Manuel -- Hodgdon, Cary Plt., Linneus -- Aroostook County.

26 Maynard F. Marsh (Killick Pond) -- Hollis, Limington -- York
28 County.

30 Mercer Bog -- Mercer -- Somerset County.

32 Merrymeeting Bay -- Dresden and Bowdoinham -- Lincoln and
Sagadahoc Counties.

34 ~~Vernon-S-Walker---Newfield-Shapleigh---York-County.~~

36 Muddy River -- Topsham -- Sagadahoc County.

38 Narraguagus Junction -- Cherryfield -- Washington County.

40 Old Pond Farm -- Maxfield-Howland -- Penobscot County.

42 Orange River -- Whiting -- Washington County.

44 Peaks Island -- Portland -- Cumberland County.

46 Pennamaquam -- Pembroke-Charlotte -- Washington County.

48 Ruffingham -- Montville-Searsmont -- Waldo County.

50 St. Albans -- St. Albans -- Somerset County.

52

2 Steep-Falls----Standish,-Baldwin----Cumberland-County-

4 Sandy Point -- Stockton Springs -- Waldo County.

6 Scarborough -- Scarborough-Old Orchard Beach-Saco --
Cumberland and York Counties.

8 Steep Falls -- Standish, Baldwin -- Cumberland County.

10 Steve Powell -- Perkins Twp. -- Sagadahoc County.

12 Being the islands in the Kennebec River near Richmond known
14 as Swan Island and Little Swan Island formerly known as
Alexander Islands.

16 Vernon S. Walker -- Newfield, Shapleigh -- York County.

18 Weskeag Marsh -- South Thomaston, Thomaston, Rockland and
20 Owl's Head -- Knox County.

22 **STATEMENT OF FACT**

24 This bill makes the following changes:

26 1. Adds the American eel to the statutory list of fish
28 defined as "baitfish," making it clear that live American eels
30 may legally be used, possessed and sold as bait for purposes of
fishing;

32 2. Makes it clear that snowmobile, watercraft and
34 all-terrain vehicle violations are not considered part of a
person's record in determining whether the person falls within
36 the definition of an habitual violator of the fisheries and
wildlife laws;

38 3. Current laws give the Commissioner of Inland Fisheries
40 and Wildlife responsibility for all inland fisheries and wildlife
management in the State. The new language makes it clear that
42 inland fisheries and wildlife related investigations conducted on
behalf of the State, as well as the dissemination of information
44 related to these investigations, fall within the purview of the
commissioner's existing responsibility;

46 4. Makes in clear that disabled, veterans with 100%
48 disability are entitled to complimentary muzzle-loading hunting
licenses;

50 5. Makes it clear that there are open seasons, such as the
52 special muzzle-loading season on deer, when bow and arrow hunting
is not allowed;

2 6. Makes it clear that a person who hunts with bow and
4 arrow during the special archery season on deer must have a valid
archery hunting license;

6 7. Makes it clear that first time archers who have
8 previously held an adult hunting license that allowed bow and
arrow hunting are exempt from mandatory archery hunter education
requirements;

10 8. Repeals and replaces a section of the law pertaining to
12 the practice of falconry. The new language is consistent with
federal falconry licensing requirements. The only substantial
14 change from existing law provides nonresident falconers to hunt
their birds in Maine for up to 30 days without the need to repeat
16 the lengthy state and federal licensing process that they have
already satisfied elsewhere. These falconers are still required
18 to purchase a nonresident hunting license to hunt with their
birds in Maine;

20 9. Repeals a sunset provision involving the bear hunting
22 permit which went into effect in 1989. This will allow the
Department of Inland Fisheries and Wildlife to continue to
24 monitor bear hunting pressure during the portion of the hunting
season in which a majority of bear are usually taken and in which
26 hunting pressure has been on the increase. It will allow the
department to accurately evaluate the status of the black bear
28 population beyond December 30, 1991 and help determine the need
for more restrictive regulations;

30 10. Establishes a uniform fee of \$20 for permits to conduct
32 either a one-day bass tournament or a fishing derby;

34 11. Repeals and replaces language pertaining to the
revocation of guide licenses. The new language provides greater
36 flexibility for the commissioner and the Administrative Court to
revoke the licenses of guides who are no longer qualified or
38 competent to perform guiding services;

40 12. Makes it clear that the privilege of hunting without a
42 license on a person's own land includes hunting with the
appropriate implement during both the special archery and
muzzle-loading seasons on deer;

44 13. Amends the night hunting law to make it clear that it
46 is lawful to hunt coyotes at night in accordance with special
permit provisions established in 1983;

48 14. Repeals language pertaining to the trapping of beaver
50 and muskrat which is currently duplicated by department rule.
Given the present fur market, it may be desirable in the near
52 future to relax some of these restrictions to help ensure an

adequate annual harvest of these species of furbearers. It is
2 much easier and less expensive to accommodate these relatively
minor types of changes through the rule-making process than it is
4 to attempt to continually amend the laws;

6 15. Rock doves, also known as domestic pigeons, have become
firmly established as a wild species in many places, much the same
8 as English sparrows and European starlings. Current law could be
interpreted to provide that pigeons have complete protection and
10 may not be destroyed, even when found in the act of destroying
crops or other property. This makes it clear that rock doves are
12 not a protected species of wild birds;

14 16. Makes it clear that law enforcement officers other than
game wardens have authority to investigate motor vehicle
16 accidents involving collisions with deer, moose and bear;

18 17. Removes obsolete language pertaining to bass fishing
seasons which should have been removed in 1979 when a companion
20 section was repealed;

22 18. Removes unnecessary and confusing language pertaining
to the season and method of fishing for black bass in waters
24 where the bag limit on bass has been removed by rules of the
commissioner; and

26 19. Updates the list of state-owned wildlife management
28 areas to include the most recent acquisitions.