

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

R. of S.

L.D. 736

(Filing No. S-239)

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46

STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 243, L.D. 736, Bill, "An Act to Update and Clarify Certain Provisions of Fish and Wildlife Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 5 MRSA §12004-I, sub-§69, as amended by PL 1989, c. 503, Pt.A, §34, is repealed.

Sec. 2. 12 MRSA §7001, sub-§23-A, as amended by PL 1985, c. 718, §1, is repealed and the following enacted in its place:

23-A. Muzzle-loading firearm. "Muzzle-loading firearm" means a rifled or smooth-bored firearm that is:

A. Forty caliber or greater;

B. Capable of firing only a single charge;

C. Loaded through the muzzle with powder and a ball or bullet; and

D. Ignited by a percussion cap or priming charge of a flint, match or wheel lock mechanism.

Sec. 3. 12 MRSA §7001, sub-§33-E is enacted to read:

33-E. Snagging. "Snagging" means to fish by manipulating a hook or hooks in such a manner as to pierce or snag the fish in a part of the body other than the mouth.'

Further amend the bill by inserting after section 1 the following:

**COMMITTEE AMENDMENT**

2           'Sec. 2. 12 MRSA §7106-A, as enacted by PL 1991, c. 736, §2,  
4 is repealed and the following enacted in its place:

6           **§7106-A. Pheasant hunting permit**

8           1. Issuance. The commissioner or the commissioner's  
10 authorized agent may issue a pheasant hunting permit in the form  
12 of a stamp to applicants 16 years of age or older permitting them  
14 to hunt or possess pheasants in Cumberland County and York  
County. A person under 16 years of age may hunt or possess  
pheasants in accordance with chapters 701 to 721, except that a  
person under 16 years of age is not required to purchase or carry  
a pheasant hunting permit in order to hunt or possess pheasants.

16           2. Fee. The fee for a pheasant hunting permit is \$16, \$1  
18 of which is retained by the commissioner's authorized agent.

20           3. Validation. A pheasant hunting permit is validated by  
22 the permittee writing the permittee's signature across the face  
of the stamp in ink.

24           4. Restrictions. The following restrictions apply to the  
26 hunting or possession of any pheasant in Cumberland County and  
York County.

28           A. A person must carry an unexpired validated pheasant  
30 hunting permit at all times when hunting or possessing a  
pheasant.

32           B. A pheasant hunting permit must be exhibited to a warden  
or employee of the department upon request.

34           5. Pheasant Fund; agreements. Revenues generated from the  
36 sale of pheasant hunting permits must be deposited into a  
38 separate account within the department, to be known as the  
40 Pheasant Fund and referred to this section as the "fund." The  
42 fund is nonlapsing. The fund may be used only for costs directly  
44 related to the administration of the pheasant program, including  
46 grants to a qualified rod and gun club or qualified  
48 hunting-oriented organization to help defray the costs of  
50 purchasing and raising pheasants in accordance with an agreement  
with the commissioner. The commissioner may enter into an  
agreement with any qualified rod and gun club or qualified  
hunting-oriented organization to allow the club or organization  
to purchase and raise pheasants. An agreement entered into  
pursuant to this subsection may provide for the use of department  
facilities for raising pheasants by a qualified rod and gun club  
or qualified hunting-oriented organization. For purposes of this  
subsection, "qualified rod and gun club or

2 qualified hunting-oriented organization" means a rod and gun club  
3 or a hunting-oriented organization that has demonstrated  
4 involvement in raising and releasing pheasants in the year prior  
5 to entering into an agreement with the commissioner to purchase  
6 and raise pheasants.

7 6. Department participation. The department may not  
8 purchase or raise pheasants.

10 7. Release of birds. All pheasants purchased and raised  
11 under an agreement with the commissioner pursuant to subsection 5  
12 must be released under the direction of department officials in  
13 areas open to hunting for the general public.

14 8. Rules. The commissioner may adopt rules necessary for  
15 the proper administration, enforcement and interpretation of this  
16 section.

18 Sec. 3. 12 MRSA §7107-A, sub-§5, ¶B, as enacted by PL 1985, c.  
19 320, §2, is repealed.

21 Sec. 4. 12 MRSA §7107-A, sub-§5, ¶E, as enacted by PL 1985, c.  
22 320, §2, is amended to read:

23 E. Except as provided in this section, chapters 701 to 721  
24 relating to deer apply to the taking of deer with  
25 muzzle-loading ~~rifles~~ firearms.

26 Sec. 5. 12 MRSA §7153, sub-§1, as enacted by PL 1979, c. 420,  
27 §1, is amended to read:

28 1. Issuance. The commissioner may issue permits to fish  
29 for or possess alewives, eusk, eel, ~~herapeut,~~ suckers and yellow  
30 perch by means of eel pots, traps, spears or nets in inland  
31 waters, under such rules as he the commissioner may establish,  
32 provided these permits do not interfere with rights granted under  
33 section 6131.

34 Sec. 6. 12 MRSA §7171, sub-§4, ¶C, as amended by PL 1989, c.  
35 493, §20, is further amended by amending subparagraph (3) to read:

36 (3) The holder of a smelt wholesaler's license may use  
37 a baitfish trap, a dipnet, a dropnet, a lift net, a bag  
38 net or hook and line to take up to 8 quarts of smelts  
39 in a 24-hour period, beginning at noon on any a given  
40 day, from specific inland waters designated by the  
41 commissioner. A seine may not be used to take smelts.

R. of S.

2           Sec. 7. 12 MRSA §7235, as amended by PL 1989, c. 493, §22, is  
repealed.

4           Sec. 8. 12 MRSA §7235-A is enacted to read:

6   §7235-A. Permit to possess, propagate and sell wild birds and  
8           wild animals

10          1. Issuance. The commissioner may issue a permit to a  
person complying with this section, permitting that person to  
possess, propagate or sell wild birds and wild animals.

12          2. Fee. The fee for a one-year permit to possess,  
14           propagate or sell wild birds and wild animals is \$25.

16          3. Restrictions. The following restrictions apply to a  
18           person issued a permit under this section.

20           A. A ringneck pheasant, wild turkey or bobwhite quail  
whether live or dressed, which is possessed by virtue of  
this permit, must be identified with a metallic leg band  
before being removed from the premises of the permittee.  
This metallic leg band, supplied by the permittee, must  
remain attached to the bird until that bird is finally  
prepared for consumption.

26           B. A wild animal or part of a wild animal, which is  
28           possessed by virtue of this permit, must be identified with  
a securely attached tag or seal before being removed from  
the premises of the permittee. This tag or seal, supplied  
by the permittee, must remain attached to the wild animal or  
the part of the wild animal until the animal or part is  
finally prepared for consumption or manufactured into a  
finished product.

32           C. A permit issued pursuant to this section does not  
34           authorize the permittee to possess, propagate or sell deer,  
36           bear or moose.

38           D. A permit issued pursuant to this section does not  
40           authorize a person to possess, propagate or sell any wild  
animal taken in accordance with sections 7501, 7502 or 7504.

42          4. Exemptions. The following are exemptions to the  
44           requirements of this section.

46           A. The department is exempt from the provisions of this  
48           section.

2 B. Notwithstanding subsection 3, paragraph B, an exotic  
3 animal is not required to be identified with a tag or seal.

4 5. Report of sale or transfer. Each person who is issued a  
5 permit under this section shall report on forms provided by the  
6 commissioner the sale or transfer of each wild bird or wild  
7 animal. The forms must be printed in triplicate, one copy to be  
8 retained by the permittee, one copy to accompany the bird or  
9 animal being sold or transferred and one copy to be submitted to  
10 the commissioner on the last day of the month in which the sale  
11 or transfer took place.

12 6. Annual inventory report. Within 30 days following the  
13 end of each calendar year, each person who is issued a permit  
14 under this section shall submit an annual inventory report to the  
15 commissioner. The annual inventory report, submitted on forms  
16 provided by the commissioner, must provide an accurate inventory  
17 of the total number of wild birds and wild animals possessed by  
18 the permittee on that date.

19 7. Permit revocation for failure to report. The  
20 commissioner may revoke any permit issued under this section if  
21 the permit holder fails to meet the reporting requirements of  
22 subsections 5 and 6. The commissioner shall notify the permit  
23 holder of the revocation in accordance with section 7077,  
24 subsection 7. A person whose permit has been revoked under this  
25 section may request a hearing before the commissioner. If, after  
26 hearing, the commissioner finds that the person met the reporting  
27 requirements of subsections 5 and 6, the revocation is  
28 rescinded. If the commissioner finds that the person did not  
29 meet the reporting requirements, the revocation remains in effect.

30 8. Rules. The commissioner may adopt rules necessary for  
31 the proper administration of this section, including provisions  
32 to ensure that all wild birds and wild animals receive humane  
33 treatment and proper confinement.

34 Sec. 9. 12 MRSA §7241, as amended by PL 1981, c. 644, § 13,  
35 is further amended to read:

36 §7241. Permit to transport live fish and wildlife for  
37 propagating and advertising

38 1. Issuance. The commissioner may issue a permit to anyone,  
39 permitting him that person to take and transport within the  
40 limits of the State, fish and wildlife taken in the State for  
41 breeding- propagating or advertising purposes.'

42 Further amend the bill by inserting after section 7 the  
43 following:

2       **Sec. 8. 12 MRSA §7365, sub-§3**, as amended by PL 1989, c. 883,  
3       §2 and c. 918, Pt. D, §4, is repealed and the following enacted  
4       in its place:

6       3. Fee. The annual basic fee for a commercial whitewater  
7       license must be set by the department and adjusted biennially by  
8       rule to reflect the actual cost of administering the license  
9       program. The fee for reissuance of a license is equal to the  
10       annual basic fee for a license.

12       **Sec. 9. 12 MRSA §7365, sub-§6**, as amended by PL 1989, c. 883,  
13       §4, is further amended to read:

14       **6. Sale of business.** When a licensed whitewater  
15       outfitter's business is sold, the license must be returned to the  
16       department. On application, the license must be reissued to the  
17       purchaser, provided that the purchaser meets the licensing  
18       requirements of the department and pays the license fee. Profit  
19       on the return and reissuance of the license itself is prohibited,  
20       but nothing in this subchapter may be construed to prohibit  
21       profit on the sale of any of the assets of a business. The  
22       license is not an asset and may not be transferred as part of any  
23       a sale or transaction. The department may require an affidavit  
24       from the purchaser to aid in enforcement of this provision.  
25       ~~Allocations may be transferred, pursuant to this chapter, from a~~  
26       ~~selling outfitter to one or more buying outfitters only if the~~  
27       ~~license of the selling outfitter is returned to the department.~~

30       **Sec. 10. 12 MRSA §7368, sub-§2-A, ¶B**, as amended by PL 1989,  
31       c. 883, §9, is further amended to read:

32       B. Sundays: 800 commercial passengers, ~~which shall be set~~  
33       ~~by the department by rule if the department anticipates a~~  
34       ~~sufficient release of water on the Kennebec River for~~  
35       ~~commercial use; and~~

38       **Sec. 11. 12 MRSA §7369, sub-§6**, as amended by PL 1983, c. 786,  
39       §5, is further amended to read:

40       **6. Allocation procedure.** Except for the initial allocation  
41       in 1983, which shall ~~be~~ is governed by subsection 4, the  
42       department shall award allocations to licensed outfitters on the  
43       basis of the criteria established in this section. Any An  
44       outfitter desiring an allocation shall submit a proposal to the  
45       department in the year preceding the year for which the  
46       allocation is desired, on or before a date specified by rule.  
47       Allocations shall ~~must~~ must be awarded on or before December 1st, but,  
48       if any an open allocation remains, it may be awarded at any  
49       time. Allocations shall ~~must~~ must be awarded in accordance with the

Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V. The department shall hold at least one public hearing prior to final issuance of allocations. The department shall promulgate adopt rules as necessary to facilitate the allocation process.

~~Based on the demand for noncommercial public use, the department shall set aside up to 10% of the recreational use limit on any particular rapidly flowing river for noncommercial public use of whitewater craft.~~

**Sec. 12. 12 MRSA §7369, sub-§7, ¶A**, as amended by PL 1989, c. 883, §12, is further amended by amending subparagraph (2) to read:

(2) The experience of the outfitter and any an employee in providing whitewater trips on rivers other than those for which the allocation is sought, including, but not limited to, such factors as the number of trips and passengers carried, length of time as an outfitter, safety record and experience of guides and staff. The company experience of only one company within an affiliated group at the time of that experience may be counted as company experience for purposes of allocation. For purposes of this subparagraph, "rivers other than those for which the allocation is sought" means all rapidly flowing rivers in the State, including a river on which commercial recreational use limits are imposed, for which an allocation is not being sought by the outfitter in the allocation period;

**Sec. 13. 12 MRSA §7369, sub-§10, ¶A**, as repealed and replaced by PL 1989, c. 883, §15, is amended to read:

A. Allocations are required for Saturdays for the period of June 8th to August 31st. Allocations Except as provided in paragraph F, allocations are required for Sundays on the Penobscot River for the period of June 8th to August 31st. If the department determines that the recreational use limit will be reached other days, the department shall provide by rule for allocations.

Further amend the bill by inserting after section 8 the following:

**'Sec. 9. 12 MRSA §7369, sub-§10, ¶F** is enacted to read:

F. Allocations are not required for Sundays on the Penobscot River for the period of June 8, 1994 to August 31,



1994. The commissioner may by rule establish allocations for this period if the commissioner determines allocations are necessary. The commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters no later than January 15, 1995 on use of the Penobscot River by commercial whitewater outfitters during this period.

Sec. 10. 12 MRSA §7369-A, as amended by PL 1989, c. 503, Pt. B, §68, is repealed.

Sec. 11. 12 MRSA §7377, sub-§4, ¶C, as enacted by PL 1979, c. 420, §1, is amended to read:

C. A person licensed or otherwise entitled to fish in Maine waters may take suckers in all rivers, brooks and streams which that are open to fishing between April 1st and June 30th of each calendar year by the use of a hand spear or bow and arrow or by snagging. If suckers are taken by bow and arrow, the arrow shall must have a barbed or prong point and shall must be attached to the bow with a line; and

Sec. 12. 12 MRSA §7377, sub-§6, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 13. 12 MRSA §7453-B is enacted to read:

§7453-B. Trapping beaver

1. Traps. A person may use snares to trap for beaver during the open beaver trapping season.

2. Rules. All rules adopted pursuant to section 7035, subsection 1, pertaining to the trapping of beaver with killer-type traps also apply to the trapping of beaver with snares.

Sec. 14. 12 MRSA §7458, sub-§8, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

8. Illegal possession of a gift deer. Notwithstanding the provisions of subsection 11, a person is guilty, except as provided in subsection 15, paragraph C, of illegal possession of a gift deer if that person possesses a part or parts of a deer given to that person unless each separate part is plainly labeled with the following:

A. The registration seal number; and

B. The name and address of the person who registered the deer.

Further amend the bill by striking out all of section 11 and inserting in its place the following:

**Sec. 11. 12 MRSA §7464, sub-§7,** as repealed and replaced by PL 1981, c. 118, §8, is amended to read:

**7. Illegal possession of a gift moose.** A person is guilty, notwithstanding subsection 3, of illegal possession of a gift moose parts if he that person possesses any a part or parts of a moose ~~taken in accordance with this section,~~ unless each separate part given to that person is plainly labeled with the following:

A. The registration seal number; and

B. The name and address of the person who registered the moose.

**Sec. 12. 12 MRSA §7572, sub-§2,** as amended by PL 1989, c. 493, §46, is further amended to read:

**2. Cusk.** Unless otherwise provided by rule, a person licensed to fish may fish through the ice in the nighttime for cusk in waters which that have been opened ~~to ice fishing by the commissioner pursuant to section 7571, subsection 2,~~ by using not more than 5 lines set or otherwise. All lines set for cusk in the nighttime shall must be visited at least once every hour by the person setting them.

**Sec. 13. 12 MRSA §7607,** as amended by PL 1979, c. 543, §61, is repealed and the following enacted in its place:

**§7607. Snagging**

Except as provided in section 7377, subsection 4, paragraph C, a person is guilty of snagging fish if that person fishes by snagging as defined by section 7001, subsection 33-E.

**Sec. 14. 12 MRSA §7732,** as enacted by PL 1979, c. 420, §1, is amended to read:

**§7732. Propagating of wild animals and wild birds**

The ~~breeding~~ propagating of wild animals and wild birds is governed by sections ~~7235, -7236~~ 7235-A and 7241.

**Sec. 15. 12 MRSA §7736, sub-§1, ¶A,** as amended by PL 1983, c. 440, §14, is further amended to read:

2 A. A person may keep a wild animal in captivity in  
3 accordance with sections 7231, 7235 7235-A, 7241, 7242;  
4 7035, subsection 3; section 7771, subsection 2; or Title 7,  
5 section 1809; and

6 **Sec. 16. 12 MRSA §7857, sub-§13-C** is enacted to read:

7  
8 **13-C. Carrying a passenger on an ATV without headgear.**  
9 **Notwithstanding Title 29, section 1376, a person is guilty of**  
10 **carrying a passenger on an ATV without protective headgear, if**  
11 **that person carries a passenger under 18 years of age on an ATV**  
12 **and the passenger is not wearing protective headgear.**

13  
14 **Sec. 17. 12 MRSA §7857, sub-§16**, as amended by PL 1989, c.  
15 913, Pt. B, §14, is further amended to read:

16  
17 **16. Operating an ATV with insufficient lights.** A person is  
18 guilty, except as provided in subsection 24, paragraphs B and  
19 E-1 and G, of operating an ATV with insufficient lights, if he  
20 that person operates an ATV which that is not equipped as  
21 follows.

22  
23 A. Every ATV shall must have mounted on the front at least  
24 one headlight capable of casting a white beam for a distance  
25 of at least 100 feet directly ahead of the ATV.

26  
27 B. Every ATV shall must have mounted on the rear at least  
28 one lamp capable of displaying a red light which shall that  
29 must be visible at a distance of at least 100 feet behind  
30 the ATV.

31  
32 C. Every new ATV, except 2-wheel off-road motorcycles,  
33 manufactured after January 1, 1991, and sold in Maine, must  
34 be equipped with working headlights, taillights and brake  
35 lights.

36  
37 **Sec. 18. 12 MRSA §7857, sub-§24, ¶G** is enacted to read:

38  
39 **G. Notwithstanding the provisions of subsection 16, a**  
40 **person may operate an ATV without a headlight, taillight and**  
41 **brake light between the hours of sunrise and sunset,**  
42 **provided:**

43  
44 **(1) The ATV has an engine size of 90 cubic centimeters**  
45 **or less;**

46  
47 **(2) Has 4 or more wheels; and**  
48

(3) The American National Standards for Four-Wheel All-Terrain Vehicles, Equipment, Configuration, and Performance Requirements proscribed equipping the vehicle at the time of manufacture with the lighting equipment specified in subsection 16, paragraphs A, B and C.

Sec. 19. 12 MRSA §7861, sub-§3, as enacted by PL 1991, c. 443, §40, is amended to read:

3. **Rock dove permits.** Notwithstanding section 7456, the commissioner may issue permits to persons licensed as ~~breeders~~ under section 7235 7235-A to take rock doves from the wild by the use of box traps or nets for the purpose of training sporting dogs pursuant to this section and section 7863.

Sec. 20. 12 MRSA §7863, sub-§5, ¶A, as enacted by PL 1987, c. 696, §18, is amended to read:

A. Notwithstanding this section, the commissioner may issue a permit to any person authorizing the use of firearms during the training of sporting dogs to shoot and kill wild birds propagated or legally acquired by the permittee and possessed in accordance with section 7235 7235-A.

Further amend the bill by inserting after section 12 the following:

Sec. 13. **Conveyance of interest in fishway.** The Department of Inland Fisheries and Wildlife and the Atlantic Sea Run Salmon Commission are authorized to convey any interest that the State has in the Denil Fishway in the Milford Dam on the Penobscot River to the Bangor Hydro-Electric Company. The authorization is not intended and may not be construed to divest these agencies, or any other agency of State Government, of any regulatory authority that those agencies may have over the fishway or the dam.

Sec. 14. **Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</b>		
<b>Resource Management Services</b>		
All Other	\$28,800	\$28,800

2 Provides allocations for the  
operating expenses of the  
4 pheasant program.'

6 Further amend the bill by renumbering the sections to read  
consecutively..

8  
10 Further amend the bill by inserting at the end before the  
statement of fact the following:

12 **FISCAL NOTE**

	1993-94	1994-95
<b>APPROPRIATIONS/ALLOCATIONS</b>		
Other Funds	\$28,800	\$28,800
<b>REVENUES</b>		
General Fund	(\$27,384)	(\$18,270)
Other Funds	28,800	28,800

26 This bill will result in net reductions of General Fund  
revenues of \$27,384 in fiscal year 1993-94 and \$18,270 in fiscal  
28 year 1994-95.

30 Increasing the taxidermist licensing fee will increase  
license fee collections of the Department of Inland Fisheries and  
32 Wildlife. The estimated increases of General Fund revenues are  
\$9,114 annually beginning in fiscal year 1994-95.

34 Establishing a permitting process for various activities  
36 involving wild birds and animals will increase fee collections of  
the Department of Inland Fisheries and Wildlife. The estimated  
38 increases of General Fund revenues are \$1,416 annually beginning  
in fiscal year 1993-94.

40 Authorization of the Pheasant Fund as a dedicated revenue  
42 program will produce annual dedicated revenues to the Department  
of Inland Fisheries and Wildlife of \$28,800 beginning in fiscal  
44 year 1993-94. These amounts are allocated for the operations of  
the pheasant program. Dedicating these revenues will result in  
46 corresponding losses of undedicated revenues to the General Fund  
for those same fiscal years.

48 The Department of Inland Fisheries and Wildlife will incur  
50 some minor additional costs to adopt certain rules, convey the

2 department's interest in a particular fishway, administer a  
3 permit revocation process and enforce new provisions of various  
4 hunting and fishing laws. These costs can be absorbed within the  
5 department's existing budgeted resources.

6 The Department of Inland Fisheries and Wildlife will  
7 experience some minor cost savings as a result of certain changes  
8 in various whitewater rafting requirements.

10 The conveyance of the department's interest in the Denil  
11 Fishway may generate an insignificant amount of additional  
12 undedicated revenues to the General Fund. The amounts can not be  
13 determined at this time.

14 The additional workload and administrative costs associated  
15 with the minimal number of new cases filed in the court system  
16 can be absorbed within the budgeted resources of the Judicial  
17 Department. The collection of additional fines may increase  
18 General Fund revenues by a minor amount.

## 22 STATEMENT OF FACT

24 This amendment adds several new sections to the bill. It  
25 also strikes one section and replaces it with new language.

26 The amendment adds sections that make the following changes  
27 to the fish and wildlife laws:

30 1. It repeals the Whitewater Advisory Committee.

32 2. It allows muzzle-loading handguns to be used during the  
33 muzzle-loading deer season. It also eliminates the current  
34 prohibition on the use of telescope sights on muzzle-loading  
35 rifles.

36 3. It repeals the pheasant hunting permit program for  
37 Cumberland County and York County and replaces it with a modified  
38 program. It provides that only qualified rod and gun clubs and  
39 qualified hunting-oriented organizations may purchase and raise  
40 pheasants for release under the pheasant hunting program. It  
41 also allows the Department of Inland Fisheries and Wildlife to  
42 enter into agreements with qualified clubs and organizations to  
43 utilize department facilities for raising pheasants. It also  
44 establishes an account for revenues generated by the sale of  
45 pheasant hunting permits and allows the department to use those  
46 revenues to pay for the costs of administering the program and to  
47 help defray costs incurred by rod and gun clubs and  
48 hunting-oriented organizations under the pheasant hunting program.

50

COMMITTEE AMENDMENT "A" to S.P. 243, L.D. 736

4. It amends the taking of smelts by a holder of a smelt wholesaler's license by prohibiting the use of seine nets.

5. It repeals the breeder's license program for wild birds and animals and enacts a new permit system to possess, propagate and sell wild birds and animals.

6. It strikes language from a subsection of the commercial whitewater outfitters' license laws that require when a commercial whitewater outfitter's business is sold allocations may be transferred to another outfitter only if the license of the sold outfitter's business is returned to the department.

7. It allows up to 800 commercial whitewater passengers to float on a portion of the Kennebec River on Sundays. It also eliminates a requirement that the department set by rule the number of commercial passengers allowed on a portion of the Kennebec River on Sundays, provided that the department anticipates a sufficient release of water on Sundays for commercial use.

8. It eliminates a requirement that the department, based on the demand for noncommercial public whitewater use of portions of the Kennebec River and portions of the West Branch Penobscot River, set aside 10% of the recreational use limit for noncommercial public use of whitewater craft.

9. It clarifies a criterion for evaluating whitewater rafting allocation proposals.

10. It provides that commercial whitewater allocations are not required on the Penobscot River for the period from June 8, 1994 to August 31, 1994. It authorizes the Commissioner of Inland Fisheries and Wildlife to establish by rule allocations, if the commissioner determines allocations are necessary. It also requires the commissioner to report by January 15, 1995 on commercial whitewater use of the Penobscot River during that period.

11. It allows suckers to be taken by snagging.

12. It enacts law allowing beaver to be trapped by use of snares during the open beaver season. It replaces similar beaver trapping laws that expired April 1, 1993.

13. It repeals a section of law addressing illegal possession of a gift deer and replaces that section with new language addressing illegal possession of a gift deer. Under this new section, a person is guilty of illegal possession of a gift deer unless each part is plainly labeled with the

2 registration seal number and the name and address of the person  
3 who registered the deer. The purpose of this amendment is to  
4 bring uniformity to deer and moose laws concerning illegal  
5 possession of gift deer and gift moose.

6 14. It amends the laws pertaining to ice fishing for cusk  
7 at night by specifying that nighttime ice fishing for cusk may  
8 only take place where the commissioner has opened waters for  
9 nighttime ice fishing for cusk. Current law allows nighttime ice  
10 fishing for cusk in any waters opened to ice fishing, regardless  
11 of whether the waters contain cusk.

12 15. It prohibits the taking of fish by snagging, except for  
13 the taking of suckers.

16 16. It enacts a new section pertaining to the ATV laws that  
17 prohibits an ATV operator from carrying a passenger under 18  
18 years of age who is not wearing protective headgear.

20 17. It exempts ATVs with engine sizes of 90 cubic  
21 centimeters or less from a requirement that ATVs manufactured or  
22 sold in Maine be equipped with working headlights, taillights and  
23 brake lights. It also prohibits operation of these ATVs at  
24 night. The purpose of this exemption is to recognize a federal  
25 consent decree that provides that ATVs with engine sizes of 90  
26 cubic centimeters or less must be manufactured without lighting  
27 to discourage their use at night. ATVs of this size are  
28 primarily used by children.

30 18. It allows the department and the Atlantic Sea Run  
31 Salmon Commission to convey any interest the State has in the  
32 Denil Fishway in the Milford Dam on the Penobscot River to the  
33 Bangor Hydro-Electric Company.

34 19. It corrects an error created by 2 public laws that  
35 amended a section of law addressing the commercial whitewater  
36 license fee.

38 20. It corrects a conflict in the statutes. The Maine  
39 Revised Statutes, Title 12, section 7365 requires fees from  
40 commercial whitewater licenses to be credited to the Whitewater  
41 Rafting Fund. However, Title 12, section 7370, which creates the  
42 Whitewater Rafting Fund, forbids fees from the commercial  
43 whitewater licenses from being credited to the Whitewater Rafting  
44 Fund. This amendment corrects the conflict by removing language  
45 from Title 12, section 7365 requiring fees from the commercial  
46 whitewater licenses be credited to the Whitewater Rafting Fund.

48 21. It removes cusk and hornpout from the species that may  
49 be fished or possessed by means of eel pots, traps, spears or  
50



COMMITTEE AMENDMENT "A" to S.P. 243, L.D. 736

2 nets in inland waters under permits issued by the commissioner.  
3 The amendment strikes section 11 of the bill concerning illegal  
4 possession of moose parts and replaces it with a section to  
5 address illegal possession of a gift moose. The purpose of this  
6 amendment is to bring uniformity to the moose and deer laws  
7 concerning illegal possession of gift deer and gift moose.

8 It also adds a fiscal note to the bill.

Reported by Senator Luther for the Committee on Fisheries  
and Wildlife. Reproduced and Distributed Pursuant to Senate  
Rule 12.

(5/27/93)

(Filing No. S-239)