

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 736

S.P. 243

In Senate, March 2, 1993

**An Act to Update and Clarify Certain Provisions of Fish and Wildlife
Laws.**

Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 24.
Reference to the Committee on Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LUTHER of Oxford.
Cosponsored by Senator: HALL of Piscataquis, Representatives: CLARK of Millinocket,
FARREN of Cherryfield, GREENLAW of Standish, HEINO of Boothbay, JACQUES of
Waterville, NICKERSON of Turner, PINEAU of Jay, ROTONDI of Athens, SWAZEY of
Bucksport.

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

2 Sec. 1. 12 MRSA §7103-A, sub-§2, ¶A is enacted to read:

4 A. The permit may be for a one-year, 2-year or 3-year
6 period at a fee of \$20 for each year.

8 Sec. 2. 12 MRSA §7354, sub-§1, ¶B, as enacted by PL 1989, c.
10 913, Pt. C, §4, is repealed.

12 Sec. 3. 12 MRSA §7354, sub-§2, ¶¶C and D, as enacted by PL
14 1989, c. 913, Pt. C, §4, is amended to read:

16 C. Sell lawfully acquired specimens of fish and wildlife
18 that have been preserved through the art of taxidermy if
20 that sale does not violate regulations of the United States
22 Federal Migratory Bird Treaty Act or other federal
24 regulations; and

26 D. Designate others to aid or assist in conducting business
28 at the licensee's place of business; ~~and.~~

30 Sec. 4. 12 MRSA §7354, sub-§2, ¶E, as enacted by PL 1989, c.
32 913, Pt. C, §4, is repealed.

34 Sec. 5. 12 MRSA §7354, sub-§4, as enacted by PL 1989, c. 913,
36 Pt. C, §4, is amended to read:

38 4. **Competency standards.** The commissioner shall establish
40 standards of competency for the practice of taxidermy and shall
42 provide a copy of these standards to each applicant for a
44 taxidermy license ~~or-a-training-permit~~.

46 Sec. 6. 12 MRSA §7356, as enacted by PL 1989, c. 913, Pt. C,
48 §4, is amended to read:

50 **§7356. Licensure.**

 1. **License required.** In order to safeguard the life,
 health and welfare of the people of this State, any person
 practicing the art of taxidermy for commercial purposes must hold
 a taxidermist license ~~or-a-training-permit~~ as provided in this
 section.

 2. **License qualifications.** To be eligible for a
 taxidermist license ~~or-training-permit~~ issued pursuant to this
 section, an applicant must:

 A. Satisfactorily pass a taxidermy examination, as the
 commissioner shall prescribe by rule; and

2 B. Demonstrate trustworthiness and competence to practice
the art of taxidermy in such a manner, as prescribed by the
4 commissioner by rule, as to safeguard the interests of the
public.

6 ~~3. Training permit. Any person who is undergoing taxidermy
training as defined in section 7354 must obtain a training permit
before that person may participate in taxidermy training. No
8 person holding a training permit may practice the art of
taxidermy for commercial purposes, except under the direct
10 supervision of a licensed taxidermist. The licensed taxidermist
is responsible for the performance and final product of the
12 trainee.~~

14
4. **License application.** Each applicant for a license or
16 ~~training permit~~ must submit a written application to the
commissioner on a form prescribed by the commissioner. The
18 commissioner may require any applicant who has previously held a
taxidermist license to provide a notarized statement indicating
20 that the person has not failed to provide services to a customer
as promised through a contractual agreement with that customer.

22 A. The application must contain satisfactory evidence of
24 the qualifications required of the applicant under this
section and must be sworn to by the applicant.

26 B. Failure or refusal to provide information requested on
28 the application form is sufficient grounds for the
commissioner to reject the application.

30 C. The application must be accompanied by a nonrefundable
32 fee of \$10.

34 D. Within 10 working days of receipt of any application for
a taxidermist license or ~~training permit~~, the commissioner
36 shall notify the applicant as to the acceptability of the
application and shall provide the applicant with at least 2
38 weeks' notice prior to any examination.

40 5. **Examination.** Each applicant for a license or ~~permit~~
shall appear at a time and place designated by the commissioner,
42 to be examined by means of written, practical and oral tests, as
the commissioner determines. ~~An applicant for a training permit
44 may not be required to take a practical examination.~~ The
commissioner shall determine the form and content of examinations.

46 6. **Reexamination.** The commissioner may require any
48 taxidermist to be reexamined if the commissioner receives a
written complaint and, upon investigation, finds that the
50 taxidermist no longer meets the qualifications to be licensed as
a taxidermist.

52

2 7. **Fee.** License applicants who successfully meet the
3 qualifications set forth in this section must be issued a license
4 upon payment of a \$3 \$65 fee. This fee is in addition to the \$10
5 examination fee. ~~Permit-applicants-who-successfully-meet-the~~
6 ~~qualifications-of-this-section-must-be-issued-a-training-permit.~~
7 ~~A-fee-in-addition-to-the-\$10-examination-fee-is-not-required-for~~
8 ~~a-training-permit.~~

9 8. **Annual renewal of license; fees; effect of failure to**
10 **renew.** Licenses and-permits issued pursuant to this section run
11 for the current year until the 30th day of June following the
12 date of the issuance, on which date the license or--permit
13 terminates unless sooner revoked. Subject to any revocation or
14 suspension, the license or permit may be renewed annually upon
15 application by the licensee or--permittee accompanied by a \$13 \$75
16 license fee or--\$5-permit-fee.

17 **Sec. 7. 12 MRSA §7357**, as enacted by PL 1989, c. 913, Pt. C,
18 §4, is amended to read:

19 **§7357. Investigation; grounds for suspension of license**

20 The commissioner shall investigate or cause to be
21 investigated all complaints made to the department and all cases
22 of noncompliance with or violation of sections 7354 to 7356 and
23 this section. Any person may register a complaint of fraud,
24 deceit, gross negligence, incompetency or misconduct against any
25 licensee or--permittee. These complaints must be in writing, be
26 sworn to by the person making them and filed with the department.
27

28 **1. Disciplinary action.** The commissioner may suspend or
29 revoke a license or--permit pursuant to sections 7077 to 7079 and
30 Title 5, section 10004. The commissioner may refuse to issue or
31 renew a license or the Administrative Court may revoke, suspend
32 or refuse to renew a license or--permit for any one of the
33 following causes:
34

35 A. Procuring a license or--permit by fraud or deceit
36 practiced upon the department or a purchaser;

37 B. Failure to meet the competency standards established
38 pursuant to section 7354;

39 C. Engaging in the art of taxidermy or--taxidermy-training
40 under a false name or alias with fraudulent intent;

41 D. Incompetence, negligence or neglect in the conduct of
42 the practice of the act of taxidermy or--taxidermy-training,
43 including, but not limited to, entering into a contractual
44 agreement with a customer to provide services and then
45 failing, without just cause, to provide the services as
46 agreed;
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2 E. Failure to meet the qualifications for a license or
permit, including, but not limited to, failing to pass a
4 reexamination pursuant to section 7356, subsection 6; or

6 F. For any violation of sections 7354 to 7356 and this
section or any rules adopted pursuant to section 7354,
8 subsection 5.

10 **2. Reissue of license or permit.** The commissioner may
reissue a license or permit to any former licensee or permittee
12 whose license or permit has been revoked.

14 **3. Hearings.** Hearings may be conducted by the commissioner
to assist with investigations, to determine whether grounds exist
16 for suspension, revocation or denial of a license or permit, or
as otherwise necessary to implement the provisions of sections
18 7354 to 7356 and this section. The commissioner shall hold an
adjudicatory hearing at the written request of any person who is
20 denied a license or permit without a hearing for any reason other
than failure to pay a required fee, provided that the request for
22 hearing is received by the commissioner within 30 days of the
applicant's receipt of written notice of the denial of the
24 application, the reasons for the denial and the right to request
a hearing. Hearings must be conducted in conformity with the
26 Maine Administrative Procedure Act, Title 5, chapter 375,
subchapter IV, to the extent applicable. The commissioner may
28 subpoena witnesses, records and documents in any hearing the
commissioner conducts.

30 **4. Terms of revocation of license.** A person whose license
or permit has been revoked under this subsection may not apply
32 for a new license for a minimum of 3 years.

34 **Sec. 8. 12 MRSA §7369, sub-§10, ¶D,** as enacted by PL 1983, c.
786, §8, is repealed.

36 **Sec. 9. 12 MRSA §7458, sub-§11,** as enacted by PL 1979, c. 420,
38 §1, is amended to read:

40 **11. Illegally transporting deer.** A person is guilty,
except as otherwise provided in chapters 701 to 721 and except as
42 provided in subsection 15, paragraphs C-1, C-2 and D,
of illegally transporting deer if he that person, at any time and
44 in any manner, moves or transports any deer, and:

46 A. The deer is not open to view;

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

52 C. The person who killed the deer does not accompany the
deer while it is being moved or transported.
54

- 2 3. It deletes a paragraph of the whitewater rafting law
4 that conflicts with a revision made to the law in 1989
5 concerning when allocations are required.
- 6 4. It requires that a person who takes a deer on that
7 person's own land under the Maine Revised Statutes, Title
8 12, section 7377, subsection 1 must attach a tag bearing
9 their name and address before transporting the deer to be
10 registered.
- 11 5. It replaces the requirement that a person who has
12 legally registered a moose have the parts labeled with the
13 registration seal number and the registrant's name and
14 address. This change requires that the parts be labeled
15 with the name and address of the person who registered the
16 moose as well as the name and address of the person to whom
17 it is being given as a gift.
- 18 6. It makes it clear that the penalty for guiding without a
19 license is a Class D crime, for which a fine of \$1,000 and
20 imprisonment of 3 days are imposed.