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)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 853

S.P. 282

In Senate, February 10, 1993

An Act to Amend the Maine Hunting Laws to Prohibit Discharges of Firearms across Paved Ways.

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

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator BUTLAND of Cumberland. Cosponsored by Senators: AMERO of Cumberland, LUTHER of Oxford, Representatives: REED of Falmouth, SMALL of Bath.

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

8

10

12

14

16

50

Sec. 1. 12 MRSA \$7406, sub-\$7, as amended by PL 1983, c. 440, \$10, is further amended to read:

- 7. Hunting from or across a paved way. A person is guilty of hunting from or across a paved way if he that person hunts any wild animal or wild bird from any paved way or from within the right-of-way of any controlled access highway or discharges any firearm across a paved way, except that a person who has a valid permit to carry a concealed weapon may possess such a weapon on a paved way provided it is not used for hunting wild animals or wild birds and provided it is not discharged across the paved way.
- Sec. 2. 12 MRSA §7406-A, sub-§2, as enacted by PL 1991, c. 350, is amended to read:
- 18 Target identification; reasonable and prudent hunter. While hunting, a hunter may not shoot at a target without, at 2.0 that point in time, being certain that it is the wild animal or wild bird sought. The target-determining process to be utilized 22 is that which a reasonable and prudent hunter would observe in the same situation. A reasonable and prudent hunter always bears 24 the risk of loss of legitimate prey to avoid the risk of the destruction of human life or private property. A reasonable and prudent hunter neither disregards the risk of causing destruction 26 of private property or the death of another human being nor fails 28 to be aware of that risk as a consequence of misidentification. A reasonable and prudent hunter never bases identification upon sound alone or even upon sound in combination with what appears 30 to be an appendage of the wild animal or wild bird sought. 32 reasonable and prudent hunter, independent target-determining factors, bases identification upon obtaining 34 an essentially unobstructed view of the head and torso of the potential target. This visual sighting is the most critical target-determining factor. Visual sighting of the head and torso 36 may present itself intermittently or continuously. If presented 38 intermittently, a reasonable and prudent hunter does not make a target-identification decision until this visual sighting exists 40 at the point in time the hunter takes aim and is making final preparation shoot. reasonable and prudent Α 42 additionally recognizes that sound and these sight target-determining factors are affected by a number of other 44 considerations, including, but not limited to, the distance to surrounding or intervening target, terrain and cover, 46 lighting and weather conditions, the hunter's own ability to hear and see, the hunter's own experience and the proximity of other 48 persons in the hunter's immediate vicinity.
 - Sec. 3. 12 MRSA §7406-A, sub-§3 is enacted to read:

2	3. Penalties. The penalties for failure to comply wit
	this section are as follows.
4	
	A. In the case of a first offense, the person's license of
6	permit to hunt is suspended for a period not to exceed
	years. After the expiration of the 3-year period, a person
8	may have that person's license or permit to hunt upon the
	completion of a state-certified hunter safety course.
10	
	B. In the case of a 2nd offense, a person's license of
12	permit to hunt is permanently revoked.
14	
1.0	STATEMENT OF FACT
16	SIAIDMENI OF FACI
18	Under current law it is a Class E crime to hunt from a paved
	way or from within the right-of-way of a controlled access
20	highway. This bill extends the prohibition so that it is a Class
	E crime to discharge a firearm across a paved way.
22	i orimo to arbenarge a riroarm across a pavea maj.
	The bill also suspends the license of a person who fails to
24	be a reasonable and prudent hunter as defined in the Maine
	Revised Statutes, Title 12, section 7406-A, subsection 2 for a
26	period of 3 years for a first offense. The person loses the
	privilege to hunt permanently upon a 2nd offense.
28	