

MAINE STATE LEGISLATURE

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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.

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

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:

2
4 Sec. 1. 12 MRSA §7406, sub-§7, as amended by PL 1983, c. 440,
§10, is further amended to read:

6 7. Hunting from or across a paved way. A person is guilty
8 of hunting from or across a paved way if he that person hunts any
10 wild animal or wild bird from any paved way or from within the
12 right-of-way of any controlled access highway or discharges any
14 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.

16 Sec. 2. 12 MRSA §7406-A, sub-§2, as enacted by PL 1991, c.
350, is amended to read:

18 2. Target identification; reasonable and prudent hunter.
20 While hunting, a hunter may not shoot at a target without, at
22 that point in time, being certain that it is the wild animal or
24 wild bird sought. The target-determining process to be utilized
26 is that which a reasonable and prudent hunter would observe in
28 the same situation. A reasonable and prudent hunter always bears
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
of private property or the death of another human being nor fails
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
to be an appendage of the wild animal or wild bird sought. A
reasonable and prudent hunter, independent of these
target-determining factors, bases identification upon obtaining
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
may present itself intermittently or continuously. If presented
intermittently, a reasonable and prudent hunter does not make a
target-identification decision until this visual sighting exists
at the point in time the hunter takes aim and is making final
preparation to shoot. A reasonable and prudent hunter
additionally recognizes that these sound and sight
target-determining factors are affected by a number of other
considerations, including, but not limited to, the distance to
the target, surrounding or intervening terrain and cover,
lighting and weather conditions, the hunter's own ability to hear
and see, the hunter's own experience and the proximity of other
persons in the hunter's immediate vicinity.

50 Sec. 3. 12 MRSA §7406-A, sub-§3 is enacted to read:

