

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1801

H.P. 1338

House of Representatives, January 27, 1994

**An Act to Revise Certain Fish and Wildlife Laws.**

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HEINO of Boothbay. (GOVERNOR'S BILL)  
Cosponsored by Representatives: GREENLAW of Standish, ROTONDI of Athens, Senators:  
HALL of Piscataquis, LUTHER of Oxford.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           Whereas, confusion exists as to the application of certain  
6 laws administered by the Department of Inland Fisheries and  
Wildlife; and

8           Whereas, this confusion poses difficulties for the sporting  
10 public and those charged with enforcement of these laws; and

12           Whereas, it is vitally necessary that this confusion be  
resolved to prevent any injustice or hardship to the hunters,  
14 anglers, trappers and recreational vehicle owners of the State;  
and

16           Whereas, in the judgment of the Legislature, these facts  
18 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

24           **Sec. 1.** 12 MRSA §7001, sub-§1-A, ¶¶B, C, E, F and P, as enacted  
26 by PL 1985, c. 607, §1, are amended to read:

28           B. Silvery Eastern silvery minnow, (*Hybognathus nuchalis*  
regius);

30           C. Golden shiner, (*Notemigonus crysoleucas* crysoleucas);

32           E. Bridled Bridle shiner, (*Notropis bifrenatus*);

34           F. Common shiner, (*Notropis* Luxilus *cornutus*);

36           P. Pearl dace, (*Semotilus* Margariscus *margarita*);

38           **Sec. 2.** 12 MRSA §7001, sub-§1-A, ¶U, as amended by PL 1991, c.  
40 443, §1, is further amended to read:

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

44           **Sec. 3.** 12 MRSA §7001, sub-§1-A, ¶V, as corrected by RR 1991,  
c. 1, §20, is amended to read:

46           V. American eel, (*Anquilla rostrata*); and

48           **Sec. 4.** 12 MRSA §7001, sub-§1-A, ¶W is enacted to read:

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W. Blackchin shiner, (Notropis heterdon).

**Sec. 5. 12 MRSA §7034, sub-§1**, as amended by PL 1983, c. 819, Pt. A, §18, is further amended to read:

**1. Appointment of deputy.** The commissioner shall appoint, to serve at his the commissioner's pleasure, a Deputy Commissioner of Inland Fisheries and Wildlife, who shall be qualified by training and experience in fisheries and wildlife management and conservation law enforcement. Under the commissioner's direction, the deputy commissioner shall assist him in the administration of the department. The deputy commissioner shall serve as the commissioner if the commissioner is disabled or absent or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent.

**Sec. 6. 12 MRSA §7035, sub-§14** is enacted to read:

**14. Sale of advertising in abstracts of fish and wildlife laws.** The commissioner may sell advertising, except advertising of a political nature, in abstracts of laws published by the department. All revenue derived from the sale of advertising in these publications must be used to support the landowner relations program described in subsection 13.

**Sec. 7. 12 MRSA §7076, sub-§1**, as amended by PL 1991, c. 17, §1 and affected by §2, is further amended to read:

**1. Residents over 70 years of age.** A complimentary license to hunt, trap or fish, including an archery license under section 7102, a pheasant hunting permit under section 7106-A and a muzzle-loading hunting license under section 7107-A, must be issued to any resident of Maine who is 70 years of age or older upon application to the commissioner. These complimentary licenses, upon issuance, remain valid for the remainder of the life of the license holder, provided the license holder continues to satisfy the residency requirements set out in section 7001, subsection 32 and provided the license is not revoked or suspended. Residents who apply for these complimentary licenses at any time during the calendar year of their 70th birthday must be issued a license upon application, regardless of the actual date during that calendar year in which they attain age 70. A guide license may be renewed without charge for any resident of Maine who is 70 years of age or older upon application to the commissioner. The application must be accompanied by a birth certificate or other certified evidence of the applicant's date

2 of birth and residency. When the holder of a license issued  
4 under this subsection no longer satisfies the residency  
6 requirements set out in section 7001, subsection 32, the license  
is no longer valid and further use of the license for purposes of  
hunting, fishing or trapping constitutes a license violation  
under section 7371, subsection 3.

8 **Sec. 8. 12 MRSA §7076, sub-§1**, as amended by PL 1993, c. 24,  
§1 and affected by §7, is further amended to read:

10 **1. Residents over 70 years of age.** A complimentary license  
12 to hunt, trap or fish, including an archery license under section  
7102-A, a pheasant hunting permit under section 7106-A and a  
14 muzzle-loading hunting license under section 7107-A, must be  
issued to any resident of Maine who is 70 years of age or older  
16 upon application to the commissioner. These complimentary  
licenses, upon issuance, remain valid for the remainder of the  
18 life of the license holder, provided the license holder continues  
to satisfy the residency requirements set out in section 7001,  
20 subsection 32 and provided the license is not revoked or  
suspended. Residents who apply for these complimentary licenses  
22 at any time during the calendar year of their 70th birthday must  
be issued a license upon application, regardless of the actual  
24 date during that calendar year in which they attain age 70. A  
guide license may be renewed without charge for any resident of  
26 Maine who is 70 years of age or older upon application to the  
commissioner. The application must be accompanied by a birth  
28 certificate or other certified evidence of the applicant's date  
of birth and residency. When the holder of a license issued  
30 under this subsection no longer satisfies the residency  
requirements set out in section 7001, subsection 32, the license  
32 is no longer valid and further use of the license for purposes of  
hunting, fishing or trapping constitutes a license violation  
34 under section 7371, subsection 3.

36 **Sec. 9. 12 MRSA §7101, sub-§7**, as amended by PL 1987, c. 742,  
§5, is further amended to read:

38 **7. Restrictions.** Any resident or nonresident hunter 10  
40 years of age or older and under 16 may hunt with firearms only in  
the presence of his a qualified parent or guardian or of a  
42 qualified person, at least 18 years of age, approved by his a  
parent or guardian. That presence must be unaided by visual or  
44 audio enhancement devices, including binoculars and citizen band  
radios. For purposes of this subsection, "qualified" means that  
46 a person satisfies all the hunter safety requirements for  
obtaining a license to hunt with firearms.

48 **Sec. 10. 12 MRSA §7103-A, sub-§2, ¶A**, as enacted by PL 1993,  
50 c. 438, §4, is amended to read:

2 A. The permit may be for a one-year, 2-year or 3-year  
4 period at a fee of ~~-\$20-for-each-year~~ equivalent to the sum  
6 of the annual fees established for each of the years for  
8 which the permit is issued.

8 **Sec. 11. 12 MRSA §7105**, as amended by PL 1993, c. 419, §9, is  
further amended to read:

10 **§7105. Commercial shooting area hunting license**

12 1. **Issuance.** The commissioner or ~~his~~ the commissioner's  
14 authorized agent may issue a special commercial shooting area  
16 hunting license authorizing a person to hunt ea mallard ducks,  
pheasants, quail and Chukar partridge in a commercial shooting  
area.

18 2. **Fee.** The fee for a special commercial shooting area  
20 hunting license is ~~\$15-for-1993,~~ \$17 for 1994, \$18 for 1995 and  
~~\$19 for 1996 and every year thereafter~~ after 1996.

22 3. **Open season.** The annual open season for commercial  
24 shooting areas is ~~July~~ January 1st to November--30th December  
31st, including Sundays.

26 4. **Restrictions.** No wild animal or wild bird other than  
28 mallard ducks, pheasants, quail and Chukar partridge may be shot  
en in a commercial shooting area, except that the operator of a  
30 commercial shooting area may authorize a person to hunt other  
32 wild birds or wild animals in a commercial shooting area during  
the regular open season on those ~~other-wild-animals-and-wild~~  
birds species in accordance with the provisions of chapters 701  
34 to 721 provided that the person possesses a valid state hunting  
license that allows the hunting of those wild birds and wild  
animals.

36 **Sec. 12. 12 MRSA §7107-A, sub-§1, ¶A**, as enacted by PL 1993,  
38 c. 47, §1, is amended to read:

40 A. Any person 16 years of age or older at the beginning of  
42 the special season established under subsection 4 may obtain  
44 a muzzle-loading license from the commissioner or the  
commissioner's authorized agent, provided that the person  
possesses a valid license to hunt big game with firearms.

46 **Sec. 13. 12 MRSA §7111, sub-§2**, as enacted by PL 1989, c. 878,  
48 Pt. A, §35, is amended to read:

50 2. **Eligibility.** Any person is eligible for a license to  
hunt deer with an unconventional weapon if that person:

2 A. Is suffering from the loss of both arms above the elbow  
or from the loss of the use of both arms; and

4 B. Can demonstrate, to the satisfaction of the  
6 commissioner, proficiency with that weapon, including  
relevant to that weapon.

8  
10 A person who applies for a license to hunt deer with an  
unconventional weapon on the basis that the person has lost the  
12 use of both arms must submit a statement by a doctor licensed to  
practice medicine in this State verifying that the applicant has  
14 lost the use of both arms to the extent that it would be  
medically impossible for that person to hunt with a conventional  
weapon.

16 Sec. 14. 12 MRSA §7171, sub-§4-A is enacted to read:

18  
20 4-A. Inspection of live smelts and baitfish. A person  
licensed under this section who possesses live smelts or baitfish  
22 at a fixed place of business shall make these fish available for  
inspection by a warden or employee of the department during  
24 normal business hours. All live smelts and baitfish held by the  
licensee at a location other than the licensee's fixed place of  
26 business are subject to the inspection provisions of this  
subsection at any time upon request.

28 Sec. 15. 12 MRSA §7235-A, sub-§2, as enacted by PL 1993, c.  
438, §11, is amended to read:

30  
32 2. Fee. The fee for a one-year 2-year permit to possess,  
propagate or sell wild birds and wild animals is \$25. All  
34 permits issued under this section for calendar year 1994 are  
valid through December 31, 1995.

36 Sec. 16. 12 MRSA §7371-B is enacted to read:

38 **§7371-B. Purchase of live smelts from unlicensed dealers**

40 Notwithstanding the provisions of section 7171, a person is  
guilty of purchasing live smelts from an unlicensed dealer if  
42 that person purchases live smelts from another person who does  
not hold a current license to sell live smelts issued pursuant to  
44 section 7171, subsection 2, paragraph A or C. The commissioner  
shall, subject to the hearing provisions of section 7077, revoke  
46 for a period of at least one year from the date of conviction the  
live bait licenses of a person convicted of a violation of this  
48 section.

2           **Sec. 17. 12 MRSA §7457, sub-§1, ¶H,** as amended by PL 1991, c.  
398, is further amended to read:

4           H. The commissioner may regulate the taking of antlerless  
5 deer within any area of the State, as necessary, to maintain  
6 deer populations in balance with available habitat if the  
7 following conditions are met.

8                   (1) The demarcation of each area must follow  
9 recognizable physical boundaries such as rivers, roads  
10 and railroad rights-of-way.

11                   (2) The determination must be made and published prior  
12 to August 1st of each year.

13                   (3) The application fee for a permit to take an  
14 antlerless deer may not exceed \$1. The application  
15 must include a detachable portion on which the  
16 applicant shall write the applicant's name and address  
17 and to which the applicant shall affix a stamp of  
18 adequate postage. The department shall return this  
19 portion of the application to the applicant in  
20 acknowledgement of the department's receipt of the  
21 application.

22                   (4) The commissioner may adopt rules necessary for the  
23 administration, implementation, enforcement and  
24 interpretation of this subsection, except that there  
25 may not be an antlerless deer permit system unless  
26 otherwise specified in this paragraph.

27                   (5) An antlerless deer permit system adopted by the  
28 commissioner pursuant to this section may include a  
29 provision giving special consideration to landowners  
30 who keep their lands open to hunting by the public.

31           **Sec. 18. 12 MRSA §7468, sub-§9,** as enacted by PL 1985, c. 95,  
32 §1, is amended to read:

33           **9. Legal hunting time.** The legal hunting time, unless  
34 otherwise provided by rule of the commissioner, is 1/2 hour  
35 before sunrise to 11 a.m. each wild turkey hunting day.

36           **Sec. 19. 12 MRSA §7504, sub-§2, ¶B,** as enacted by PL 1979, c.  
37 420, §1, is amended to read:

38           B. The commissioner may cause department-personnel agents  
39 of the department to take nuisance beaver at any time  
40 without the consent of the landowner.



2           **Sec. 20. 12 MRSA §7504, sub-§3,** as enacted by PL 1979, c. 420,  
3 §1, is amended to read:

4           **3. Birds.** Wild birds, with the exception of rock doves, may  
5 not be taken or killed under sections 7501 and 7502.

6           **Sec. 21. 12 MRSA §7824, sub-§9, ¶A-1** is enacted to read:

7  
8           **A-1.** Whenever the nonresident owner of a snowmobile has  
9 satisfied the reciprocity provisions of this subsection,  
10 that snowmobile may be operated in this State by someone  
11 other than the owner.

12           **Sec. 22. 12 MRSA §7910, sub-§13,** as enacted by PL 1993, c. 6,  
13 Pt. S, §2, is amended to read:

14           **13. Nonlapsing appropriations.** All General Fund  
15 appropriations to the department may not lapse but must be  
16 carried forward ~~and expended for the purposes for which the~~  
17 ~~appropriations were made~~ in a separate unallocated General Fund  
18 account to be expended by the department for the purposes  
19 described in section 7074.

20           **Emergency clause.** In view of the emergency cited in the  
21 preamble, this Act takes effect when approved.

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27   **STATEMENT OF FACT**

28           The bill does the following.

29  
30           1. It makes minor changes in the list of fish species that  
31 are classified as baitfish. The changes correct spelling errors  
32 and add one species of shiner that is captured in the wild in the  
33 State and shows up in live bait shops.

34  
35           2. It makes provisions for the deputy commissioner to serve  
36 as Commissioner of Inland Fisheries and Wildlife in the  
37 commissioner's absence or if the office of the commissioner  
38 becomes vacant. It also provides for the commissioner to appoint  
39 an administrative officer to perform functions of the  
40 commissioner in the event that both the commissioner and deputy  
41 commissioner are disabled or absent.

42  
43           3. It authorizes the sale of commercial advertising in law  
44 books published by the Department of Inland Fisheries and  
45 Wildlife to provide funds for the landowner relations program.

46  
47           4. It clarifies that the pheasant hunting permit is  
48 included in the list of complimentary licenses that are available  
49 to residents over 70 years of age.

2           5. It clarifies that a hunter under 16 years of age may  
4 only hunt with firearms while in the presence of an adult who  
meets the hunter safety criteria for obtaining a license to hunt  
with firearms.

6  
8           6. It provides for license fee increases for falconry  
licenses.

10           7. It makes changes pertaining to the operation of  
12 commercial shooting areas. The new language makes it lawful to  
operate a commercial shooting area at any time during the year  
14 for the hunting of mallard ducks, pheasants, quail and Chukar  
partridge. The changes also make it clear that other species of  
16 wild birds and wild animals can only be hunted in commercial  
shooting areas by virtue of regular hunting licenses during the  
18 general hunting season on those species and in accordance with  
all other applicable laws and rules.

20           8. It clarifies that a person must possess a valid license  
to hunt big game with firearms in order to be eligible for a  
22 muzzle-loading license.

24           9. It adds a provision to allow people who have lost the  
use of both arms to apply for a permit to hunt deer with an  
26 unconventional weapon. Eligibility to participate would require  
verification from a medical doctor that the applicant has lost  
28 the use of both arms to the extent that it would be medically  
impossible for that person to utilize a conventional weapon.

30           10. It clarifies that persons licensed to deal in live  
32 smelts and baitfish must make these fish available for inspection  
by wardens and other department employees.

34           11. It provides that a permit for the possession,  
36 propagation and sale of wild birds and wild animals is valid for  
a 2-year period.

38           12. It makes it unlawful for a person to buy live smelts  
40 from anyone other than a licensed bait dealer. Conviction for a  
violation of this new section of law would result in mandatory  
42 revocation of all licenses to deal in live bait for a period of  
at least one year.

44           13. It clarifies that the antlerless deer permit system may  
46 include provisions to recognize landowners for keeping their land  
open to public hunting.

48

2 14. It provides the opportunity for the Commissioner of  
Inland Fisheries and Wildlife to modify the legal hunting time  
4 for wild turkeys through the rule-making process.

6 15. It clarifies that an agent of the Department of Inland  
Fisheries and Wildlife may, under the commissioner's direction,  
8 take nuisance beaver at any time.

10 16. It clarifies that rock doves may be controlled under  
existing crop damage laws.

12 17. It clarifies that nonresident snowmobile owners who  
satisfy the reciprocity provisions of state snowmobile laws may  
14 legally allow other people to operate their machines in this  
State.

16 18. It also clarifies that the funds remaining at the end  
18 of the fiscal year in each of the department's nonlapsing General  
Fund accounts must be carried forward in a single nonlapsing  
20 General Fund account to be reallocated to the department as  
needed.