

MAINE STATE LEGISLATURE

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R. d. S.

L.D. 1645

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DATE: March 18, 1996 (Filing No. S-485)

INLAND FISHERIES AND WILDLIFE

Reported by: Senator MICHAUD of Penobscot for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 637, L.D. 1645, Bill, "An Act to Revise Certain Fish and Wildlife Laws"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§20, as amended by PL 1989, c. 782, §1, is further amended to read:

20.	Inland Fish-	\$25/Day	12 MRSA
Inland	eries and	<u>\$50/Day</u>	§7033-A
Fisheries and	Wildlife		
Wildlife	Advisory		
	Council		

Sec. A-2. 12 MRSA §7001, sub-§7, as amended by PL 1995, c. 415, §1, is further amended to read:

7. **Endangered species.** "Endangered species" means any species of fish or wildlife that has been determined by the ~~Secretary of the Interior of the United States pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended,~~ commissioner to be in danger of extinction throughout all or a significant portion of its range ~~or listed and that is listed as a state endangered species~~ under section 7753, subsection 3.

COMMITTEE AMENDMENT

2 **Sec. A-3. 12 MRSA §7001, sub-§36**, as enacted by PL 1979, c.
420, §1, is amended to read:

4 **36. Threatened species.** "Threatened species" means any
6 species of fish or wildlife ~~which is~~ that has been determined by
7 the commissioner as likely to become an endangered species within
8 the foreseeable future throughout all or a significant portion of
9 its range and that is listed as a state threatened species under
10 section 7753, subsection 3.

12 **Sec. A-4. 12 MRSA §7034, sub-§1**, as amended by PL 1993, c.
574, §5, is further amended to read:

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

28 **Sec. A-5. 12 MRSA §7035, sub-§8**, as amended by PL 1991, c.
591, Pt. KK, §1, is further amended to read:

30 **8. Sale of publications.** If the commissioner determines it
32 advisable for the more effective dissemination of factual
33 information, information of public interest or information
34 tending to promote better public relations, the commissioner may
35 fix the price, if any, of certain publications and materials of
36 the department, and sell and deliver them. Publications and
37 materials included within this authority are all publications,
38 articles, biological and statistical data, professional and
39 technical service reports by departmental personnel and other
40 materials in the department's possession and pertaining to the
41 department, except publications of the laws in whatever form.
42 These publications may not carry any advertising of a political
43 nature, but may carry commercial advertising. The commissioner
44 shall accept commercial advertising in the department's general
45 circulation magazine entitled "Maine Fish and Wildlife" and any
46 successor or similar publication developed by the department.

48 The commissioner may sell or lease video tapes, photographs or
49 negatives owned by the department and may fix the price, if any,
50 giving consideration to their fair market value.

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Sec. A-6. 12 MRSA §7035, sub-§13, ¶A, as enacted by PL 1995, c. 436, §1, is amended to read:

A. A program that supports landowners, called the Support Landowners Program. Twelve dollars of each \$15 collected under section 7101, subsection 5-A, section 7133, subsection 4-A and section 7151, subsection 5-A is dedicated to the Support Landowners Program. The Support Landowners Program may:

- (1) Offer a toll-free number for landowner concerns;
- (2) From among existing staff, appoint a landowner relations coordinator at the Augusta office of the department and regional landowner relations coordinators at the regional offices. Regional landowner relations coordinators may be appointed only from the department's recreational safety coordinators and volunteers;
- (3) Provide linkage with local conservation organizations, volunteer groups and advisory groups;
- (4) Enhance enforcement of trespass, dumping and property damage violations;
- (5) Provide educational materials and signs; and
- (6) Coordinate with other related landowner relations activities, including Landowner Recognition Day; and
- (7) Encourage landowners who only allow access to their property with permission to conspicuously post signs on the property indicating the name and address of the owner or other person with authority to grant permission; and

Sec. A-7. 12 MRSA §7035, sub-§16 is enacted to read:

16. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products such as T-shirts, aprons, coffee mugs and greeting cards when the express purpose is to accommodate public demand and generate supplemental funds. These funds may not be used for any costs associated with a quarterly magazine produced by the department.

Sec. A-8. 12 MRSA §7064 is enacted to read:

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§7064. Illegal disposal of offal; littering

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A person who drops, deposits, discards, dumps or otherwise disposes of the carcass, waste parts or remains of a wild animal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, is in violation of the Maine Litter Control Act, Title 17, chapter 80, and is subject to the penalties set forth in that Act.

Sec. A-9. 12 MRSA §7071, sub-§4, as amended by PL 1987, c. 351, is further amended to read:

4. Member of the United States Armed Forces permanently stationed in the State. The following persons are eligible for any trapping, fishing, hunting or combination fishing and hunting license or permit at the resident fee and shall have the same privileges as Maine residents of this State in regard to trapping, hunting and fishing:

A. Any A person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of that person, ~~provided that~~ if the spouse and children permanently reside with that person.

~~Such a~~ A member of the Armed Forces ~~desiring~~ stationed in the State who desires a trapping, hunting, fishing or combination license or permit shall present certification from the commander of ~~his~~ the member's post, station or base, or from the commander's designated agent, that the person mentioned in the certificate is permanently stationed at that post, station or base. ~~Licenses and permits shall be issued by the clerk or agent of the town in which that military or naval post, station or base is situated.~~

Sec. A-10. 12 MRSA §7072, sub-§3, as amended by PL 1989, c. 440, is repealed.

Sec. A-11. 12 MRSA §7072, sub-§4 is enacted to read:

4. Agents for the purpose of selling licenses. The commissioner shall adopt rules that establish the criteria for selecting agents to sell licenses and permits. Rules adopted under this subsection are major substantive rules under Title 5, chapter 375, subchapter II-A.

Sec. A-12. 12 MRSA §7073, sub-§5, as amended by PL 1993, c. 419, §2, is repealed and the following enacted in its place:

2 **5. Duplicates.** A duplicate license or permit may be
4 obtained by any person who has accidentally lost or destroyed any
6 license or permit issued to that person under this chapter upon
8 payment of a fee of \$2, all of which must be retained by the
agent. A duplicate license or permit may be obtained only from
the issuer of the original license.

10 **Sec. A-13. 12 MRSA §7074, sub-§1,** as repealed and replaced by
12 PL 1985, c. 304, §6, is repealed.

14 **Sec. A-14. 12 MRSA §7074, sub-§1-A** is enacted to read:

16 **1-A. Reporting and payment requirements.** The commissioner
18 shall adopt rules establishing the reporting requirements for
20 agents and the procedure for payment of all funds collected for
22 the reporting period. If these rules include a requirement that
agents must report more frequently than once a month, the
commissioner is responsible for all costs associated with the
additional reporting requirement, including mailing costs. Rules
adopted under this subsection are major substantive rules under
Title 5, chapter 375, subchapter II-A.

24 **Sec. A-15. 12 MRSA §7074, sub-§5,** as amended by PL 1983, c.
26 819, Pt. A, §25, is further amended to read:

28 **5. Delinquent agents.** If-an An agent is delinquent if that
30 agent fails to forward to the commissioner funds collected by him
during the previous calendar month before the 15th day of each
32 calendar month, he is delinquent on the 16th day of that month
that agent by the date established in rules adopted under
subsection 1-A. Failure to remit the funds as provided in this
34 section shall--result results in the following sanctions, in
addition to any others provided by law.

36 A. The commissioner shall charge interest on the amount
38 owed at the rate of 18% a year for each day the agent is
delinquent.

40 B. If the agent has not paid the amount owed by the 60th
42 day after he the agent becomes delinquent, the commissioner
shall assess a surcharge of 5% of the principal amount owed.

44 C. If an agent is delinquent for more than 150 days or is
46 delinquent 3 or more times in one calendar year, the
commissioner shall:

48 (1) Terminate the agency for the balance of the year;
50 and

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2 (2) Order that the agency not be renewed for the next year.

4 Sec. A-16. 12 MRSA §7074, sub-§6, as enacted by PL 1995, c. 455, §3, is repealed.

6 Sec. A-17. 12 MRSA §7076, sub-§12, as enacted by PL 1985, c. 8 304, §9, is repealed.

10 Sec. A-18. 12 MRSA §7101, sub-§5, ¶H-1, as enacted by PL 1995, c. 444, §1, is amended to read:

14	H-1. Nonresident 3-day				
	small game hunting license,				
16	<u>valid for 3 consecutive</u>				
	<u>hunting days</u> (Permits hunting				
18	of all legal species except				
	deer, bear, turkey, moose,				
20	raccoon and bobcat)	0	0	\$30	\$30

22 Sec. A-19. 12 MRSA §7101, sub-§5, ¶H-2 is enacted to read:

24	<u>H-2. Nonresident seasonal</u>				
	<u>junior firearm big game</u>				
26	<u>hunting license</u>	0	0	\$25	\$25

28 Sec. A-20. 12 MRSA §7101, sub-§7, as amended by PL 1987, c. 742, §5, is further amended to read:

30 7. Restrictions. Any resident or nonresident hunter 10 years of age or older and under 16 years of age may hunt with firearms only in the presence of his that hunter's parent or guardian or of a person, at least 18 years of age, approved by his that hunter's parent or guardian. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. A hunter who is 16 years of age and who is hunting with a junior hunting license, prior to hunting without the adult supervision required by this section, must complete a hunter safety course.

42 Sec. A-21. 12 MRSA §7107-A, sub-§4, ¶B, as enacted by PL 1993, c. 574, §13, is amended to read:

44 B. ~~In-1995-and-1996,-the~~ The commissioner shall establish by rule the length of the special muzzle-loading season. The commissioner may establish seasons of different lengths in different regions of the State. The season may extend for no more than 12 hunting days in any part of the State; and

COMMITTEE AMENDMENT

2 **Sec. A-22. 12 MRSA §7108, sub-§1**, as amended by PL 1987, c.
684, §§1 and 4, is further amended to read:

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6 **1. Eligibility.** Any person who possesses a valid hunting
license is eligible to obtain a permit from the commissioner to
8 hunt coyotes at night, except that ~~no~~ a permit may not be issued
10 to any person who has been convicted of a violation of section
7406, subsection 5, within 5 years of the date of application for
12 the permit. ~~A coyote night hunting permit may not be renewed
unless the applicant has returned a completed coyote hunting
questionnaire from the previous year.~~

14 **Sec. A-23. 12 MRSA §7171, sub-§4, ¶B**, as amended by PL 1995,
c. 455, §13, is further amended to read:

16 B. The following restrictions apply to the taking and
18 selling of baitfish under the baitfish wholesaler's license.

20 (1) Any person engaged in taking, or assisting in
taking, live baitfish for resale from inland waters
22 must hold a current baitfish wholesaler's license,
which shall must be exhibited upon request to any agent
24 of the commissioner.

26 (2) The holder of a baitfish wholesaler's license may
take baitfish by use of a seine as defined in section
28 7001, subsection 33-A; a baitfish trap as defined in
section 7001, subsection 1-B; a dipnet, a dropnet, a
30 lift net or a bag net; or by hook and line.

32 (3) The holder of a baitfish wholesaler's license may
use particles of food for the purpose of luring
34 baitfish to a baitfish trap, a dipnet, a dropnet, a
lift net or a bag net.

36 (4) If a person sells live baitfish from more than one
wholesale facility, he that person must obtain a
38 separate license for each place of business.

40 (5) The holder of a baitfish wholesaler's license may
designate others to assist ~~him~~ the holder in selling
42 live baitfish at ~~his~~ the holder's business facility.

44 (6) The holder of a baitfish wholesaler's license, or
46 ~~his~~ the holder's designee, may transport live baitfish.

48 (7) The holder of a baitfish wholesale license who
attempts to take live bait for resale using drop nets
50 from the inland waters of the State by fishing through

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2 the ice must shall mark all holes made in the ice by
that person for that purpose. The holes must be marked
4 by suspending at least one strand of fluorescent
biodegradable tape at least 3 feet above the ice around
6 the entire perimeter of the hole so that the tape is
visible from all sides.

8 (8) The holder of a baitfish wholesaler's license may
not take eels.

10 (9) The holder of a baitfish wholesaler's license may
12 not take or sell suckers (Genus Catostomus) greater
14 than 10 inches in length between April 1st and
September 30th of each year.

16 **Sec. A-24. 12 MRSA §7313, sub-§5,** as enacted by PL 1987, c.
742, §7, is amended to read:

18 **5. Fee.** The examination fee is ~~\$10~~ \$100. An applicant may
20 retake the examination once without paying an additional fee.
The fee is nonrefundable and ~~shall be credited toward the license
22 fee of a successful applicant.~~

24 **Sec. A-25. 12 MRSA §7313, sub-§6** is enacted to read:

26 **6. Oral examination.** If an oral examination is
administered, it must be conducted by at least one trained public
28 member of the Advisory Board for the Licensing of Whitewater
Guides who has been designated by the commissioner and one
30 trained member of the Bureau of Warden Service.

32 **Sec. A-26. 12 MRSA §7320, sub-§3,** as enacted by PL 1987, c.
742, §7, is amended to read:

34 **3. Quorum.** Five members of the board constitute a quorum,
36 ~~except that oral exams shall be conducted by 3 members.~~

38 **Sec. A-27. 12 MRSA §7376,** as enacted by PL 1979, c. 420, §1,
is amended to read:

40 **§7376. Obtaining a suspended or revoked license or permit**

42 A person is guilty of ~~purchase of~~ obtaining a suspended or
44 revoked license or permit if he ~~purchases or attempts to purchase~~
that person obtains or attempts to obtain any license or permit
46 which that has been suspended or revoked by the commissioner
under chapters 701 to 721.

48 **Sec. A-28. 12 MRSA §7406, sub-§16, ¶C,** as amended by PL 1987,
50 c. 161, §1, is further amended to read:

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C. Tramples or destroys any crop on another person's land;
or

Sec. A-29. 12 MRSA §7406, sub-§16, ¶D, as enacted by PL 1987,
c. 161, §2, is amended to read:

D. Damages or destroys a tree on another person's land by
inserting into that tree any metallic or ceramic object to
be used as, or as part of, a ladder or observation stand.
~~Any other type of tree ladder or tree observation stand
shall also be prohibited unless; or~~

~~(1) The written consent of the landowner is obtained
authorizing the erection of such ladder or stand; or~~

~~(2) The ladder or observation stand is removed by the
beginning of the 10th day following the close of the
hunting season for use during which the ladder or
observation stand was erected.~~

Sec. A-30. 12 MRSA §7406, sub-§16, ¶E is enacted to read:

E. Except as provided in subsection 20, paragraph C, erects
or uses either a portable or permanent tree ladder or stand
attached to a tree on the land of another person, unless:

(1) That person has obtained verbal or written
authorization to erect and use a tree ladder or stand
from the landowner or the landowner's representative;

(2) The tree ladder or stand is plainly labeled with a
2-inch by 4-inch tag identifying the name and address
of the person or persons authorized by the landowner to
use the tree stand or ladder; and

(3) The tree ladder or stand is removed within 10 days
after the close of the hunting season for which the
ladder or stand was erected.

Sec. A-31. 12 MRSA §7406, sub-§20, ¶C is enacted to read:

C. The following is an exception to subsection 16,
paragraph E:

(1) A portable tree ladder or stand that is located on
land within the jurisdiction of the Maine Land Use
Regulation Commission and attended by the person who
owns the ladder or stand.

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2 **Sec. A-32. 12 MRSA §7451, sub-§3, ¶A,** as amended by PL 1987,
c. 696, §9, is further amended to read:

4 A. Bait may not be used to hunt black bear, unless:

6 (1) The bait is placed at least 50 yards from any
8 travel way that is accessible by a conventional 2-wheel
or 4-wheel drive vehicle;

10 (2) The stand, blind and or bait area are-tagged-by is
12 plainly labeled with a 2-inch by 4-inch tag with the
name and address of the baiter;

14 (3) The bait is placed more than 500 yards from any
dump or campground;

16 (4) The bait is placed more than 500 yards from an
18 occupied dwelling, unless written permission is granted
by the owner or leasee;

20 (5) The bait is placed not more than 30 days before
22 the opening day of the season and not after October
24 31st;

26 (6) The bait areas will be cleaned up by November 10
10th, as defined by the state litter laws; and

28 (7) The person hunting from any stand or blind of
30 another person has permission of the owner of that
stand or blind.

32 **Sec. A-33. 12 MRSA §7753, sub-§3,** as enacted by PL 1995, c.
34 415, §2, is amended to read:

36 **3. Legislative authority.** The Legislature, as sole
authority, shall designate a species as state endangered or state
38 threatened species. The list of state endangered or state
threatened species is as follows:

40	Common Name	Scientific Name	Status
42	Least Tern	Sterna albifrons	Endangered
	Golden Eagle	Aquila chrysaetos	Endangered
44	Piping Plover	Charadrius melodus	Endangered
	Sedge Wren	Cistothorus platenis	Endangered
46	Grasshopper		
	Sparrow	Ammodramus savannarum	Endangered
48	Box Turtle	Terrapene carolina	Endangered
	Black Racer	Coluber constrictor	Endangered
50	Roseate Tern	Sterna dougallii	Threatened

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2	Northern Bog		
	Lemming	Synaptomys borealis	Threatened
	Loggerhead		
4	Turtle	Caretta caretta	Threatened
	Blanding's		
6	Turtle	Emydoidea blandingii	Threatened
	Spotted Turtle	Clemmys guttata	Threatened
8	<u>Bald Eagle</u>	<u>Haliaeetus</u>	<u>Threatened</u>
		<u>leucocephalus</u>	

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11 **Sec. A-34. 12 MRSA §7753, sub-§3-A** is enacted to read:

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13 3-A. Temporary authority. Notwithstanding any other
14 provision of this subchapter, the commissioner may consider a
15 species found in the State that is not listed in subsection 3 as
16 a state endangered or state threatened species if that species is
17 listed as an endangered or threatened species by the Secretary of
18 the Interior of the United States, pursuant to the United States
19 Endangered Species Act of 1973, Public Law 93-205, as amended.
20 This subsection is repealed 90 days after the adjournment of the
21 First Regular Session of the 118th Legislature.

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23 **Sec. A-35. 12 MRSA §7950**, as repealed and replaced by PL
24 1989, c. 913, Pt. B, §15, is amended to read:

25 **§7950. Records of the Department of Inland Fisheries and Wildlife**

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27 A certificate, signed by the commissioner or deputy
28 ~~commissioner~~ the commissioner's designee, stating what the
29 records of the Department of Inland Fisheries and Wildlife show
30 on any given matter is admissible in evidence in all courts of
31 this State to prove what the records of the department are on
32 that matter. Upon the testimony of a law enforcement officer
33 that the certificate and records were obtained by that officer
34 from the department, the court shall admit that certificate and
35 those records as evidence without any further foundation or
36 testimony.

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39 **1. Certificate prima facie evidence person not the holder**
40 **of a license, permit, registration or certificate of number.** A
41 certificate, signed by the commissioner or deputy ~~commissioner~~
42 the commissioner's designee, stating that the records of the
43 department do not show that a particular person on a stated date
44 held a license, permit, registration or certificate of number
45 issued under chapters 701 to 721, is admissible in evidence in
46 all courts of this State and is prima facie evidence that the
47 particular person named in the certificate did not hold a
48 license, permit, registration or certificate of number as
49 specified in the certificate on the date specified in the
50 certificate.

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Sec. B-1. 5 MRSA §12004-I, sub-§23-B is enacted to read:

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23-B. Advisory \$50/Day 12 MRSA
Environment: Board for §7366-A
Natural the Licensing
Resources of Whitewater
Guides

Sec. B-2. 12 MRSA §7366, sub-§3, as enacted by PL 1985, c. 29, §3, is amended to read:

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3. Examination. All initial applicants for a whitewater guide's license shall--be are required to pass an examination developed and administered by the commissioner. The fee is \$50 for the first examination and \$10 for subsequent examinations. All examination fees are nonrefundable and must be applied toward the license fees of successful applicants.

Sec. B-3. 12 MRSA §7366, sub-§4, as amended by PL 1993, c. 419, §26, is further amended to read:

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4. Fee. The annual fee for a whitewater guide's license is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996 and every--year--thereafter. Beginning in 1997, a whitewater guide license is a 3-year license. The fee for a 3-year license is \$87.

Sec. B-4. 12 MRSA §7366-A is enacted to read:

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§7366-A. Whitewater guide advisory board

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1. Members. The Advisory Board for the Licensing of Whitewater Guides, referred to in this section as the "board" and established by Title 5, section 12004-I, subsection 23-B, consists of the following 10 members:

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A. The commissioner or an employee of the department who is the commissioner's designee;

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B. One warden or retired warden of the department; and

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C. Eight persons representing the public who are licensed whitewater guides, appointed by the Governor. In making appointments under this paragraph, the Governor shall ensure that those appointments establish and maintain a wide diversity of whitewater guide experience on the State's rapidly flowing rivers. The Governor may not appoint a person who holds a whitewater outfitter license. At least 5 persons appointed under this paragraph must have expertise in whitewater rafting on both the Kennebec River and the West Branch of the Penobscot River, including the cribworks.

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2 2. Compensation. Members who are not employed by the
3 department are entitled to compensation as provided in Title 5,
4 chapter 379.

6 3. Duties. The board has the following duties:

8 A. To provide advice regarding rules proposed by the
9 commissioner;

10 B. At the request of the commissioner, to conduct an
11 examination of applicants for the whitewater guide license
12 as provided in section 7366, except that, oral examinations
13 are conducted by 2 members; and

14 C. To advise the commissioner on granting and revoking
15 whitewater guide licenses.

16 4. Quorum. Five members of the board constitute a quorum.

17 **Sec. B-5. 12 MRSA §7368, sub-§2-A, ¶B,** as amended by PL 1993,
18 c. 438, §21, is further amended to read:

19 B. Sundays: 800 1,000 commercial passengers; and

20 **Sec. B-6. 12 MRSA §7369, sub-§10, ¶A,** as amended by PL 1995,
21 c. 455, §21, is further amended to read:

22 A. Allocations are required for Saturdays on the Kennebec
23 River for the period of June--8th July 1st to August 31st.
24 Allocations are required for Saturdays on the Penobscot
25 River for the period of June 8th to August 31st. The
26 commissioner may adopt rules establishing allocations for
27 Sundays between--June--8th for the period of July 1st to
28 August 31st. If the department determines that the
29 recreational use limit will be reached other days, the
30 department shall provide by rule for allocations.

31 **Sec. B-7. 12 MRSA §7369, sub-§12, ¶A** is enacted to read:

32 A. A commercial whitewater outfitter using a whitewater
33 craft on any stretch of river for which a specific
34 allocation is required, including days for which an
35 allocation is not required, and carrying a person other than
36 a commercial passenger or commercial whitewater guide, shall
37 file a noncommercial passenger registration form with the
38 department before launching the craft. The form must list
39 the persons who are not commercial guides or commercial
40 passengers, state that the persons listed are not commercial

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2 guides or commercial passengers and be signed by each person
3 listed.

4 **Sec. B-8. 12 MRSA §7801, sub-§16**, as amended by PL 1991, c.
5 28, is further amended to read:

6 **16. Operating a watercraft without proper safety**
7 **equipment.** A person is guilty, except as provided in subsection
8 27, paragraph B, of operating a watercraft without proper safety
9 equipment if he that person operates a watercraft and he that
10 person:

11 A. Fails to comply with the same requirements pertaining to
12 lights, life-saving devices, fire extinguishers and other
13 safety equipment as required by federal laws and regulations
14 on federal navigable waters, as promulgated under the United
15 States Federal Boat Safety Act of 1971, Public Law 92-75, as
16 amended; or

17 B. Fails to comply with requirements pertaining to
18 additional equipment not in conflict with federal navigation
19 laws, which the commissioners may prescribe if there is a
20 demonstrated need; or

21 C. Fails to wear a Coast Guard approved Type I, Type II or
22 Type III personal flotation device while canoeing or
23 kayaking on the Saco River between Hiram Dam and the
24 Atlantic Ocean between January 1st and June 1st; or

25 D. Fails to wear a Coast Guard approved Type I, Type II,
26 Type III or Type V personal flotation device while operating
27 a watercraft on:

28 (1) The Penobscot River, between the gorge and the
29 head of Big Eddy; or

30 (2) The Kennebec River, between Harris Station and
31 Turtle Island, at the foot of Black Brook Rapids.

32 **PART C**

33 **Sec. C-1. 7 MRSA §2-A** is enacted to read:

34 **§2-A. Hunters for the Hungry Program; acceptance of donations**

35 The department and those recipient agencies participating in
36 the department's food assistance distribution programs may accept
37 wild game meat from persons participating in the Hunters for the
38 Hungry Program established under Title 12, chapter 709,
39 subchapter III-A. The department may facilitate the acceptance

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2 of that meat by its recipient agencies through coordination with
3 the Department of Inland Fisheries and Wildlife and may undertake
4 educational and promotional efforts on behalf of the program.

6 **Sec. C-2. 12 MRSA c. 709, sub-c. III-A** is enacted to read:

8 **SUBCHAPTER III-A**

10 **HUNTERS FOR THE HUNGRY PROGRAM**

12 **§7481. Hunters for the Hungry Program; established**

14 The Hunters for the Hungry Program, referred to in this
15 subchapter as the "program," is established to allow the
16 department and persons who are lawfully in the possession of wild
17 game meat to donate that wild game meat for distribution to needy
18 persons through the food assistance programs of the Department of
19 Agriculture, Food and Rural Resources. The department shall
20 develop and implement this program in cooperation with the
21 Department of Agriculture, Food and Rural Resources. In
22 developing the program, the department shall investigate, in
23 cooperation with the Department of Agriculture, Food and Rural
24 Resources, the costs and benefits of establishing a toll-free
25 telephone line for facilitating the donation of meat.

26 **§7482. Rules**

28 The department may adopt rules to implement the program. If
29 rules are determined necessary, the department shall develop
30 those rules in cooperation with the Department of Agriculture,
31 Food and Rural Resources. Rules adopted under this section are
32 technical rules under the Maine Administrative Procedure Act.
33 Rules adopted under this section may include, but are not limited
34 to:

36 **1. Donation procedures.** Procedures for donating wild game
37 meat;

38 **2. Quality control.** Provisions for a quality control
39 program;

42 **3. Distribution process.** Procedures for distributing
43 donated wild game meat through the food assistance programs
44 administered by the Department of Agriculture, Food and Rural
45 Resources;

46 **4. Education and promotion.** Methods for supporting private
47 sporting groups throughout the State with program education and
48 promotion efforts; and

50

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2 5. Limits. Limiting the distribution of wild game meat to
certain types of facilities.

4 §7483. Food donations; exemption from civil liability

6 A person who donates lawfully obtained wild game meat that
7 is apparently fit for human consumption to the program and a
8 charitable, nonprofit or other organization authorized by the
9 department to receive and distribute meat donated under the
10 program are immune from civil liability arising from injury or
11 death due to the condition of the donated food, unless the injury
12 or death is a direct result of the intentional misconduct of the
13 donor or the organization.

14 **Sec. C-3. Appropriation.** The following funds are appropriated
16 from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
20 INLAND FISHERIES AND WILDLIFE,		
21 DEPARTMENT OF		
22 Office of the Commissioner		
24 Personal Services	\$2,250	\$4,141
26 Appropriates funds for the		
28 per diem costs of the		
29 Advisory Board for the		
30 Licensing of Whitewater		
31 Guides and the Inland		
32 Fisheries and Wildlife		
33 Advisory Council.		
34 Savings Fund Program		
36 All Other		25,697
38 Appropriates funds to be used		
40 only to avoid future license		
41 fee increases.		
42 DEPARTMENT OF INLAND FISHERIES		
43 AND WILDLIFE		
44 TOTAL	<u>\$2,250</u>	<u>\$29,838'</u>

46 Further amend the bill by inserting at the end before the
48 statement of fact the following:

2 **FISCAL NOTE**

4

	1995-96	1996-97
6 APPROPRIATIONS/ALLOCATIONS		
8 General Fund	\$2,250	\$29,838
10 REVENUES		
12 General Fund		\$29,838

14

16 The Department of Inland Fisheries and Wildlife will require
 18 additional General Fund appropriations totaling \$2,250 in fiscal
 year 1995-96 and \$29,838 in fiscal year 1996-97, including:
 20 \$1,891 annually beginning in fiscal year 1996-97 for the per diem
 costs of the Advisory Board for the Licensing of Whitewater
 22 Guides, \$2,250 annually beginning in fiscal year 1995-96 for the
 retroactive increase of the per diem paid to members of the
 24 Inland Fisheries and Wildlife Advisory Council and \$25,697 in
 fiscal year 1996-97 for the additional appropriations needed to
 ensure that the department is appropriated funds that are at
 26 least equal to the undedicated revenues collected by the
 department, as required by the Constitution of Maine.

28 The department will generate additional annual General Fund
 30 revenue beginning in fiscal year 1996-97 totaling \$20,500: \$1,000
 from the sale of video tapes, \$16,500 from the increase of the
 32 whitewater guide examination fee and \$3,000 from the sale of
 general merchandise by the department.

34 In addition to the General Fund revenue effects above, the
 36 increase of the whitewater guide license fee and the change from
 a one-year to a 3-year license will increase General Fund revenue
 38 by \$9,338 in fiscal year 1996-97 but reduce General Fund revenue
 by \$4,669 annually in fiscal years 1997-98 and 1998-99. There
 40 will be no net change in General Fund revenues collected by the
 department over this 3-year period.

42 The Department of Inland Fisheries and Wildlife will incur
 44 some minor additional costs to adopt certain rules. These costs
 can be absorbed within the department's existing budgeted
 46 resources.

48 The Departments of Inland Fisheries and Wildlife and
 Agriculture, Food and Rural Resources will incur some minor
 50 additional costs to implement the Hunters for the Hungry

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2 Program. These costs can be absorbed within the departments' existing budgeted resources.

4 This bill also may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.70 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

10 The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

18 **STATEMENT OF FACT**

20 This amendment replaces the bill.

22 Part A of this amendment does the following.

24 It authorizes the Commissioner of Inland Fisheries and Wildlife to sell or lease video tapes and sell merchandise and use those proceeds for any purpose within the Department of Inland Fisheries and Wildlife, except the department's magazine.

28 It allows any member of the United States Armed Forces to buy a trapping, fishing, hunting or combination license at any agency.

32 It encourages landowners who prohibit access to their land without permission to post their land with signs that include the name and address of the person to contact to obtain permission.

36 It increases from \$10 to \$100 the examination fee for obtaining a guide license.

40 It clarifies that the nonresident 3-day small game hunting license is valid for 3 consecutive days.

42 It requires 16-year-old hunters to complete a hunter safety course.

44 It allows the Commissioner of Inland Fisheries and Wildlife to adopt rules, which are classified as major substantive rules, governing the selection and reporting requirements for licensing agents of the Department of Inland Fisheries and Wildlife.

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2 It repeals the provision that allows the guide examination
fee to be credited toward the license fee.

4 It allows the oral testing of whitewater guides to be
conducted by 2 members.

6 It repeals the requirement that oral exams for whitewater
8 guides be given by 3 members of the Advisory Board for the
Licensing of Whitewater Guides.

10 It requires that a tree stand and ladder, except a portable
12 unit that is attended by the owner and located on land within the
jurisdiction of the Maine Land Use Regulation Commission, be
14 labeled with the name and address of the persons authorized by
the landowner to use the tree stand and ladder.

16 It clarifies the requirement for identifying bear baits.

18 It clarifies that only those species listed in statute may
20 be regulated by the Department of Inland Fisheries and Wildlife
as state endangered or state threatened species.

22 It repeals the sunset on the option for a 2-week
24 muzzle-loading season.

26 It retroactively increases the per diem for members of the
Inland Fisheries and Wildlife Advisory Council from \$25 to \$50.

28 It changes the qualification requirement of the Deputy
30 Commissioner of Inland Fisheries and Wildlife.

32 It exempts from the definition of "litter" any waste parts
or remains that result from the normal field dressing of lawfully
34 harvested wild game and waste parts or remains of wild game used
as bait.

36 A cross-reference to the Maine Litter Control Act is also
38 added to inland fisheries and wildlife law to notify hunters that
leaving a carcass, waste parts or remains of an animal in the
40 woods, other than as bait or as a result of field dressing
lawfully harvested game, is illegal and is a violation of the
42 Maine Litter Control Act.

44 Part B of the amendment makes the following changes to the
whitewater rafting laws of the State.

46 It establishes the Advisory Board for the Licensing of
48 Whitewater Guides.

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2 It changes the whitewater guide license from a one-year to a
3-year license.

4 It increases from 800 to 1,000 the Sunday allocation ceiling
6 for commercial passengers on the Kennebec River and eliminates
allocations for the Kennebec River during June.

8 It requires the use of certain types of personal flotation
10 devices on stretches of the Penobscot River and the Kennebec
River.

12 Part C of this amendment creates the Hunters for the Hungry
14 Program within the Department of Inland Fisheries and Wildlife.
The program utilizes the existing temporary emergency food
16 assistance programs administered by the Department of
Agriculture, Food and Rural Resources to distribute lawfully
18 harvested wild game meat to soup kitchens, shelters, food
pantries, churches and other organizations throughout the State.
20 The Hunters for the Hungry Program allows any person to donate
any lawfully obtained game either to the Temporary Emergency Food
22 Assistance Program or directly to one of the eligible kitchens,
shelters or churches. The Department of Inland Fisheries and
24 Wildlife may adopt rules to implement the program, working in
cooperation with the Department of Agriculture, Food and Rural
26 Resources. Part C also extends immunity from civil liability to
persons who lawfully donate wild game meat and to the
organizations that handle and distribute that meat.