

MAINE STATE LEGISLATURE

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SENATE

117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1645

S.P. 637

In Senate, January 8, 1996

An Act to Revise Certain Fish and Wildlife Laws.

(EMERGENCY)

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

A handwritten signature in cursive script, reading "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HALL of Piscataquis.

Cosponsored by Senator: KIEFFER of Aroostook, Representatives: CHICK of Lebanon,
DEXTER of Kingfield, GREENLAW of Standish, JACQUES of Waterville, PERKINS of
Penobscot, ROSEBUSH of East Millinocket, TUFTS of Stockton Springs.

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-§36,** as enacted by PL 1979, c. 420,
26 §1, is amended to read:

28 **36. Threatened species.** "Threatened species" means any
species of fish or wildlife ~~which is~~ that has been determined by
30 the Secretary of the Interior of the United States, pursuant to
the United States Endangered Species Act of 1973, Public Law
32 93-205, as amended, as likely to become an endangered species
within the foreseeable future throughout all or a significant
34 portion of its range or that is listed under section 7753,
subsection 3.

36 **Sec. 2. 12 MRSA §7035, sub-§7,** as amended by PL 1995, c. 346,
38 §1, is further amended to read:

40 **7. Sale of arms and ammunition.** The commissioner may sell
all property held or confiscated by the State for violation of
42 laws relating to the protection of inland fisheries and
wildlife. The commissioner shall transmit all money received by
44 the sales to the Treasurer of State to be credited to the
department. A portion of these funds may be dedicated to ensure
46 the operation of a program established in the department to
reward citizens who alert department law enforcement officials of
48 violations of fish and wildlife laws.

2 **Sec. 3. 12 MRSA §7035, sub-§8,** as amended by PL 1991, c. 591,
Pt. KK, §1, is further amended to read:

4 **8. Sale of publications.** If the commissioner determines it
advisable for the more effective dissemination of factual
6 information, information of public interest or information
tending to promote better public relations, the commissioner may
8 fix the price, if any, of certain publications and materials of
the department, and sell and deliver them. Publications and
10 materials included within this authority are all publications,
articles, biological and statistical data, professional and
12 technical service reports by departmental personnel and other
materials in the department's possession and pertaining to the
14 department, except publications of the laws in whatever form.
These publications may not carry any advertising of a political
16 nature, but may carry commercial advertising. The commissioner
shall accept commercial advertising in the department's general
18 circulation magazine entitled "Maine Fish and Wildlife" and any
successor or similar publication developed by the department.

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

24 **Sec. 4. 12 MRSA §7035, sub-§16** is enacted to read:

26 **16. Sale of general merchandise.** The commissioner may
28 engage in the selling and marketing of general merchandise
products such as T-shirts, aprons, coffee mugs and greeting cards
30 when the express purpose is to accommodate public demand and
generate supplemental funds. Whenever possible, these funds must
32 be used to underwrite the production costs of the department's
quarterly magazine with the goal of making the magazine
34 financially self-sufficient.

36 **Sec. 5. 12 MRSA §7071, sub-§4,** as amended by PL 1987, c. 351,
is further amended to read:

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

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

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

4 ~~Such a~~ A member of the Armed Forces desiring stationed in the
State who desires a trapping, hunting, fishing or combination
6 license or permit shall present certification from the commander
of his ~~the member's~~ post, station or base, or from the
8 commander's designated agent, that the person mentioned in the
certificate is permanently stationed at that post, station or
10 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~~
12 ~~is situated.~~

14 **Sec. 6. 12 MRSA §7072, sub-§3**, as amended by PL 1989, c. 440,
is repealed.

16 **Sec. 7. 12 MRSA §7072, sub-§4** is enacted to read:

18 **4. Agents for the purpose of selling licenses.** The
20 commissioner shall adopt rules in accordance with the Maine
Administrative Procedure Act governing the establishment of
22 criteria for the selection of agents to issue licenses and
permits.

24 **Sec. 8. 12 MRSA §7073, sub-§5**, as amended by PL 1993, c. 419,
26 §2, is repealed and the following enacted in its place:

28 **5. Duplicates.** A duplicate license or permit may be
obtained by any person who has accidentally lost or destroyed any
30 license or permit issued to that person under this chapter upon
payment of a fee of \$2, all of which must be retained by the
32 agent. Duplicate licenses or permits can only be obtained from
the commissioner or the commissioner's agent that issued the
34 original license.

36 **Sec. 9. 12 MRSA §7074, sub-§1**, as repealed and replaced by PL
1985, c. 304, §6, is repealed.

38 **Sec. 10. 12 MRSA §7074, sub-§1-A** is enacted to read:

40 **1-A. Reporting and payment requirements.** The commissioner
42 shall adopt rules in accordance with the Maine Administrative
Procedure Act governing the reporting requirements for agents and
44 the payment of all funds collected for the reporting period. If
these rules include a requirement that agents must report more
46 frequently than once a month, the commissioner is responsible for
all costs associated with the additional reporting requirements,
48 including mailing costs.

2 **Sec. 11. 12 MRSA §7074, sub-§5**, as amended by PL 1983, c. 819,
Pt. A, §25, is further amended to read:

4 **5. Delinquent agents.** If an agent fails to forward to the
commissioner funds collected by ~~him during the previous calendar~~
6 ~~month before the 15th day of each calendar month, he is~~
~~delinquent on the 16th day of that month~~ the agent according to
8 the rules adopted by the commissioner, that agent is considered
10 delinquent on the day following the due date. Failure to remit
the funds as provided in this section ~~shall result~~ results in the
following sanctions, in addition to any others provided by law.

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

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

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

24 (1) Terminate the agency for the balance of the year;
26 and

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

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

34 **Sec. 13. 12 MRSA §7076, sub-§12**, as enacted by PL 1985, c.
36 304, §9, is repealed.

38 **Sec. 14. 12 MRSA §7101, sub-§5, ¶H-1**, as enacted by PL 1995, c.
444, §1, is amended to read:

40 H-1. Nonresident 3-day
small game hunting license
42 (Permits hunting of all
legal species except deer,
44 bear, turkey, moose,
raccoon and bobcat) (Valid
46 for 3 consecutive hunting
days)

0 0 \$30 \$30

48 **Sec. 15. 12 MRSA §7101, sub-§7**, as amended by PL 1987, c. 742,
50 §5, is further amended to read:

2 **7. Restrictions.** Any resident or nonresident hunter 10
years of age or older and under 16 years of age may hunt with
4 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
6 his that hunter's parent or guardian. That presence must be
unaided by visual or audio enhancement devices, including
8 binoculars and citizen band radios. A 16-year-old hunter who is
hunting by virtue of a junior hunting license, prior to hunting
10 without the adult supervision required by this section, must
complete a hunter safety course.

12 **Sec. 16. 12 MRSA §7108, sub-§1**, as amended by PL 1987, c. 684,
14 §§1 and 4, is further amended to read:

16 **1. Eligibility.** Any person who possesses a valid hunting
license is eligible to obtain a permit from the commissioner to
18 hunt coyotes at night, except that no a permit may not be issued
to any person who has been convicted of a violation of section
20 7406, subsection 5, within 5 years of the date of application for
the permit. ~~A-coyote-night-hunting-permit-may-not-be-renewed~~
22 ~~unless-the-applicant-has--returned-a-completed-coyote-hunting~~
~~questionnaire-from-the-previous-year.~~

24 **Sec. 17. 12 MRSA §7313, sub-§5**, as enacted by PL 1987, c. 742,
26 §7, is amended to read:

28 **5. Fee.** The examination fee is \$10. An applicant may
retake the examination once without paying an additional fee.
30 The fee is nonrefundable ~~and-shall-be-credited-toward-the-license~~
~~fee-of-a-suecessful-applicant.~~

32 **Sec. 18. 12 MRSA §7313, sub-§6** is enacted to read:

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

40 **Sec. 19. 12 MRSA §7320, sub-§3**, as enacted by PL 1987, c. 742,
42 §7, is amended to read:

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

46 **Sec. 20. 12 MRSA §7406, sub-§16, ¶C**, as amended by PL 1987, c.
48 161, §1, is further amended to read:

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

4 **Sec. 21. 12 MRSA §7406, sub-§16, ¶D**, as enacted by PL 1987, c.
5 161, §2, is amended to read:

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

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

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

17 **Sec. 22. 12 MRSA §7406, sub-§16, ¶E** is enacted to read:

18 E. Fails to identify by name and address the person who
19 erects a tree ladder or tree observation stand. A tree
20 ladder or tree observation stand is prohibited unless:

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

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

27 **Sec. 23. 12 MRSA §7451, sub-§3, ¶A**, as amended by PL 1987, c.
28 696, §9, is further amended to read:

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

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

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

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

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

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

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

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

16 **Sec. 24. 12 MRSA §9901, sub-§2,** as enacted by PL 1995, c. 406,
§12, is amended to read:

18 **2. Members.** The authority is governed by the Atlantic
20 Salmon Board, referred to in this chapter as the "board". The
board consists of 8 members appointed by the Governor. The
22 Governor may appoint those members from among names recommended
by affiliate clubs of the Maine Council of the Atlantic Salmon
24 Federation, the Penobscot Nation or the Passamaquoddy Tribe. The
board consists of the following members:

26 A. One member who resides within the land area comprising
28 the Penobscot River drainage;

30 B. One member who resides within the land area comprising
the Saco River drainage;

32 C. One member who resides ~~in-Aroostook-County~~ within the
34 land area comprising the Aroostook River drainage;

36 D. One member who resides within those land areas that
comprise the drainage for the St. Croix, East Machias,
38 Machias, Narraguagus, Pleasant, Ducktrap, Dennys or
Sheepscot rivers;

40 E. One member of the Passamaquoddy Tribe;

42 F. One member of the Penobscot Nation;

44 G. The Commissioner of Marine Resources; and

46 H. The Commissioner of Inland Fisheries and Wildlife.

48 All appointments under this subsection are for a period of 5
50 years, except that the first initial appointments, under

2 paragraphs A to D, of the Governor have terms of 1, 2, 3 and 4
years, respectively. All appointments under this subsection,
4 except the Commissioner of Marine Resources and the Commissioner
of Inland Fisheries and Wildlife, are subject to confirmation by
the joint standing committee of the Legislature having
6 jurisdiction over inland fisheries and wildlife matters and the
Senate. A person may not be appointed to the board or continue
8 to serve as a member of the board if that person is a state
employee. This limitation does not apply to the Commissioner of
10 Marine Resources or the Commissioner of Inland Fisheries and
Wildlife.

12
14 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

16 **STATEMENT OF FACT**

18
20 This bill does the following.

22 1. It clarifies current law to conform it to the current
federal language.

24 2. It allows the Commissioner of Inland Fisheries and
Wildlife to dedicate funds from the sale of confiscated firearms
26 to the Operation Game Thief Program.

28 3. It allows the Commissioner of Conservation to sell or
lease video tapes and sell merchandise for a dedicated fund to be
30 used for making the department's magazine self-sufficient.

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

36 5. It conforms agency reporting requirements to federal
migratory bird reporting requirements.

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

42 7. It requires the completion of a hunter safety course by
a 16 year old hunter.

44 8. It reduces the need for reporting in order to receive
46 another permit.

48 9. It repeals the provision that allows the guide
examination fee to be credited towards the license fee.
50

2 10. It allows the oral testing of guides to be conducted by
a public member of the Advisory Board for the Licensing of Guides
4 who has been designated by the Commissioner of Inland Fisheries
and Wildlife and a member of the Warden Service.

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

10 12. It requires tree stands and tree ladders to be labeled
with the name and address of the user.

12 13. It clarifies the requirement for identifying bear baits.

14 14. It clarifies that the Commissioner of Marine Resources
16 and the Commissioner of Inland Fisheries and Wildlife are ex
officio members of the Atlantic Salmon Board and are not subject
18 to confirmation. It also clarifies that neither are subject to
the limitation concerning state employees.