

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1482

S.P. 480

In Senate, March 11, 1997

An Act to Expand the Duties of the Violations Bureau and Enhance the Enforcement of Civil Violations.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2
4 **Sec. 1. 4 MRSA §164, sub-§12**, as repealed and replaced by PL 1991, c. 549, §3 and affected by §17, is amended to read:

6 **12. Violations bureau.** Notwithstanding any other statute
or law, establish the violations bureau.

8
10 A. The violations bureau has jurisdiction over all civil
violations and traffic infractions committed in this State.
12 Unless otherwise ordered by a court, trial of a civil
violation or traffic infraction must be in the division in
14 which the alleged violation or infraction was committed.

16 B. The Chief Judge by order, which may from time to time be
amended, shall designate the amount of fines or forfeitures
18 imposed for civil violations and traffic infractions.

20 C. The Maine Rules of Civil Procedure applies in all civil
violation and traffic infraction proceedings.

22 D. The clerk of each division has the authority to accept
24 pleadings and fines and civil forfeitures on behalf of the
violations bureau. The clerk may accept payment of civil
forfeitures and fines by the use of a credit card;

26 **Sec. 2. 4 MRSA §164, sub-§15**, as amended by PL 1995, c. 462,
28 Pt. A, §4, is further amended to read:

30 **15. Fisheries and wildlife bureau.** Establish in each
32 division a fisheries and wildlife bureau. The Chief Judge shall
appoint a clerk of the District Court in each division as
34 violations clerk for the fisheries and wildlife bureau in that
division.

36 The violations clerk shall accept written appearances, waivers of
38 trial, pleas of guilty and payments of fines and costs in
criminal fisheries and wildlife offense cases, subject to the
40 limitations prescribed in this subsection. The violations clerk
serves under the direction and control of the judge of the court
42 for which the violations clerk is appointed. Civil fisheries and
wildlife offense cases are within the jurisdiction of the
violations bureau established under subsection 12.

44 A. A fisheries and wildlife offense means any violation of
46 any provision of Title 12, ~~Part 10~~ chapters 701 to 721; any
48 provision of law enumerated in Title 12, section 7053; or
any rule adopted by the Commissioner of Inland Fisheries and
50 Wildlife pursuant to these provisions.

2 B. The Chief Judge shall by order, which may from time to
time be amended, suspended or repealed, designate the
4 fisheries and wildlife offenses within the authority of the
violations clerk, except that such offenses may not include
6 any offense for which a mandatory minimum term of
imprisonment is provided by law. The court shall establish
8 schedules, within the limits prescribed by law, of the
amount of fines to be imposed for such offenses. The order
of the court establishing the schedules must be prominently
10 posted in the place where the fines are paid. Fines and
costs must be paid to, receipted by and accounted for by the
12 violations clerk in accordance with these provisions.

14 C. Any person charged with any criminal fisheries and
wildlife offense within the authority of the violations
16 clerk may file an appearance in person or by mail before the
violations clerk and enter a plea admitting the infraction
18 offense charged and waiver of trial and pay the fine
established for the infraction offense charged and costs.
20 Any person entering a plea admitting the infraction offense
charged must be informed of that person's rights, including
22 the right to stand trial, that that person's signature to a
plea admitting the infraction offense charged will have the
24 same effect as a judgment of the court and that the record
of adjudication will be sent to the Commissioner of Inland
26 Fisheries and Wildlife.

28 D. Any person who has been found guilty of or who has
signed a plea of guilty to, or who has been found to have
30 committed or who has signed a plea admitting or admitting
with an explanation, one or more previous fisheries and
32 wildlife offenses subject to this subsection or subsection
12 within a 12-month period may not appear before the
34 violations clerk unless the court, by order, permits that
appearance. Each waiver of hearing filed under this
36 subsection must recite on the oath or affirmation of the
offender whether or not the offender has been previously
38 found guilty of, or to have committed, or has previously
signed a plea of guilty to, admitting or admitting with an
40 explanation to, one or more fisheries and wildlife offenses
within a 12-month period. Any person swearing falsely to
42 such a statement, upon conviction, is subject to a fine of
not more than \$50.

44 E. The Chief Judge, following notification to the Chief
46 Justice of the Supreme Judicial Court or the Chief Justice's
delegate, may authorize forms and procedures the Chief Judge
48 considers appropriate to carry out this subsection;

2 **Sec. 3. 4 MRSA §164, sub-§17**, as amended by PL 1993, c. 680,
Pt. A, §6, is further amended to read:

4 **17. Marine resources bureau.** Establish in each division a
marine resources bureau. The Chief Judge shall appoint a clerk
6 of the District Court in each division as violations clerk for
the marine resources bureau in that division.

8
The violations clerk shall accept written appearances, waivers of
10 trial, pleas of guilty and payments of fines and costs in
criminal marine resources offense cases, subject to the
12 limitations prescribed in this subsection. The violations clerk
serves under the direction and control of the judge of the court
14 for which the violations clerk is appointed. Civil marine
resources offense cases are within the jurisdiction of the
16 violations bureau established under subsection 12.

18 A. A marine resources offense means any violation of any
provision of Title 12, chapters 601 to 627 and chapter 715,
20 or any rules adopted by the Commissioner of Marine Resources
pursuant to those chapters.

22 B. The Chief Judge shall by order, which may from time to
time be amended, suspended or repealed, designate the marine
24 resources offenses within the authority of the violations
clerk, except that the offenses may not include any offense
26 for which a mandatory minimum term of imprisonment is
provided by law. The court shall establish schedules,
28 within the limits prescribed by law, of the amount of fines
to be imposed for the offenses. The order of the court
30 establishing the schedules must be prominently posted in the
place where the fines are paid. Fines and costs must be
32 paid to, receipted by and accounted for by the violations
clerk in accordance with these provisions.

34 C. Any person charged with any criminal marine resources
offense within the authority of the violations clerk may
36 file an appearance in person or by mail before the
violations clerk. Any person may enter a plea admitting the
38 violation offense charged and waiver of trial and pay the
fine, and costs, established for the violation offense
40 charged. Any person entering a plea admitting the
infraction offense charged must be informed of that person's
42 rights, including the right to stand trial, that that
person's signature to a plea admitting the violation offense
44 charged will have the same effect as a judgment of the court
and that the record of adjudication will be sent to the
46 Commissioner of Marine Resources.
48

2 D. Any person who has been found guilty of or who has
signed a plea of guilty to, or who has been found to have
4 committed or who has signed a plea admitting or admitting
with an explanation, one or more previous marine resources
6 offenses subject to this subsection or subsection 12 within
a 12-month period may not appear before the violations clerk
8 unless the court, by order, permits that appearance. Each
waiver of hearing filed under this subsection must recite on
10 the oath or affirmation of the offender whether or not the
offender has been previously found guilty of or to have
12 committed or has previously signed a plea of guilty to,
admitting or admitting with an explanation to, one or more
14 marine resources offenses within a 12-month period. Any
person swearing falsely to such a statement is, upon
conviction, subject to a fine of not more than \$50.

16
18 E. The Chief Judge, following notification to the Chief
Justice of the Supreme Judicial Court or the Chief Justice's
20 delegate, may authorize such forms and procedures as the
Chief Judge considers appropriate to carry out this
subsection; and

22 **Sec. 4. 4 MRSA §164, sub-§18**, as enacted by PL 1991, c. 635,
24 is amended to read:

26 **18. Forest service bureau.** Establish in each division a
forest service bureau. The Chief Judge shall appoint the clerk
28 of the District Court in each division as violations clerk for
the forest service bureau.

30
32 The violations clerk shall accept written appearances, waivers of
trial, pleas of guilty and payments of fines and costs in forest
34 service offense cases, subject to the limitations prescribed in
this subsection. The violations clerk serves under the direction
and control of the judge of the court for which that clerk is
36 appointed. Civil forest service offense cases are within the
jurisdiction of the violations bureau established under
38 subsection 12.

40 A. For purposes of this subsection, a forest service
offense means any violation of Title 12, chapters 705, 715,
42 801, 805, 807 and 809 or any rules adopted by the Director
of the Maine Forest Service pursuant to those chapters.

44
46 B. The Chief Judge shall by order, which may from time to
time be amended, suspended or repealed, designate the
48 criminal forest service offenses within the authority of the
violations clerk, except that the offenses may not include
any offense for which a mandatory minimum term of
50 imprisonment is provided by law. The court shall establish

2 schedules, within the limits prescribed by law, of the
amount of fines to be imposed for the offenses. The order
4 of the court establishing the schedules must be prominently
posted in the place where the fines are paid. Fines and
6 costs must be paid to, receipted by and accounted for by the
violations clerk in accordance with these provisions.

8 C. A person charged with a forest service offense within
the authority of the violations clerk may file an appearance
10 in person or by mail before the violations clerk. A person
may enter a plea admitting the violation offense charged and
12 a waiver of trial and pay the fine and costs established for
the violation offense charged. A person entering a plea
14 admitting the violation offense charged must be informed of
the person's rights, including the right to stand trial,
16 that the person's signature to a plea admitting the
violation offense charged has the same effect as a judgment
18 of the court and that the record of adjudication will be
sent to the Director of the Maine Forest Service.

20 D. A person who, within a 12-month period, has been found
guilty of, has signed a plea of guilty to, has been found to
22 have committed or has signed a plea admitting, or admitting
with an explanation, one or more previous forest service
24 offenses subject to this subsection or subsection 12 may not
appear before the violations clerk unless the court, by
26 order, permits that appearance. Each waiver of hearing
filed under this subsection must recite on the oath or
28 affirmation of the offender whether the offender was
previously found guilty of or committed or previously signed
30 a plea of guilty to or signed a plea admitting, or admitting
with an explanation, one or more forest service offenses
32 within a 12-month period. A person swearing falsely to such
a statement is subject, upon conviction, to a fine of not
34 more than \$50.

36 E. The Chief Judge, following notification to the Chief
38 Justice of the Supreme Court or the Chief Justice's
delegate, may authorize forms and procedures as the Chief
40 Judge considers appropriate to carry out this subsection.

42 **Sec. 5. 12 MRSAs §6208**, as amended by PL 1991, c. 459, §1, is
further amended to read:

44 **§6208. Marine resources' citation form**

46 1. **Form.** The commissioner shall designate the Uniform
48 Summons and Complaint as the citation form to be used by the
Bureau of Marine Patrol, ~~except that the commissioner may permit~~
50 ~~the use of any citation forms approved by the Chief Judge of the~~

District Court before May 1, 1991 that are in current stock as of May 1, 1991 until these stocks are depleted.

2. Responsibility for issuance and disposition.
Responsibility for issuance and disposition is as follows.

A. ~~The commissioner is responsible for all marine resources' citation forms approved by the Chief Judge of the District Court prior to May 1, 1991.~~ The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued by the Bureau of Marine Patrol. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to individual law enforcement officers and the proper disposition of those books.

3. Illegal disposition; prohibited act. It is unlawful and official misconduct for any marine patrol officer or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in any applicable official policy or procedure of the Bureau of Marine Patrol.

4. When a lawful complaint. ~~If the citation provided for in this section or~~ a Uniform Summons and Complaint is duly sworn to as required by law and otherwise legally sufficient in respect to the form of a complaint and charging an offense, it may be filed in a court having jurisdiction and constitutes a lawful complaint for the purpose of the commencement of any criminal prosecution or civil violation proceeding. Every law enforcement officer issuing a Uniform Summons and Complaint charging the commission of a civil violation shall file the original of the form with the violations bureau, established in Title 4, section 164, subsection 12, within 5 days of the issuance of that form. When filed with the violations bureau, the Uniform Summons and Complaint is considered a lawful complaint for the purpose of commencement of a civil action.

5. When a lawful summons. ~~A citation as provided for in this section or~~ a Uniform Summons and Complaint, when served upon a person by a law enforcement officer, acts as a summons to appear in court or to otherwise respond in accordance with law on or before the date specified in the summons. Any person who fails to appear in court as directed by the summons or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or to respond in accordance with law, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or to respond resulted from just cause.

2 **6. Refusal to sign; prohibited act.** Any person who refuses
to sign a citation or Uniform Summons and Complaint after having
4 been ordered to do so by a law enforcement officer commits a
Class E crime.

6 **Sec. 6. 12 MRSA §7911**, as amended by PL 1991, c. 459, §2, is
8 further amended to read:

10 **§7911. Fish and wildlife citation form**

12 **1. Form.** The commissioner shall designate the Uniform
Summons and Complaint as the citation form to be used by the
14 warden service, ~~except that the commissioner may permit the use~~
~~of any citation forms approved by the Chief Judge of the District~~
16 ~~Court before May 1, 1991 that are in current stock as of May 1,~~
~~1991 until these stocks are depleted.~~

18 **2. Responsibility for issuance and disposition.**
20 Responsibility for issuance and disposition is as follows.

22 A. ~~The commissioner is responsible for all fish and~~
~~wildlife citation forms approved by the Chief Judge of the~~
24 ~~District Court prior to May 1, 1991.~~ The Department of
Public Safety is responsible for all Uniform Summons and
26 Complaints issued to the warden service. The commissioner
or the commissioner's designee is responsible for the
28 further issuance of Uniform Summons and Complaint books to
individual wardens and for the proper disposition of those
30 books.

32 **3. Illegal disposition; prohibited act.** It is unlawful and
official misconduct for any warden or other public employee to
34 dispose of an official citation form or Uniform Summons and
Complaint, except in accordance with law and as provided for in
36 any applicable official policy or procedure of the Warden Service
Division.

38 **4. When a lawful complaint.** ~~If the citation provided for~~
40 ~~in this section or~~ a Uniform Summons and Complaint is duly sworn
to as required by law and otherwise legally sufficient in respect
42 to the form of a complaint and charging an offense, it may be
filed in a court having jurisdiction and constitutes a lawful
44 complaint for the purpose of the commencement of any criminal
prosecution or civil violation proceeding. Every law enforcement
46 officer issuing a Uniform Summons and Complaint charging the
commission of a civil violation shall file the original of the
48 form with the violations bureau, established in Title 4, section
164, subsection 12, within 5 days of the issuance of that form.
50 When filed with the violations bureau, the Uniform Summons and

2 Complaint is considered a lawful complaint for the purpose of
3 commencement of a civil action.

4 **5. When a lawful summons.** A ~~citation-as-provided-for-in~~
5 ~~this-section-or-a~~ Uniform Summons and Complaint, when served upon
6 a person by a law enforcement officer, acts as a summons to
7 appear in court or to otherwise respond in accordance with law on
8 or before the date specified in the summons. Any person who
9 fails to appear in court as directed by the summons or to
10 otherwise respond in accordance with law on or before the date
11 specified in the summons commits a Class E crime. Upon that
12 person's failure to appear or respond in accordance with law, the
13 court may issue a warrant of arrest. It is an affirmative
14 defense to prosecution under this subsection that the failure to
15 appear or respond resulted from just cause.

16 **6. Refusal to sign; prohibited act.** Any person who refuses
17 to sign a ~~citation-or~~ Uniform Summons and Complaint after having
18 been ordered to do so by a law enforcement officer commits a
19 Class E crime.

20 **Sec. 7. 12 MRSA §8907**, as repealed and replaced by PL 1991,
21 c. 459, §3, is amended to read:

22 **§8907. Forest service citation form**

23 **1. Form.** The Director of the Bureau of Forestry, referred
24 to in this section as the "director," shall designate the Uniform
25 Summons and Complaint as the citation form to be used by the
26 Maine Forest Service, ~~except that the director may permit the use~~
27 ~~of any citation forms approved by the Chief Judge of the District~~
28 ~~Court before May 1, 1991 that are in current stock as of May 1,~~
29 ~~1991 until those stocks are depleted.~~

30 **2. Citation books.** ~~The director is responsible for any~~
31 ~~forms approved by the Chief Judge of the District Court prior to~~
32 ~~May 1, 1991. The director may provide citation books to other~~
33 ~~law enforcement agencies and officers for their use in the~~
34 ~~enforcement of chapters 807 and 809. The director may not~~
35 ~~require other agencies to use this form.~~ The Department of
36 Public Safety is responsible for all Uniform Summons and
37 Complaints issued to the Maine Forest Service. The director or
38 the director's designee is responsible for the further issuance
39 of Uniform Summons and Complaint books to individual law
40 enforcement officers and for the proper disposition of those
41 books.

42 **3. Disposition; prohibited act.** It is unlawful and
43 official misconduct for any forest ranger or other public
44 employee to dispose of an official citation form or Uniform
45

2 Summons and Complaint except in accordance with law and as
provided for in an applicable official policy or procedure of the
Maine Forest Service.

4
6 **4. Lawful complaint.** A Maine Forest Service citation form
or a Uniform Summons and Complaint may be filed in a court having
jurisdiction and constitutes a lawful complaint to commence any
8 criminal prosecution or civil violation proceeding if the form or
Uniform Summons and Complaint is duly sworn to as required by law
10 and otherwise legally sufficient in respect to the form of a
complaint and charging an offense. Every law enforcement officer
12 issuing a Uniform Summons and Complaint charging the commission
14 of a civil violation shall file the original of the form with the
violations bureau, established in Title 4, section 164,
16 subsection 12, within 5 days of the issuance of that form. When
filed with the violations bureau, the Uniform Summons and
18 Complaint is considered a lawful complaint for the purpose of
commencement of a civil action.

20 **5. Lawful summons.** A ~~Maine-Forest-Service-citation-or-a~~
Uniform Summons and Complaint, when served upon a person by a law
22 enforcement officer, functions as a summons to appear in court.
Any person who fails to appear in court after having been served
24 with a summons commits a Class E crime. Upon that person's
failure to appear, the court may issue a warrant of arrest. It
26 is an affirmative defense to prosecution under this subsection
that the failure to appear resulted from just cause.

28
30 **6. Refusal to sign; prohibited act.** Any person who refuses
to sign a ~~citation-or~~ a Uniform Summons and Complaint after
32 having been ordered to do so by a law enforcement officer commits
a Class E crime.

34 **Sec. 8. 17-A MRSA §17, sub-§1,** as amended by PL 1995, c. 65,
Pt. A, §56 and affected by §153 and Pt. C, §15, is further
36 amended to read:

38 **1.** A law enforcement officer who has probable cause to
believe that a civil violation has been committed by a person
40 must issue or have delivered a written summons to that person
directing the person to appear in the District Court to answer
42 the allegation that the person has committed the violation. The
summons must include the signature of the officer, a brief
44 description of the alleged violation, the time and place of the
alleged violation and the time, place and date the person is to
46 appear in court. The form used must be the Violation Summons and
Complaint, as prescribed in Title 29-A, section 2601, for traffic
48 infractions and the Uniform Summons and Complaint for other civil
violations, ~~except that, if the agency by whom the officer is~~
50 ~~employed has on May 17, 1991 current stocks of forms that the~~

2 agency is authorized to use, the agency may permit officers to
3 use those forms in place of the Uniform Summons and Complaint
4 until those stocks are depleted. A person to whom a summons is
5 issued or delivered must give a written promise to appear. If
6 the person refuses to sign the summons after having been ordered
7 to do so by a law enforcement officer, the person commits a Class
8 E crime. ~~The law enforcement officer may not order a person to
9 sign the summons for a civil violation unless the civil violation
10 is an offense defined in Title 12, Title 23, section 1980, Title
11 28-A, section 2052, or Title 29-A.~~

12 Every law enforcement officer issuing either a Violation Summons
13 and Complaint charging the commission of a traffic infraction or
14 a Uniform Summons and Complaint charging the commission of any
15 other civil violation shall file the original of the Violation
16 Summons and Complaint summons and complaint with the violations
17 bureau, established in Title 4, section 164, subsection 12,
18 within 5 days of the issuance of that Violation Summons and
19 Complaint. ~~Every law enforcement officer issuing a Uniform
20 Summons and Complaint that charges the commission of an offense
21 shall file the original of the Uniform Summons and Complaint with
22 the District Court having jurisdiction over the offense or in
23 such other location as instructed by the Chief Judge of the
24 District Court without undue delay and, in any event, within 5
25 days after the issuance of the Uniform Summons and Complaint.~~

26 **Sec. 9. Effective date.** This Act takes effect July 1, 1998.
27

30 SUMMARY

31 This bill expands the jurisdiction of the violations bureau
32 of the District Court to include all civil violations, beginning
33 July 1, 1998.
34