

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1604

S.P. 520

In Senate, March 20, 1997

An Act to Revise Certain Provisions of Fish and Wildlife Laws.

(EMERGENCY)

Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative PAUL of Sanford and
Senator HALL of Piscataquis, Representatives: CHICK of Lebanon, DUNLAP of Old Town.

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

28 **8. Firearm.** "Firearm" includes any instrument used or
designed to be used in the propulsion of pellets, shot, shells,
30 or bullets by action of gunpowder, compressed air or gas exploded
or released within it.

32 A. "Autoloading firearm" means a firearm that reloads
34 itself after each shot and requires that the trigger be
pulled for each shot.

36 B. "Automatic firearm" means a firearm that will continue
38 to fire as long as the trigger is held back.

40 **Sec. 2. 12 MRSA §7001, sub-§10-A** is enacted to read:

42 **10-A. Fishway.** "Fishway" means an artificial device,
including fish elevators, fish locks and fish ladders, used to
44 enable fish to migrate upstream past dams, waterfalls, rapids or
other obstacles.

46 **Sec. 3. 12 MRSA §7001, sub-§15,** as enacted by PL 1979, c. 420,
48 §1, is amended to read:

15. **Hunt.** To "hunt" means to hunt for, pursue, molest,
2 shoot, catch, take, kill, wound or destroy wild animals and, wild
4 animal hybrids, wild birds, wild bird hybrids and domestic
animals.

6 **Sec. 4. 12 MRSA §7001, sub-§15-A** is enacted to read:

8 **15-A. Hunting equipment.** "Hunting equipment" means the
following:

10 A. Firearms of any type, including muzzle-loading firearms;
12 or

14 B. Archery equipment, including, but not limited to,
recurved bows, compound bows and cross bows.

16 **Sec. 5. 12 MRSA §7001, sub-§39-A,** as enacted by PL 1995, c.
18 536, Pt. B, §1, is amended to read:

20 **39-A. Weir.** "Weir" means a structure device placed in the
22 inland waters of a river, stream or brook that is designed to
entrap fish and that exceeds more than 1/3 of the wetted width of
the channel.

24 **Sec. 6. 12 MRSA §7035, sub-§4, ¶E** is enacted to read:

26 E. If a person knowingly gives out false information,
28 either verbal or written, to a person that leads to a search
30 or rescue effort for a person or the attempted recovery of a
body, the commissioner may recover costs expended from the
person who gave out the false information.

32 **Sec. 7. 12 MRSA §7035, sub-§14,** as enacted by PL 1993, c. 574,
34 §6, is amended to read:

36 **14. Sale of advertising in abstracts of fish and wildlife**
38 **laws.** The commissioner may sell advertising, except advertising
of a political nature, in abstracts of laws published by the
40 department pursuant to section 7034, subsection 5. All revenue
derived from the sale of advertising in these publications must
42 be used to ~~support the landowner relations program described in~~
~~subsection 13~~ offset the cost of printing these publications.

44 **Sec. 8. 12 MRSA §7053, sub-§5** is enacted to read:

46 **5. Assistance to federal agencies.** The Bureau of Warden
48 Service may provide assistance to federal agencies. The director
of the Bureau of Warden Service may charge the various federal
agencies for these services. Revenues received from these

2 agencies must be allocated for the purpose of funding the cost of
3 providing the services.

4 **Sec. 9. 12 MRSA §7056, sub-§2**, as enacted by PL 1979, c. 420,
5 §1 and amended by PL 1995, c. 502, Pt. E, §30, is further amended
6 to read:

8 **2. Snowmobile laws.** All ~~foresters, wardens~~ law enforcement
9 personnel of the State, including those of the Bureau of
10 Forestry, and supervisors and rangers of the State Bureau of
11 Parks and Lands and Allagash Wilderness Waterway shall have the
12 same powers and duties as game wardens to enforce chapter 715,
13 subchapter II.

14 **Sec. 10. 12 MRSA §7056, sub-§3**, as amended by PL 1979, c. 723,
15 §2, is further amended to read:

16 **3. Airmobile laws.** All ~~foresters and rangers~~ shall law
17 enforcement personnel of the State, including those of the Bureau
18 of Forestry, have the same powers and duties as game wardens to
19 enforce chapter 715, subchapter I, as it applies to airmobiles.

20 **Sec. 11. 12 MRSA §7076, sub-§2**, as enacted by PL 1979, c. 420,
21 §1, is amended to read:

22 **2. Blind residents.** A complimentary license to fish shall
23 must be issued to any resident of Maine who is 16 years of age or
24 older and blind and applies for it to the commissioner. This
25 complimentary license remains valid for the life of the license
26 holder, if the license holder continues to satisfy the residency
27 requirements in section 7001, subsection 32 and the license is
28 not revoked or suspended. The application shall must be
29 accompanied by certified evidence that the applicant is
30 permanently blind. For the purpose of this subsection, "blind
31 person" means a person whose visual acuity for distant vision is
32 20/200 if the widest diameter of field of vision subtends an
33 angle no greater than 20 degrees.

34 **Sec. 12. 12 MRSA §7076, sub-§3, ¶A**, as amended by PL 1989, c.
35 493, §10, is further amended to read:

36 **A.** The commissioner may issue, upon application,
37 complimentary resident hunting and fishing licenses to a
38 resident of Maine who is suffering from the loss of, or the
39 permanent loss of the use of, both lower extremities. Any
40 license issued under this paragraph shall ~~remain~~ remains
41 valid through December 31st of the 2nd complete calendar
42 year following the year of issuance for the life of the
43 license holder, if the license holder continues to satisfy

2 the residency requirements in section 7001, subsection 32
3 and the license is not revoked or suspended.

4 **Sec. 13. 12 MRSA §7076, sub-§4**, as amended by PL 1993, c. 237,
5 §1, is further amended to read:

6 **4. Resident disabled war veterans.** A complimentary license
7 to hunt or fish, or a combination hunting and fishing license,
8 and, if requested, a pheasant hunting permit and a muzzle-loading
9 hunting license under section 7107-A must be issued to any
10 resident of Maine who:

11 A. Is a veteran, as defined in Title 37-B, section 505,
12 subsection 1, paragraph A, subparagraph (5);

13 B. Has a service-connected disability evaluated at 70% or
14 more as a result of honorable military service;

15 C. Has served in a combat zone during any armed conflict
16 in which participants were exposed to war-risk hazards as
17 defined in 42 United States Code, Section 1711 (b); and

18 D. Applies for that license to the commissioner.

19 This application must be accompanied by ~~a photo-copy-of-the~~
20 ~~applicant's-final-DD-form-214-or-other~~ evidence satisfactory to
21 the commissioner that the applicant meets the requirements of
22 this subsection. Each license issued under this subsection
23 remains valid ~~through-December-31st-of-the-2nd-complete-calendar~~
24 ~~year-following-the-year-of-issuance~~ for the life of the license
25 holder, if the license holder continues to satisfy the residency
26 requirements in section 7001, subsection 32 and the license is
27 not revoked or suspended.

28 **Sec. 14. 12 MRSA §7076, sub-§4-A**, as amended by PL 1991, c.
29 443, §7, is further amended to read:

30 **4-A. Resident disabled veterans.** A complimentary license
31 to hunt or fish or a combination hunting and fishing license and
32 a muzzle-loading hunting license under section 7107-A may be
33 issued to any resident of the State who:

34 A. Is a veteran, as defined in Title 37-B, section 505,
35 subsection 1, paragraph A, subparagraph (5);

36 B. Has a service-connected disability evaluated at 100%; and

37 C. Applies for that license to the commissioner.

2 This application must be accompanied by evidence satisfactory to
3 the commissioner that the applicant meets the requirements of
4 this subsection. Each license issued under this subsection
5 remains valid through ~~December 31st of the 2nd complete calendar~~
6 year following the year of issuance for the life of the license
7 holder, if the license holder continues to satisfy the residency
8 requirements in section 7001, subsection 32 and the license is
not revoked or suspended.

10 **Sec. 15. 12 MRSA §7076, sub-§13**, as enacted by PL 1989, c.
11 199, is amended to read:

12 **13. Mentally retarded person.** A 3-year complimentary
13 license to fish shall must be issued to any mentally retarded
14 person, as defined in Title 20-A, section 7001, subsection 3,
15 upon application to the commissioner. The application must be
16 accompanied by certified evidence that the applicant meets the
17 defined condition. This complimentary license remains effective
18 for the life of the license holder, if the license is not revoked
19 or suspended.

22 **Sec. 16. 12 MRSA §7077-B, last ¶**, as enacted by PL 1995, c.
23 346, §12, is amended to read:

24 The commissioner may require a person whose license is
25 suspended for a violation of ~~section 7077 or 7077-A~~ any hunting,
26 trapping, fishing or guiding laws to successfully complete a
27 course on hunting outdoor ethics prior to reinstatement of any
28 suspended license. Outdoor ethics courses must be scheduled by
29 the Bureau of Warden Service and must be given when there is a
30 minimum of 10 applicants. This minimum may be waived by the
31 Bureau of Warden Service. The fee to attend an outdoor ethics
32 course is \$100, payable 10 working days prior to attendance. All
33 fees collected under this section must be dedicated to the Sport
34 Hunter Program established in section 7035, subsection 13,
35 paragraph B.

38 **Sec. 17. 12 MRSA §7101, sub-§5, ¶G**, as repealed and replaced
39 by PL 1993, c. 419, §5, is amended to read:

40 G. Nonresident junior hunting
41 license (10 years of age or
42 older and under 16) (~~Permits~~
43 ~~hunting of all species, except~~
44 ~~deer and bear, with~~
45 ~~firearms}) \$23 \$25 \$25 \$25~~

48 **Sec. 18. 12 MRSA §7101, sub-§5, ¶H-2**, as enacted by PL 1995, c.
49 667, Pt. A, §19, is repealed.

2 **Sec. 19. 12 MRSA §7107-A, sub-§4, ¶A**, as enacted by PL 1993,
c. 574, §13, is repealed.

4 **Sec. 20. 12 MRSA §7107-A, sub-§4, ¶B**, as amended by PL 1995,
c. 667, Pt. A, §21, is further amended to read:

6
8 B. The commissioner shall establish by rule the length of
the special muzzle-loading season. The commissioner may
10 establish seasons of different lengths in different regions
of the State. The season may extend for no more than 12
12 hunting days in any part of the State; ~~and.~~

14 **Sec. 21. 12 MRSA §7107-A, sub-§4, ¶C**, as enacted by PL 1993,
c. 574, §13, is repealed.

16 **Sec. 22. 12 MRSA §7171, sub-§4, ¶A**, as repealed and replaced
by PL 1985, c. 607, §§3 and 9, is amended to read:

18 A. The following restrictions apply to the selling of live
20 smelts and baitfish under the live bait retailer's license.

22 (1) If a person sells live smelts or baitfish from
more than one retail facility, he that person must
24 obtain a separate license for each place of business.

26 (2) The holder of a live bait retailer's license may
designate others to assist ~~him~~ in selling live smelts
28 and baitfish at ~~his~~ the license holder's business
facility.

30 (3) The holder of a live bait retailer's license, or
32 ~~his~~ a designee, may transport live smelts and baitfish.

34 (4) The holder of a live bait retailer's license may
possess more than the daily bag limit of smelts at any
36 time, providing that the smelts were acquired in a
lawful manner. As evidence of lawful possession, the
38 receipted invoice, bill of lading, bill of sale or
other satisfactory evidence ~~shall~~ must be presented
40 upon request to any agent of the commissioner.

42 (5) A person licensed to sell live fish as bait may
not possess at that person's place of business any
44 species of fish that may not legally be sold as bait.

46 (6) A person holding a live bait retailer's license
may obtain live smelts only from a person lawfully
48 licensed under this section to deal in live smelts.

2 **Sec. 23. 12 MRSA §7171, sub-§4, ¶B**, as amended by PL 1995, c.
667, Pt. A, §23, is further amended by enacting a new
subparagraph (10) to read:

4 (10) A person licensed to sell live fish as bait may
6 not possess at that person's place of business any
 species of fish that may not legally be sold as bait.

8 **Sec. 24. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1995, c.
10 455, §§14 and 15, is further amended by amending subparagraph (9)
to read:

12 (9) The holder of a smelt wholesaler's license who
14 attempts to take live smelt for resale using drop nets
from the inland waters of the State by fishing through
16 the ice must mark all holes made in the ice by that
person for that purpose. The holes must be marked
18 either by evergreen boughs placed around the hole or by
suspending at least one strand of fluorescent
20 biodegradable tape at least 3 feet above the ice around
the entire perimeter of the hole so that the tape is
22 visible from all sides.

24 **Sec. 25. 12 MRSA §7171, sub-§4, ¶C**, as amended by PL 1995, c.
455, §§14 and 15, is further amended by enacting new
26 subparagraphs (10), (11) and (12) to read:

28 (10) A person holding a smelt wholesaler's license may
30 obtain live smelts only from a person lawfully licensed
 under this section to deal in live smelts.

32 (11) A person holding a smelt wholesaler's license
34 must, at the time that person is engaged during the
winter months in the taking of smelts, have a number 14
36 fish grader in operable condition in that person's
immediate proximity during the taking of smelts and
38 must use that grader during the smelt harvesting
activity. The license holder must liberate immediately
40 all undersized smelts alive into the waters from which
they were taken. For the purpose of this subparagraph,
42 a number 14 grader is a grader having a maximum grate
size of 14/64 inches.

44 (12) A person licensed to sell live fish as bait may
46 not possess at that person's place of business any
 species of fish that may not legally be sold as bait.

48 **Sec. 26. 12 MRSA §7171, sub-§6**, as enacted by PL 1993, c. 574,
§16, is amended to read:

2 **6. Inspection of live smelts and baitfish.** A person
4 licensed under this section who possesses live smelts or baitfish
6 at a fixed place of business shall make these fish available for
8 inspection by a warden or state biologist during normal business
hours. A person licensed under this section who possesses live
smelts or baitfish at a location other than the licensee's fixed
place of business shall make these fish available for inspection
by a warden or state biologist at any time, upon request.

10 **Sec. 27. 12 MRSA §7201**, as amended by PL 1993, c. 419, §18,
12 is further amended to read:

14 **§7201. License to cultivate or sell commercially grown and
16 imported fish**

18 **1. Issuance.** The commissioner may issue a license to
20 cultivate and sell fish which that have been either commercially
22 grown within the State or imported from without the State.

24 **2. Fee.** The fee for a license to sell commercially grown or
26 imported fish is \$21 for 1993, \$23 for 1994, \$24 for 1995 and \$25
28 for 1996 and every year thereafter.

30 **3. Restrictions.**

32 **A.** Licenses shall must be kept constantly and publicly
34 posted in the office or place of business of the licensee.

36 **B.** Whenever any person sells these fish in more than one
38 wholesale or retail outlet, each outlet shall must be
licensed.

40 **C.** All fish sold under this section shall must be
42 identified with the name and address of the source of the
fish in a manner approved by the commissioner. ~~Ne~~ A person
may not offer for sale any commercially grown or imported
fish that is not so identified.

44 **D.** All licensees shall keep invoices of fish sold and
46 purchased under this section so that the invoices are
48 available at all times for inspection by the commissioner or
his the commissioner's duly authorized agent.

Sec. 28. 12 MRSA §7205, as amended by PL 1993, c. 419, §19,
is further amended to read:

§7205. License to harvest fish in private ponds

2 1. **Issuance.** The commissioner may issue a license to
commercially--cultivate--or harvest fish in private ponds
permitting the following:

4
6 A. ~~A riparian proprietor may construct, within the limits
of his own property, a dam across the waters of a
navigable brook, stream or river for the purpose of
8 creating a private pond for cultivating or harvesting fish,
and~~

10
12 B. The riparian proprietor of such a private pond, or his
the proprietor's designee, may fish for, possess, sell,
14 transport or have transported fish cultivated harvested in a
private pond as set forth in this section. These fish may
be taken regardless of existing regulations rules pertaining
16 to manner, time, season, bag limit, length limit or fishing
license requirements.

18
20 2. **Fee.** The fee for a license to commercially cultivate or
harvest fish in private ponds is \$21 for 1993, \$23 for 1994, \$24
for 1995 and \$25 for 1996 and every year thereafter.

22
24 3. **Restrictions.** The following restrictions govern the
harvesting of fish in private ponds.

26 A. ~~A riparian proprietor shall file a declaration of intent
with the commissioner before constructing a dam as permitted
28 in subsection 1, paragraph A. Existing private ponds are
exempt from the requirement of filing a declaration of
30 intent.~~

32 B. ~~The commissioner, after investigating, may require a
riparian proprietor of a private pond created under
34 subsection 1, paragraph A to furnish suitable passage for
fish frequenting these waters.~~

36
38 C. All fish taken from a private pond, or a portion thereof
of a private pond, used for commercial purposes shall must
40 be killed and, while transported or possessed at a place of
storage, be tagged as provided by rules established by the
42 commissioner.

44 **Sec. 29. 12 MRSA §7206** is enacted to read:

46 **§7206. Permit to transport live fish for breeding and advertising**

48 The commissioner may issue a permit to anyone, permitting
that person to take and transport within the limits of the State,
fish taken in the State for breeding or advertising purposes.

50

2 **Sec. 30. 12 MRSA §7241**, as amended by PL 1993, c. 438, §12,
is further amended to read:

4 **§7241. Permit to transport wildlife for breeding and advertising**

6 **1. Issuance.** The commissioner may issue a permit to anyone,
8 permitting that person to take and transport within the limits of
the State, ~~fish-and~~ wildlife taken in the State for ~~propagating~~
breeding or advertising purposes.

10 **Sec. 31. 12 MRSA §7313, sub-§1**, as enacted by PL 1987, c. 742,
12 §7, is amended to read:

14 **1. Requirement.** A person who has not ~~previously~~ held a
16 guide license or, effective January 1, 1998, who has not renewed
a guide license for 5 consecutive years, must pass an
18 examination. A guide carrying passengers for hire must also be
certified in the area of watercraft safety.

20 **Sec. 32. 12 MRSA §7313, sub-§6**, as enacted by PL 1995, c. 667,
22 Pt. A, §25, is amended to read:

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

30 **Sec. 33. 12 MRSA §7354, sub-§2, ¶¶C and D**, as amended by PL
1993, c. 438, §14, are further amended to read:

32 C. Sell lawfully acquired specimens of fish and wildlife
34 that have been preserved through the art of taxidermy if
that sale does not violate regulations of the United States
36 Federal Migratory Bird Treaty Act or other federal
regulations; and

38 D. Designate others to aid or assist in conducting business
40 at the licensee's place of business; and

42 **Sec. 34. 12 MRSA §7354, sub-§2, ¶F** is enacted to read:

44 F. Buy, sell or barter raw, untanned hides or heads of wild
animals.

46 **Sec. 35. 12 MRSA §7366, sub-§3**, as amended by PL 1995, c. 667,
48 Pt. B, §2, is further amended to read:

50 **3. Examination.** All initial applicants for a whitewater
guide's license are required to pass an examination developed and

administered by the commissioner. The examination fee is \$50-~~for~~
2 ~~the first examination and \$10 for subsequent examinations~~ \$100.
All ~~examination fees are nonrefundable and must be applied toward~~
4 ~~the license fees of successful applicants.~~ The applicant may
6 retake the examination once without paying an additional fee.
The fee is nonrefundable.

8 **Sec. 36. 12 MRSA §7366, sub-§5**, as enacted by PL 1985, c. 29,
§3, is repealed.

10 **Sec. 37. 12 MRSA §7377, sub-§4**, as amended by PL 1979, c. 543,
12 §34, is further amended to read:

14 **4. Fishing for alewives, eel, suckers and yellow perch.**
Notwithstanding section 7371 as it applies to section 7153:

16 A. ~~Any person may fish for cusk, eel, hornpout, suckers and~~
18 ~~yellow perch by use of a single hook and line for~~
consumption ~~by himself or members of his family without a~~
20 ~~permit;~~

22 B. Any person may fish for alewives by use of a dip net or
single hook and line for consumption by himself that person
24 or members of his that person's family, provided that the
person takes or possesses no more than one bushel in any day
26 and provided also that the alewives may not be taken from
any waters in which a municipality or other person has been
28 granted exclusive rights under section 6131;

30 C. A person licensed or otherwise entitled to fish in Maine
waters may take suckers in all rivers, brooks and streams
32 that are open to fishing between April 1st and June 30th of
each calendar year by the use of a hand spear, bow and arrow
34 or by snagging. If suckers are taken by bow and arrow, the
arrow must have a barbed or prong point and must be attached
36 to the bow with a line; and

38 D. Any person may fish for or possess alewives from inland
waters if he that person has been granted fishing rights
40 under section 6131; and

42 E. Any person may take suckers for use as bait for fishing
in inland waters as provided in section 7171 without a
44 permit under section 7153.

46 **Sec. 38. 12 MRSA §7401, sub-§1**, as enacted by PL 1979, c. 420,
§1, is amended to read:

48 **1. General.** Except as otherwise provided in chapters 701 to
50 721 and except as the commissioner may establish by rule which is

not inconsistent with this chapter, there shall-be is a perpetual closed season on hunting any wild animal ~~or, wild animal hybrid~~ wild bird, wild bird hybrid or domestic animal.

Sec. 39. 12 MRSA §7406, sub-§10, as enacted by PL 1979, c. 420, §1, is amended to read:

10. Illegal possession. A person is guilty of illegal possession of wild animals or wild birds if he that person possesses any wild animal or wild bird taken in violation of ~~subsections~~ subsection 4, 5, 6, 7, 8 or, 9, 13, 16 or 17 or Title 17-A, section 402, except as otherwise provided in chapters 701 to 721.

Sec. 40. 12 MRSA §7406, sub-§12, as repealed and replaced by PL 1991, c. 824, Pt. A, §21, is amended to read:

12. Hunting without hunter orange clothing. A person is guilty of hunting without hunter orange clothing if that person hunts ~~with firearms~~ during the any open firearm season on deer and fails to wear 2 articles of solid-colored hunter orange clothing that are in good, serviceable condition and visible from all sides, except that persons hunting waterfowl from a boat or blind or in conjunction with waterfowl decoys need not wear hunter orange clothing. One article of clothing must be a hat. The other article of clothing must cover a major portion of the torso, such as a jacket, vest, coat or poncho. The presence of a decal on an article of clothing that is otherwise solid-colored hunter orange does not disqualify that article of clothing from satisfying the requirements of this subsection.

Sec. 41. 12 MRSA §7406, sub-§15, ¶C, as enacted by PL 1979, c. 420, §1, is amended to read:

C. Fails to give notice of the event by the quickest means to a ~~state-police-officer, sheriff,~~ game warden or other law enforcement officer nearest the place where the event occurred.

Sec. 42. 12 MRSA §7406, sub-§16, ¶E, as enacted by PL 1995, c. 667, Pt. A, §30, is amended 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;
and

2 (2) The tree ladder or stand is plainly labeled with a
4 2-inch by 4-inch tag identifying the name and address
6 of the person or persons authorized by the landowner to
8 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.~~

10 **Sec. 43. 12 MRSA §7451, sub-§3, ¶A**, as amended by PL 1995, c.
12 667, Pt. A, §32, is further amended to read:

14 A. Bait may not be used to hunt or trap black bear, unless:

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

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

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

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

32 (5) The bait is placed not more than 30 days before
the opening day of the season and not after October
34 31st;

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

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

42 **Sec. 44. 12 MRSA §7452, sub-§6**, as enacted by PL 1979, c. 420,
44 §1, is amended to read:

46 **6. Failure to register bear.** A person is guilty of failure
to register a bear if he that person:

48 A. Possesses a bear which that has not been legally
50 registered as provided in section 7451 except in accordance
with chapter 709, subchapter IV;

2 B. Kills a bear and fails to present it for registration in
his that person's name at the first open bear registration
4 station on the route taken by ~~him~~ that person; or

6 C. Keeps an unregistered bear at his that person's home, or
at any place of storage except a bear registration station,
8 more than 18 hours during open season in the months of
August, September and October and 12 hours during the month
10 of November.

12 **Sec. 45. 12 MRSA §7454**, as amended by PL 1991, c. 443, §25,
is repealed.

14 **Sec. 46. 12 MRSA §7457, sub-§1, ¶1**, as enacted by PL 1993, c.
16 246, §1, is amended to read:

18 I. The commissioner, by rule, may create special hunting
seasons for the taking of deer in any part of the State to
20 maintain deer populations in balance with available habitat,
subject to the following.

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

26 (2) The determination of these areas must be made and
28 published prior to August 1st of each year.

30 (3) The commissioner may implement a permit system and
32 establish fees to regulate hunter participation in a
special season and the number, sex and age of deer
harvested.

34 (4) Special hunts must take place between the close of
36 the special muzzle-loading season and January 31st.

38 (5) The commissioner may establish limits on the
number of deer taken or possessed by persons during any
40 special season. Limits established by the commissioner
under this subparagraph are exceptions to the limits
42 imposed under section 7458, subsections 1 and 2.

44 (6) The commissioner may specify types of weapons to
be used during a special season.

46 **Sec. 47. 12 MRSA §7468, sub-§12**, as enacted by PL 1985, c. 95,
48 §1, is amended to read:

2 **12. Authority of the commissioner.** The commissioner may
3 issue applications for wild turkey hunting permits, set the
4 number of permits to be issued, adopt rules giving special
5 consideration to landowners who keep their lands open to hunting
6 by the public, establish wild turkey hunting zones, issue permits
7 and make all rules ~~which--he~~ that the commissioner considers
8 necessary for the protection of the wild turkey resource.

9
10 **Sec. 48. 12 MRSA §7605,** as enacted by PL 1979, c. 420, §1, is
11 repealed.

12 **Sec. 49. 12 MRSA §7606-B,** as enacted by PL 1995, c. 455, §37,
13 is amended to read:

14 **§7606-B. Failure to check baitfish traps**

15
16 A person is guilty of failure to check a baitfish trap if
17 that person, while trapping for baitfish in the inland waters
18 with the use of a baitfish trap as defined in section 7001,
19 subsection 1-B, fails to check the baitfish trap or cause the
20 same to be checked at least once in every 3 7 calendar days.

21
22 **Sec. 50. 12 MRSA §7608,** as amended by PL 1987, c. 696, §17,
23 is further amended to read:

24
25 **§7608. Fishing with illegal implements or devices**

26
27 A person is guilty of fishing with illegal implements or
28 devices if he that person uses any fish spawn, grapnel, spear,
29 spear gun, trawl, weir, gaff, seine, gill net, trap or set lines
30 for fishing or if that person uses any electronic or
31 battery-powered devices for luring or attracting fish, except
32 that a person may take suckers, eels, ~~hornpout,~~ alewives, and
33 yellow perch ~~and-eusk~~ in accordance with section 7153 and except
34 as otherwise provided.

35
36 **Sec. 51. 12 MRSA §7614,** as enacted by PL 1979, c. 420, §1, is
37 repealed.

38
39 **Sec. 52. 12 MRSA §7627,** as amended by PL 1985, c. 304, §18,
40 is further amended to read:

41 **§7627. Leaving an ice shack**

42
43 A person is guilty of leaving an ice ~~fishing~~ shack if he
44 that person owns any shack or temporary structure used for ice
45 fishing and he that person leaves or allows the shack or
46 structure to remain on the ice of any inland waters more than 3
47 days after the waters on which the shack or structure is located
48 are closed to ice fishing.
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Sec. 53. 12 MRSA §7627-C is enacted to read:

§7627-C. Removal of ice shacks prior to the close of season

A person is guilty of leaving an ice shack if that person owns any shack or temporary structure and that person leaves or allows the shack to remain on the ice of any inland waters in the counties of Androscoggin, Cumberland, Hancock, Kennebec, Lincoln, Oxford, Sagadahoc, Waldo or York after March 15th or upon notice of an agent of the commissioner. Border waters of these counties are governed by section 7627.

Sec. 54. 12 MRSA §7630, sub-§1, ¶A, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 55. 12 MRSA §7771, sub-§3, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 56. 12 MRSA §7793, sub-§1, as enacted by PL 1985, c. 579, §§2 and 7, is amended to read:

1. Register watercraft. The commissioner shall annually register watercraft and issue certificates, licenses and permits as provided in this subchapter. The commissioner shall charge a fee of \$1 for each registration issued by department employees.

Sec. 57. 12 MRSA §7824, sub-§1, as amended by PL 1995, c. 467, §1, is further amended to read:

1. Application and issuance. The commissioner or the commissioner's designee may register and assign a registration number to all snowmobiles upon application and payment of a registration fee by the owner. The commissioner shall charge a fee of \$1 for each registration issued by department employees.

Sec. 58. 12 MRSA §7827, sub-§10, as enacted by PL 1979, c. 420, §1, is amended to read:

10. Operating a snowmobile to endanger. A person is guilty of operating a snowmobile to endanger if he that person operates any snowmobile so as to endanger any person or property as follows.

A. A person may not operate a snowmobile on the statewide snowmobile trail system or a public right-of-way that is open to snowmobiling except at a reasonable and prudent speed for the existing conditions, having regard for the actual and potential hazards that may exist. Speed must be controlled at all times as necessary to avoid colliding with

2 any person, vehicle, snowmobile or other object on or
3 adjacent to the snowmobile trail.

4 B. A snowmobile must be operated at a reduced speed when
5 approaching and crossing an intersection or railway grade
6 crossing, when approaching and taking a curve, when
7 approaching a hill crest, when traveling upon any narrow or
8 winding trail and when a special hazard exists with respect
9 to pedestrians, skiers or other traffic by reason of weather
10 or trail conditions.

12 **Sec. 59. 12 MRSA §7854, sub-§1**, as amended by PL 1989, c. 493,
13 §61, is further amended to read:

14 **1. Application and issuance.** The commissioner, or an agent
15 designated by the commissioner, may register and assign a
16 registration number to any ATV upon application and payment of an
17 annual fee by the owner. The commissioner shall charge a fee of
18 \$1 in addition to the annual fee for each registration issued by
19 an employee of the department. The registration number shall
20 must be clearly displayed on the front and rear of the vehicle.
21 A registration shall ~~be~~ is valid for one year commencing July 1st
22 of each year.

24 **Sec. 60. 12 MRSA §7857, sub-§13**, as repealed and replaced by
25 PL 1989, c. 493, §67, is amended to read:

28 **13. Unlawfully operating ATV while under age.** A person is
29 guilty of unlawfully operating an ATV while under age, if:

30 A. That person is under the age of 10 years;

32 B. That person is under the age of ~~15~~ 16 years and operates
33 an ATV across any public way maintained for travel; or

34 C. That person is under ~~15~~ 16 years of age and operates an
35 ATV while unaccompanied by an adult.

36 Notwithstanding this subsection, persons over the age of ~~12~~ 10
37 years, who have successfully completed a training course approved
38 by the department pursuant to section 7853, may cross public ways
39 as permitted under subsection 24, paragraph D, subparagraph (1),
40 provided that they are accompanied by an adult.

41 A person is not guilty of unlawfully operating an ATV while under
42 age if that person is operating on land ~~which~~ is owned by the
43 parent or guardian of the operator.

44 **Sec. 61. 12 MRSA §7857, sub-§14**, as amended by PL 1985, c.
45 762, §15, is further amended to read:

2 **14. Permitting an unaccompanied child to operate an ATV.** A
3 person is guilty, except as provided in subsection 24, paragraph
4 E, of permitting an unaccompanied child to operate an ATV, if he
5 that person permits a child under 15 16 years of age to operate
6 any ATV, ~~unless he is accompanied by an adult.~~

8 **Sec. 62. 12 MRSA §7901, sub-§2,** as amended by PL 1989, c. 252,
9 §2, is repealed and the following enacted in its place:

10 **2. Class D crimes.** Violation of any of the following is a
11 Class D crime for which the convicted person must be imprisoned
12 for not less than 3 days for the first offense and for not less
13 than 10 days for each succeeding offense, this imprisonment not
14 to be suspended, and for which a convicted person must be fined
15 not less than \$1,000 and this fine may not be suspended:

16 A. Section 7406, subsection 1, as it applies to deer;

17 B. Section 7406, subsection 5;

18 C. Section 7406, subsection 10, when the wild animal or
19 wild bird was taken in violation of section 7406, subsection
20 5;

21 D. Section 7458, subsection 1 or 2; or

22 E. Section 7464, subsection 1 or 2.

23 **Sec. 63. 12 MRSA §7901, sub-§5-B** is enacted to read:

24 **5-B. Reckless operation of a snowmobile, watercraft or**
25 **all-terrain vehicle; Class D crime.** Violation of any of the
26 following is a Class D crime:

27 A. Section 7801, subsection 8;

28 B. Section 7827, subsection 8; or

29 C. Section 7857, subsection 9.

30 **Sec. 64. 12 MRSA §§7943 to 7945,** as enacted by PL 1979, c.
31 420, §1, are amended to read:

32 **§7943. Possession of hunting equipment without license**

33 The possession of any ~~firearm~~ hunting equipment in the
34 fields, forests or on the waters or ice within the territorial
35 limits of the State by any person who does not possess the
36 required hunting license duly issued to ~~him~~ that person, covering

2 the period of time within which the firearm hunting equipment is
3 found in ~~his~~ that person's possession, ~~shall-be~~ is prima facie
4 evidence of hunting in violation of law, unless the person
5 furnishes satisfactory evidence of the issuance of a hunting
6 license.

8 **§7944. Possession of hunting equipment while intoxicated**

10 The possession of firearms hunting equipment in the fields
11 or forests or on the waters or ice in the State by any person
12 while under the influence of intoxicating liquor or drugs is
13 prima facie evidence that the possessor was violating section
14 7406, subsection 3.

16 **§7945. Possession of hunting equipment on Sunday**

18 Possession of firearms hunting equipment in the fields or
19 forests or on the waters or ice in the State or in a motor
20 vehicle being operated on an unpaved highway or road located in
21 an unorganized township on Sunday is prima facie evidence of a
22 violation of section 7406, subsection 4, unless:

24 **1. Hunting equipment covered.** The firearm hunting equipment
25 is carried, securely wrapped, in a complete cover;

26 **2. Hunting equipment fastened.** The firearm hunting
27 equipment is fastened in a case; or

28 **3. Hunting equipment in pieces.** The firearm hunting
29 equipment is carried in at least 2 separate pieces in such a
30 manner that it ~~cannot~~ can not be fired, unless the separate
31 pieces are joined together. For the purpose of this subsection,
32 a clip, magazine or cylinder of a firearm shall ~~may~~ not be
33 considered a piece of the firearm hunting equipment. Bows and
34 arrows must be kept in a separate case or cover if broadheads or
35 field points are kept attached to the arrows.

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

40
42 **SUMMARY**

44 This bill makes the following changes to the laws
45 administered by the Department of Inland Fisheries and Wildlife.

46 1. It amends the definition of "firearm."

48 2. It adds a definition of "fishway" consistent with the
50 Department of Marine Resources' definition.

- 2 3. It adds "wild animal hybrids," "wild bird hybrids" and
4 "domestic animals" to the definition of "hunt" and the provisions
on closed season for hunting.

- 6 4. It clarifies that firearms of any type including
8 muzzle-loading firearms and archery equipment are subject to
specific provisions of law regarding hunting without a license,
10 hunting while intoxicated and hunting on Sunday.

- 12 5. It amends the definition of "weir."

- 14 6. It allows the department to recover costs incurred for
16 search and rescue operations that are initiated under false
reports.

- 18 7. It allows the department to use revenue generated from
20 selling advertising space in its law books to help cover the cost
of printing the books.

- 22 8. It provides for reimbursement to the Bureau of Warden
24 Service's personal services account for services rendered to
federal agencies. Revenues received must be allocated for the
purpose of funding the cost of providing the services.

- 26 9. It removes outdated language and replaces it with
28 language that is consistent with all-terrain vehicle laws in
regard to other law enforcement officers enforcing snowmobile,
30 airmobile and all-terrain vehicle laws.

- 32 10. It amends laws governing complimentary licenses for the
34 blind, parapalegic, resident disabled war veterans, mentally
retarded and resident disabled veterans to make them valid for
36 the life of the license holder, as long as they continue to meet
residency requirements.

- 38 11. It gives the Commissioner of Inland Fisheries and
40 Wildlife the authority to require that a person whose license has
been revoked or suspended complete a course on outdoor ethics
scheduled by the Bureau of Warden Service.

- 42 12. It amends the law governing licenses for nonresident
44 junior hunters.

- 46 13. It clarifies that the commissioner has authority to
establish the muzzle-loading season.

- 48 14. It makes it illegal for a licensed bait dealer to
possess any species of fish that is not legal to be sold as bait

2 and makes it possible for biologists, acting as agents of the
commissioner, to inspect bait dealer shops.

4 15. It makes it illegal for a person holding a live bait
6 retailer's license or a smelt wholesaler's license to obtain live
smelts for resale from a person who is not licensed to deal in
8 live smelts. It also requires a person holding a smelt
10 wholesaler's license to have and use a number 14 fish grader
during the winter months while engaged in the taking of live
smelts and to immediately liberate undersized smelts alive into
the waters from which they were taken.

12 16. It clarifies the difference between a license to
14 cultivate fish and a license to harvest fish in private ponds.

16 17. It enacts a new section of law dealing with the
transportation of live fish for breeding and advertising purposes.

18 18. It removes live fish from the section of law dealing
20 with transportation for breeding and advertising purposes.

22 19. It requires that, effective January 1, 1998, any person
who has not renewed that person's guide license for 5 consecutive
24 years must be reexamined.

26 20. It corrects a reference to the Advisory Board for the
Licensing of Guides.

28 21. It allows a licensed taxidermist to purchase heads and
30 hides of wild animals by virtue of the taxidermist license.

32 22. It makes the examination fee and process for whitewater
guides consistent with those of regular guides. It also
34 clarifies the 3-year license for whitewater guides.

36 23. It amends the laws governing fishing for cusk and
hornpout.

38 24. It repeals the requirement that tree ladders and stands
40 be removed within 10 days after the close of the hunting season
for which the ladder or stand was erected.

42 25. It makes it unlawful to possess a wild animal or wild
44 bird taken while Sunday hunting, to discharge a firearm too close
to a dwelling, to abuse another person's property, to use or
46 possess a prohibited implement or to trespass on another person's
property.

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- 2 26. It clarifies that anyone hunting during any firearm
4 season on deer is required to wear 2 articles of hunter orange
6 clothing.
- 8 27. It removes superfluous language from the laws regarding
10 failure to report a hunting accident.
- 12 28. It amends the laws regarding the placing of bear bait
14 to provide that they also apply to the trapping of bears.
- 16 29. It changes the amount of time a person has to register
18 a bear from 12 hours to 18 hours.
- 20 30. It repeals the prohibition on nonresidents trapping
22 beaver.
- 24 31. It gives the commissioner the authority to establish
26 fees for implementing special hunting seasons in areas where the
28 wildlife population is causing problems.
- 30 32. It gives the commissioner the authority to adopt rules
32 to implement a landowner permit system for turkey hunting.
- 34 33. It repeals the prohibition against introducing fish or
36 fish spawn raised by the department in a private pond.
- 38 34. It requires that baitfish traps be checked at least
40 once in every 7 calendar days rather than 3 days.
- 42 35. It amends the laws regarding fishing with illegal
44 devices.
- 46 36. It repeals the provision regarding the illegal use of
48 hellgramites.
- 50 37. It provides for the removal of ice shacks prior to the
close of the ice fishing season.
- 38 38. It repeals the provision allowing the use of the eggs
40 of Atlantic sea run salmon and landlocked salmon for bait.
- 42 39. It repeals a provision regarding the authority of the
44 commissioner to permit the taking of fish to protect other fish.
- 46 40. It gives the commissioner authority to collect a \$1 fee
48 for issuance of registrations by department employees.
- 50 41. It clarifies the laws governing operating a snowmobile
to endanger.

2 42. It requires the Commissioner of Inland Fisheries and
Wildlife to charge a fee of \$1 in addition to the annual fee for
4 each all-terrain vehicle registration issued by an employee of
the Department of Inland Fisheries and Wildlife.

6 43. It clarifies the age requirements for all-terrain
vehicle operation.

8
10 44. It makes technical changes in format to the Maine
Revised Statutes, Title 12, section 7901, subsection 2.

12 45. It makes reckless operation of a snowmobile, watercraft
or all-terrain vehicle a Class D crime in order to conform to the
14 Maine Criminal Code in which reckless conduct under Title 17-A,
section 211 is a Class D crime.