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DATE: 4-5-00

(Filing No. H-1056)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 182, L.D. 260, Bill, "An Act to Enhance the Enforcement of Civil and Criminal Violations"

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

PART A

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 A-1. 4 MRSA §164, sub-§12, as repealed and replaced by PL 1991, c. 549, §3 and affected by §17, is amended to read:

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

A. The Except as provided in this paragraph, the violations bureau has jurisdiction over all civil violations and traffic infractions committed in this State. Unless otherwise ordered by a court, trial of a civil violation or traffic infraction must be in the division in which the alleged violation or infraction was committed. The violations bureau does not have jurisdiction over civil violations under the following provisions:

- (1) Title 12, section 7901, subsection 9;
(2) Title 22, section 1555-B, subsection 5;
(3) Title 28-A, chapter 81; and
(4) Title 38, section 349, subsection 2.

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

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

10 D. The clerk of each division has the authority to accept
12 pleadings and fines and civil forfeitures and penalties on
behalf of the violations bureau;

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

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

22 The violations clerk shall accept written appearances, waivers of
24 trial, pleas of guilty and payments of fines and costs in
criminal fisheries and wildlife offense cases, subject to the
26 limitations prescribed in this subsection. The violations clerk
serves under the direction and control of the judge of the court
28 for which the violations clerk is appointed. Civil fisheries and
wildlife offense cases, except violations of Title 12, section
30 7901, subsection 9, are within the jurisdiction of the violations
bureau established under subsection 12.

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

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

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

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

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

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

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

The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and payments of fines and costs in criminal marine resources 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

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2 for which the violations clerk is appointed. Civil marine
3 resources violations are within the jurisdiction of the
4 violations bureau established under subsection 12.

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

10 B. The Chief Judge shall by order, which may from time to
11 time be amended, suspended or repealed, designate the
12 criminal marine resources offenses within the authority of
13 the violations clerk, except that the offenses may not
14 include any offense for which a mandatory minimum term of
15 imprisonment is provided by law. The court shall establish
16 schedules, within the limits prescribed by law, of the
17 amount of fines to be imposed for the offenses. The order of
18 the court establishing the schedules must be prominently
19 posted in the place where the fines are paid. Fines and
20 costs must be paid to, receipted by and accounted for by the
21 violations clerk in accordance with these provisions.

22 C. Any person charged with any criminal marine resources
23 offense within the authority of the violations clerk may
24 file an appearance in person or by mail before the
25 violations clerk. Any person may enter a plea admitting the
26 violation offense charged and waiver of trial and pay the
27 fine, and costs, established for the violation offense
28 charged. Any person entering a plea admitting the
29 infraction offense charged must be informed of that person's
30 rights, including the right to stand trial, that that
31 person's signature to a plea admitting the violation offense
32 charged will have the same effect as a judgment of the court
33 and that the record of adjudication will be sent to the
34 Commissioner of Marine Resources.

36 D. Any person who has been found guilty of or who has
37 signed a plea of guilty to, or who has been found to have
38 committed or who has signed a plea admitting or admitting
39 with an explanation, one or more previous criminal marine
40 resources offenses subject to this subsection or subsection
41 12 within a 12-month period may not appear before the
42 violations clerk unless the court, by order, permits that
43 appearance. Each waiver of hearing filed under this
44 subsection must recite on the oath or affirmation of the
45 offender whether or not the offender has been previously
46 found guilty of or to have committed or has previously
47 signed a plea of guilty to, admitting or admitting with an
48 explanation to, one or more criminal marine resources
49 offenses within a 12-month period. Any

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2 person swearing falsely to such a statement is, upon conviction, subject to a fine of not more than \$50.

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

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

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

18 The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and payments of fines and costs in forest 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 appointed. Civil forest service offense cases are within the jurisdiction of the violations bureau established under subsection 12.

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

32 B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the 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 imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for the offenses. The order of the court establishing the schedules must be prominently posted in the place where the fines are paid. Fines and costs must be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions.

44 C. A person charged with a criminal forest service offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk. A person may enter a plea admitting the violation offense charged and a waiver of trial and pay the fine and costs established for the violation offense charged. A

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person entering a plea admitting the violation offense charged must be informed of the person's rights, including the right to stand trial, that the person's signature to a plea admitting the violation offense charged has the same effect as a judgment of the court and that the record of adjudication will be sent to the Director of the Maine Forest Service.

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

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

Sec. A-5. 12 MRSA §6208, as amended by PL 1991, c. 459, §1, is further amended to read:

§6208. Marine resources' citation form

1. **Form.** The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the Bureau of Marine Patrol, ~~except that the commissioner may permit 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 those stocks are depleted~~ for all criminal violations and civil violations that are not filed with the violations bureau pursuant to Title 4, section 164, subsection 12, paragraph A and the Violations Summons and Complaint for all other civil violations.

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~~

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2 ~~District Court prior to May 1, 1991.~~ The Department of
Public Safety is responsible for all Uniform Summons and
4 Complaint forms issued by the Bureau of Marine Patrol. The
District Court is responsible for all Violations Summons and
6 Complaint forms issued by the Bureau of Marine Patrol. The
commissioner or the commissioner's designee is responsible
8 for the further issuance of Uniform Summons and Complaint
books and Violations Summons and Complaint books to
10 individual law enforcement officers and the proper
disposition of those books.

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

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

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

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

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

§7911. Fish and wildlife citation form

1. **Form.** The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the warden service, ~~except that the commissioner may permit 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 those stocks are depleted~~ for all criminal violations and civil violations that are not filed with the violations bureau pursuant to Title 4, section 164, subsection 12, paragraph A and the Violations Summons and Complaint for all other civil violations.

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

A. ~~The commissioner is responsible for all fish and wildlife 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 Complaints issued to the warden service. The District Court is responsible for all Violations Summons and Complaint forms issued to the warden service. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books and Violations Summons and Complaint books to individual wardens and for the proper disposition of those books.

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

4. **When a lawful complaint.** ~~If the citation provided for in this section or~~ a Uniform Summons and Complaint or a Violations 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

2 violation proceeding. Every law enforcement officer issuing a
3 Violations Summons and Complaint charging the commission of a
4 civil violation that is filed with the violations bureau pursuant
5 to Title 4, section 164, subsection 12, paragraph A shall file
6 the original of the form with the violations bureau within 5 days
7 of the issuance of that form. When filed with the violations
8 bureau, the Violations Summons and Complaint is considered a
9 lawful complaint for the purpose of commencement of a civil
10 action.

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

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

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

30 **§8907. Forest service citation form**

31 **1. Form.** The Director of the Bureau of Forestry, referred
32 to in this section as the "director," shall designate the Uniform
33 Summons and Complaint as the citation form to be used by the
34 Maine Forest Service, ~~except that the director may permit the use~~
35 ~~of any citation forms approved by the Chief Judge of the District~~
36 ~~Court before May 1, 1991 that are in current stock as of May 1,~~
37 ~~1991 until those stocks are depleted for all criminal violations~~
38 and civil violations that are not filed with the violations
39 bureau pursuant to Title 4, section 164, subsection 12, paragraph
40 A and the Violations Summons and Complaint for all other civil
41 violations.

42 **2. Citation books.** ~~The director is responsible for any~~
43 ~~forms approved by the Chief Judge of the District Court prior to~~
44 ~~May 1, 1991. The director may provide citation books to other~~
45 ~~law enforcement agencies and officers for their use in the~~

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2 ~~enforcement--of--chapters--807--and--809,---The--director--may--not~~
3 ~~require--other--agencies--to--use--this--form.~~ The Department of
4 Public Safety is responsible for all Uniform Summons and
5 Complaints issued to the Maine Forest Service. The District
6 Court is responsible for all Violations Summons and Complaint
7 forms issued to the Maine Forest Service. The director or the
8 director's designee is responsible for the further issuance of
9 Uniform Summons and Complaint books and Violations Summons and
10 Complaint books to individual law enforcement officers and for
the proper disposition of those books.

12 **3. Disposition; prohibited act.** It is unlawful and
13 official misconduct for any forest ranger or other public
14 employee to dispose of an official citation form ~~or, a~~ Uniform
15 Summons and Complaint or a Violations Summons and Complaint,
16 except in accordance with law and as provided for in an
17 applicable official policy or procedure of the Maine Forest
18 Service.

20 **4. Lawful complaint.** A ~~Maine-Forest-Service-citation-form~~
21 ~~or-a~~ Uniform Summons and Complaint or a Violations Summons and
22 Complaint may be filed in a court having jurisdiction and
23 constitutes a lawful complaint to commence any criminal
24 prosecution or civil violation proceeding if ~~the-form-or-Uniform~~
25 ~~Summons-and-Complaint~~ it is duly sworn to as required by law and
26 otherwise legally sufficient in respect to the form of a
27 complaint and charging an offense. Every law enforcement officer
28 issuing a Violations Summons and Complaint charging the
29 commission of a civil violation that is filed with the violations
30 bureau pursuant to Title 4, section 164, subsection 12, paragraph
31 A shall file the original of the form with the violations bureau
32 within 5 days of the issuance of that form. When filed with the
33 violations bureau, the Violations Summons and Complaint is
34 considered a lawful complaint for the purpose of commencement of
35 a civil action.

36 **5. Lawful summons.** A Maine Forest Service citation ~~or, a~~
37 Uniform Summons and Complaint or a Violations Summons and
38 Complaint, when served upon a person by a law enforcement
39 officer, functions as a summons to appear in court or to
40 otherwise respond in accordance with law on or before the date
41 specified in the summons. Any person who fails to appear in
42 court ~~after-having-been-served-with-a~~ as directed by the summons
43 or to otherwise respond in accordance with law on or before the
44 date specified in the summons commits a Class E crime. Upon that
45 person's failure to appear or respond in accordance with law, the
46 court may issue a warrant of arrest. It is an affirmative
47 defense to prosecution under this subsection that the failure to
48 appear resulted from just cause.

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

Sec. A-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 amended to read:

1. A law enforcement officer who has probable cause to believe that a civil violation has been committed by a person must issue or have delivered a written summons to that person directing the person to appear in the District Court to answer the allegation that the person has committed the violation. The summons must include the signature of the officer, a brief description of the alleged violation, the time and place of the alleged violation and the time, place and date the person is to appear in court. The form used must be the Violation Summons and Complaint, ~~as prescribed in Title 29-A, section 2601, for traffic infractions~~ for civil violations that are filed with the violations bureau pursuant to Title 4, section 164, subsection 12, paragraph A and the Uniform Summons and Complaint for other civil violations, ~~except that, if the agency by whom the officer is employed has on May 1, 1991 current stocks of forms that the agency is authorized to use, the agency may permit officers to use those forms in place of the Uniform Summons and Complaint until those stocks are depleted.~~ A person to whom a summons is issued or delivered must give a written promise to appear or to otherwise respond in accordance with law on or before the date specified in the summons. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. The law enforcement officer may not order a person to sign the summons for a civil violation unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title 28-A, section 2052; or Title 29-A.

Every law enforcement officer issuing a Violation Summons and Complaint charging the commission of a ~~traffic infraction~~ civil violation that is filed with the violations bureau pursuant to Title 4, section 164, subsection 12, paragraph A shall file the original of the Violation Summons and Complaint with the violations bureau within 5 days of the issuance of that Violation Summons and Complaint. Every law enforcement officer issuing a Uniform Summons and Complaint that charges the commission of an any other offense shall file the original of the Uniform Summons and Complaint with the District Court having jurisdiction over the offense or in such other location as instructed by the Chief Judge of the District Court without undue delay and, in any

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event, within 5 days after the issuance of the Uniform Summons and Complaint.

PART B

Sec. B-1. 12 MRSA §7053, sub-§2, ¶A, as enacted by PL 1979, c. 420, §1, is amended to read:

A. Arrest, summons and prosecute all violators of the following:

(1) Chapters 701 to 721;

(2) All rules promulgated adopted by the commissioner; and

(3) The United States Federal Migratory Bird Treaty Act, Public Law, July 3, 1918, chapter 128, as amended, and all rules and regulations promulgated adopted in pursuance thereof.

A game warden shall, without unnecessary delay, take any person so arrested before the District Court nearest the place of violation;

Sec. B-2. 12 MRSA §7901, sub-§§19 to 23 are enacted to read:

19. Violations of chapter 703. The following violations of chapter 703 are civil violations for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged:

A. Violation of rules concerning water-skiing adopted under section 7036, subsection 1; and

B. Defacement of notices as described in section 7036, subsection 2.

20. Violations of chapter 715, subchapter I. The following violations of chapter 715, subchapter I are civil violations for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged:

A. Violation of rules adopted pursuant to section 7792, subsection 2 concerning:

(1) Operation of watercraft without lights;

(2) Towing of a water-skier without an observer; and

(3) Violating the water safety zone;

2 B. Violation of rules adopted pursuant to section 7792,
4 subsection 3 concerning inadequate personal flotation
6 devices;

8 C. Operating a motorboat without a certificate of number as
10 described in section 7801, subsection 1;

12 D. Illegal operation of watercraft on inland waters without
14 a holding tank or with a holding tank with through-hull
16 fittings as described in section 7801, subsection 2-A;

18 E. Leasing or renting a motorboat without a certificate of
20 number as described in section 7801, subsection 6-A;

22 F. Operating a motorboat while underage as described in
24 section 7801, subsection 13;

26 G. Operating a motorboat without a muffler as described in
28 section 7801, subsection 15;

30 H. Operating a watercraft without proper safety equipment
32 as described in section 7801, subsection 16;

34 I. Operating an airmobile upon a public way as described in
36 section 7801, subsection 21;

38 J. Failing to stop an airmobile before entering a public
40 way as described in section 7801, subsection 22;

42 K. Failing to yield right-of-way while operating an
44 airmobile as described in section 7801, subsection 23;

46 L. Operating an airmobile that exceeds the noise limit as
48 described in section 7801, subsection 24;

50 M. Operating an airmobile on railroad tracks as described
in section 7801, subsection 25;

N. Operating an airmobile too close to certain buildings as
described in section 7801, subsection 26;

O. Failure to display an excise tax decal as described in
section 7801, subsection 28;

P. Failure to comply with additional safety requirements
while operating a personal watercraft as described in
section 7801, subsection 30; and

2 Q. Unlawfully permitting operation of a watercraft as
described in section 7801, subsection 31.

4 21. Violations of chapter 715, subchapter II. The following
violations of chapter 715, subchapter II are civil violations for
6 which a forfeiture of not less than \$100 and not more than \$500
may be adjudged:

8
10 A. Operating an unregistered snowmobile as described in
section 7827, subsection 1;

12 B. Operating a snowmobile upon a controlled access highway
as described in section 7827, subsection 2;

14
16 C. Unlawfully operating a snowmobile on a plowed road as
described in section 7827, subsection 3;

18 D. Operating a snowmobile on a public way as described in
section 7827, subsection 4;

20
22 E. Unlawfully operating a vehicle on a snowmobile trail as
described in section 7827, subsection 4-A;

24 F. Failing to stop a snowmobile before entering a public
way as described in section 7827, subsection 5;

26
28 G. Failing to yield the right-of-way while operating a
snowmobile as described in section 7827, subsection 6;

30 H. Crossing a closed bridge, culvert, overpass or underpass
with a snowmobile as described in section 7827, subsection 7;

32
34 I. Unlawfully operating a snowmobile while underage as
described in section 7827, subsection 12;

36 J. Permitting an unaccompanied child to operate a
snowmobile as described in section 7827, subsection 13;

38
40 K. Operating a snowmobile that exceeds the noise limit as
described in section 7827, subsection 14;

42 L. Unlawfully modifying a snowmobile as described in
section 7827, subsection 15;

44
46 M. Operating a snowmobile with insufficient lights as
described in section 7827, subsection 16;

48 N. Failure to use snowmobile lights as described in section
7827, subsection 17;

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2 O. Unlawfully operating a snowmobile on railroad tracks as
described in section 7827, subsection 18;

4 P. Operating a snowmobile in a cemetery as described in
section 7827, subsection 19;

6 Q. Operating a snowmobile too close to certain buildings as
8 described in section 7827, subsection 20; and

10 R. Unlawfully permitting operation of a snowmobile as
12 described in section 7827, subsection 21.

14 22. Violations of chapter 715, subchapter IV. The following
violations of chapter 715, subchapter IV are civil violations for
16 which a forfeiture of not less than \$100 and not more than \$500
may be adjudged:

18 A. Operating an unregistered ATV as described in section
20 7857, subsection 1;

22 B. Failure to display ATV registration numbers as described
in section 7857, subsection 1-A;

24 C. Operating an ATV upon a controlled access highway as
26 described in section 7857, subsection 2;

28 D. Unlawfully operating an ATV on a snowmobile trail as
described in section 7857, subsection 3;

30 E. Unlawfully operating an ATV on a private road as
32 described in section 7857, subsection 4;

34 F. Operating an ATV on a public way as described in section
7857, subsection 5;

36 G. Failing to stop an ATV before entering a public way as
38 described in section 7857, subsection 6;

40 H. Failing to yield the right-of-way while operating an ATV
as described in section 7857, subsection 7;

42 I. Crossing a closed bridge, culvert, overpass or underpass
44 with an ATV as described in section 7857, subsection 8;

46 J. Carrying a passenger on an ATV without headgear as
described in section 7857, subsection 13-C;

48 K. Permitting a child under 10 years of age to operate an
50 ATV as described in section 7857, subsection 14-A;

2 L. Unlawfully operating an ATV on railroad tracks as
described in section 7857, subsection 18; and

4 M. Operating an ATV in a prohibited area as described in
section 7857, subsection 22-A.

6
8 23. Violations of chapter 717. The following violations of
chapter 717 are civil violations for which a forfeiture of not
less than \$100 and not more than \$500 may be adjudged:

10
12 A. Hunting on a licensed dog training area as described in
section 7863, subsection 2;

14 B. Misuse of a licensed dog training area as described in
section 7863, subsection 3; and

16
18 C. Illegal use of a firearm during training or field trials
as described in section 7863, subsection 4.

20
22 **PART C**

24 **Sec. C-1. 12 MRSA §6123**, as enacted by PL 1977, c. 661, §5,
is amended to read:

26 **§6123. Obstructing fishways**

28 ~~It shall be unlawful to tamper, damage, destroy, or~~ A
30 person who tampers with, damages, destroys or closes to fish
migration or introduces foreign objects into any
32 fishway without the authority of the commissioner commits a civil
violation for which a forfeiture of not less than \$100 and not
more than \$500 may be adjudged.

34
36 **Sec. C-2. 12 MRSA §6124**, as enacted by PL 1989, c. 275, §1,
is amended to read:

38 **§6124. Violations; penalty**

40 ~~It shall be considered a violation of this subchapter if a~~
42 fish kill results from the improper operation of A person who
improperly operates a fishway required pursuant to this
44 subchapter. The department may assess a fine commits a civil
violation for which a forfeiture equivalent to the value of the
46 fish killed but not more than \$10,000 for each day of that
violation may be adjudged.

48 **Sec. C-3. 12 MRSA §6445**, as enacted by PL 1993, c. 726, §1,
is amended to read:

§6445. Logbooks for lobster harvesters

The commissioner shall adopt rules requiring any person holding a lobster and crab fishing license to maintain a logbook. The rules must indicate the type of data that must be recorded in the logbook, the manner for producing the logbooks and the method for analyzing data from the logbooks. The commissioner shall charge a fee for the logbook that is sufficient to recover all costs associated with the production of the logbook and the analysis of the data. Fees received by the department from the sale of logbooks are dedicated revenue and must be used by the department for the purposes of this section. The logbook and data analysis may be produced and conducted by the department or may be produced and conducted by a public or private entity under contract with the department. Disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173. A person who fails to maintain a logbook when required to do so commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

Sec. C-4. 12 MRSA §6521, as amended by PL 1991, c. 242, §2, is further amended to read:

§6521. Dumping of dead marine animals or scaled finfish

1. Deposition of dead marine animals; exception. ~~It is unlawful to~~ A person may not deposit or discard, in intertidal zones or in harbors or rivers below the dividing line between tidewater and fresh water, any dead marine animal or its parts, except that a person may deposit oyster shell cultch in those waters solely to promote growth of oysters with the written permission of the commissioner and under any conditions the commissioner determines appropriate.

2. Scaled finfish. ~~It shall be unlawful to~~ A person may not deposit, release or dump into the coastal waters any dead or alive finfish from which the scales have been removed.

3. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

Sec. C-5. 12 MRSA §§6522 and 6523, as enacted by PL 1977, c. 661, §5, are amended to read:

§6522. Monofilament nets

~~It shall be unlawful to discard or abandon~~ A person who discards or abandons into any waters any net made of monofilament

2 or of other material which is not biodegradable commits a civil
violation for which a forfeiture of not less than \$100 and not
more than \$500 may be adjudged.

4
 6 **§6523. Marking ice fishing shacks**

8 ~~It shall be unlawful to~~ A person may not place any shack or
 temporary structure used for ice fishing on the frozen coastal
 10 waters or ~~to~~ use the shack or structure, unless the owner's name
 and address are painted or otherwise clearly marked on the
 12 outside with 2-inch letters. ~~The fine or penalty for conviction~~
~~of violating this section shall include the costs incurred in~~
~~removing any structure.~~ A person who violates this section
 14 commits a civil violation for which a forfeiture of not less than
\$100 and not more than \$500 may be adjudged.

16
 18 **Sec. C-6. 12 MRSA §§6543 and 6544**, as enacted by PL 1977, c.
 661, §5, are amended to read:

20 **§6543. Standard unit of herring measure**

22 ~~It shall be unlawful to purchase or sell~~ A person who
purchases or sells herring in their live or raw state for
 24 packing, other than by a standard unit of measure or by a
 fractional part of a standard unit of measure, commits a civil
 26 violation for which a forfeiture of not less than \$100 and not
more than \$500 may be adjudged. The standard units of measure
 28 shall be are the bushel, barrel of 3 bushels or the hogshead of
 17 1/2 bushels.

30
 32 **§6544. Sealing of herring boats**

34 ~~It shall be unlawful to buy, sell or transport~~ A person who
sells or transports any herring for processing, from or in the
 hold of any boat, which has not been measured and sealed as
 36 provided in this section, commits a civil violation for which a
forfeiture of not less than \$100 and not more than \$500 may be
 38 adjudged.

40 **1. Sealing of boats.** The holds of all boats transporting
 herring for processing purposes shall must be measured and sealed
 42 by the State Sealer of Weights and Measures or ~~his~~ the state
sealer's designee.

44 **2. Fee.** The owner of the boat shall pay a fee for the
 46 measuring and sealing as determined by the State Sealer of
 Weights and Measures, based on the carrying capacity of the boat.

48 **3. Method of measuring and sealing.** The measure shall must
 50 be in 5 hogshead divisions measured by liquid measure from a

2 calibrated prover to the top of the hatch coaming. The
 measurement shall must be marked and permanently sealed, both
 4 forward and aft, in the hold, in the most practicable manner,
 while the boat is afloat.

6 **4. Notification of broken seals.** The boat owner shall
 immediately notify the State Sealer of Weights and Measures of
 8 any alteration or the breaking of any seal.

10 **5. Certification to commissioner.** After measuring and
 sealing each boat, the State Sealer of Weights and Measures shall
 12 certify to the commissioner the name of the owner and the name
 and capacity of each boat.

14 **Sec. C-7. 12 MRSA §6554**, as amended by PL 1983, c. 662, §5,
 16 is further amended to read:

18 **§6554. Pacific salmon; method of taking; limits**

20 **1. Minimum length.** ~~It shall be unlawful to~~ A person may not
 take or possess Pacific salmon which are less than 14 inches in
 22 length.

24 **2. Method of taking.** ~~It shall be unlawful to~~ A person may
~~not~~ fish for or take Pacific salmon from the coastal waters by
 26 any means other than hook and line with a single hook.

28 **3. Limits.** ~~No~~ A person may not take more than 2 Pacific
 salmon ~~may be taken~~ in any one day.

30 **4. Exception for aquaculture.** A person lawfully engaged in
 32 the aquaculture of Pacific salmon shall ~~be~~ is exempt from this
 section ~~provided that~~ if that person holds a special license, if
 34 required, under section 6074.

36 **5. Recommendations; commissioner.** Nothing in this chapter
 may prohibit the commissioner from recommending to the
 38 Legislature changes in the limit on Pacific salmon that may be
 taken by hook and line with a single hook.

40 **6. Penalty.** A person who violates this section commits a
 42 civil violation for which a forfeiture of not less than \$100 and
not more than \$500 may be adjudged.

44 **Sec. C-8. 12 MRSA §6703, sub-§1**, as enacted by PL 1985, c.
 46 662, §4, is amended to read:

48 **1. License required.** ~~It is unlawful for any~~ A person to
~~may not~~ engage in the activities authorized by this license under
 50 this section without a current noncommercial scallop license.

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2 **Sec. C-9. 12 MRSA §6703, sub-§5** is enacted to read:

4 5. Penalty. A person who violates this section commits a
6 civil violation for which a forfeiture of not less than \$100 and
 not more than \$500 may be adjudged.

8 **Sec. C-10. 12 MRSA §§6859 and 6860**, as enacted by PL 1977, c.
10 661, §5, are amended to read:

12 **§6859. Unmarked lobster shipping container**

14 ~~It shall be unlawful to ship, offer~~ A person who ships,
 offers to ship or accept accepts for shipment any lobsters or
16 their parts in any container that is not clearly marked to
18 indicate that it contains lobsters commits a civil violation for
 which a forfeiture of not less than \$100 and not more than \$500
 may be adjudged.

20 **§6860. Labeling of shrimp**

22 ~~It shall be unlawful to process~~ A person who processes and
 package packages shrimp, unless without clearly marking the
24 country or state of origin is clearly marked on the container
26 commits a civil violation for which a forfeiture of not less than
 \$100 and not more than \$500 may be adjudged.

28 **Sec. C-11. 12 MRSA §6863, sub-§4** is enacted to read:

30 4. Penalty. A person who violates this section commits a
32 civil violation for which a forfeiture of not less than \$100 and
 not more than \$500 may be adjudged.

34 **Sec. C-12. 12 MRSA §6956**, as enacted by PL 1993, c. 448, §1,
36 is amended to read:

38 **§6956. Diver's down flag required**

40 A person licensed to harvest a marine species by hand must
 display a diver's down flag when using a self-contained
42 underwater breathing apparatus to harvest that species. For the
 purposes of this section, "diver's down flag" means the
44 International Code Flag "A" as defined in navigation rules
 adopted by the United States Coast Guard. A person who violates
46 this section commits a civil violation for which a forfeiture of
 not less than \$100 and not more than \$500 may be adjudged.

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PART D

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2 **Sec. D-1. 29-A MRSA §404, sub-§2**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4 **2. Dismissal.** A person served with a Violation Summons and
6 Complaint charging a violation of this section may have the
complaint dismissed if that person shows satisfactory evidence
8 that the vehicle was registered at the time of the alleged
violation. The clerk of the District Court violations bureau
10 must dismiss the complaint if, prior to the date required for
filing an answer to the complaint, the person charged files with
12 the bureau a copy of the Violation Summons and Complaint together
with satisfactory evidence that the vehicle was registered at the
14 time of the alleged violation. If a person files a timely answer
~~of "not-contested"~~ to a Violation Summons and Complaint alleging
16 a violation of this section and that person presents satisfactory
evidence to the court at the time of trial showing that the
18 vehicle was registered at the time of the alleged violation, the
court must dismiss the complaint.

20 **Sec. D-2. 29-A MRSA §752, sub-§3**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

22 **3. Violation.** Any person, corporation, organization or
24 other legal entity that knowingly violates this section commits a
~~Class-D-crime~~ traffic infraction. A violation of this section is
26 a violation of Title 5, chapter 10.

28 **Sec. D-3. 29-A MRSA §952, sub-§3**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

30 **3. Penalty.** A person who fails to comply with subsection
32 1, paragraphs A to E or subsection 4 commits a ~~Class-E-crime~~
traffic infraction.

34 **Sec. D-4. 29-A MRSA §953, sub-§6**, as enacted by PL 1993, c.
36 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

38 **6. Penalty.** A person who fails to comply with this section
40 commits a ~~Class-E-crime~~ traffic infraction.

42 **Sec. D-5. 29-A MRSA §955, sub-§3**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

44 **3. Penalty.** A person who fails to comply with this section
46 commits a ~~Class-E-crime~~ traffic infraction.

48 **Sec. D-6. 29-A MRSA §1003, sub-§4**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

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2 4. **Record.** A complete record must be kept at the
licensee's established place of business, stating the hour and
4 date the vehicle is loaned and returned, the serial number of the
vehicle loaned, the loaner plate number and the registration
6 number of the customer's vehicle. Failure to keep this record is
a ~~Class-E-crime~~ traffic infraction.

8 **Sec. D-7. 29-A MRSA §1051, sub-§9,** as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

10 9. **Penalty.** A person who fails to obtain a vehicle auction
12 business license as required by this section commits a ~~Class-E~~
crime traffic infraction.

14 **Sec. D-8. 29-A MRSA §1052, sub-§6,** as enacted by PL 1993, c.
16 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

18 6. **Penalty.** Violation of this section is a ~~Class-E-crime~~
traffic infraction.

20 **Sec. D-9. 29-A MRSA §1251, sub-§1-A,** as enacted by PL 1995, c.
22 584, Pt. B, §5, is repealed and the following enacted in its
place:

24 1-A. Residents required to obtain license. Within 30 days
26 of becoming a resident of this State, a person shall apply to
obtain a license in accordance with section 1301. A person who
28 fails to comply with the requirement of this subsection and
operates a motor vehicle on a public way or parking area commits:

30 A. A traffic infraction if the person has been a resident
32 for less than 90 days; or

34 B. A Class E crime if the person has been a resident for
36 at least 90 days.

Sec. D-10. 29-A MRSA §1408, sub-§3, as corrected by RR 1993,
38 c. 2, §22, is amended to read:

40 3. **Dismissal.** A person served with a Violation Summons and
Complaint charging a violation of this section may have the
42 complaint dismissed if that person shows satisfactory evidence
that the person held a valid license at the time of the alleged
44 violation. The clerk of the District Court Violations Bureau
must dismiss the complaint if, prior to the date required for
46 filing an answer to the complaint, the person charged files a
copy of the Violation Summons and Complaint with the bureau,
48 together with evidence that the person held a valid license at
the time of the alleged violation. If a person files a timely
50 answer ~~ef-not-estested~~ to a Violations Summons and Complaint

alleging a violation of this section and that person presents satisfactory evidence to the court at the time of trial that the person held a valid license at the time of the alleged violation, the court must dismiss the complaint.

Sec. D-11. 29-A MRSA §1601, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Dismissal. A person served with a Violations Summons and Complaint charging a violation of this section may have the complaint dismissed if that person shows satisfactory evidence of liability insurance or financial responsibility that was in effect at the time of the alleged violation. The clerk of the District Court Violations Bureau must dismiss the complaint if, prior to the date required for filing an answer to the complaint, the person charged files a copy of the Violation Summons and Complaint with the bureau, together with satisfactory evidence of liability insurance or financial responsibility that was in effect at the time of the alleged violation. If a person files a timely answer ~~of--not--contested~~ to a Violations Summons and Complaint alleging a violation of this section and that person presents to the court at the time of trial satisfactory evidence of liability insurance or financial responsibility that was in effect at the time of the alleged violation, the court must dismiss the complaint.

Sec. D-12. 29-A MRSA §1612, last ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

The operation, or the release for operation, of any vehicle registered under chapter 9, subchapter I that is not in compliance with this section is a ~~Class--E--crime~~ traffic infraction.

Sec. D-13. 29-A MRSA §1918, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1918. Regrooved tires

A person commits a ~~Class-E-crime~~ traffic infraction if that person distributes, has for sale, offers for sale, sells or uses on a motor vehicle a pneumatic tire that has been regrooved below the original tread depth, unless that tire was originally manufactured with extra undertread material.

Sec. D-14. 29-A MRSA §2076, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Penalty. An operator failing to comply with the requirements of ~~this-section~~ subsection 1 or 2 commits a traffic

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infraction. An operator who fails to comply with subsection 3
commits a Class E crime. An operator commits a Class D crime if
that operator is required to stop under subsection 3 and fails to
stop for or yield the right-of-way to a train, engine or
conveyance on the track.

Sec. D-15. 29-A MRSA §2101, as enacted by PL 1993, c. 683,
Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2101. Permitting unlawful use

A person ~~commits a Class E crime if~~ that person who
knowingly authorizes or permits a vehicle owned by or under
control of that person to be driven on a public way by any person
not authorized under this Title or in violation of a provision of
this Title, commits:

A. A traffic infraction if the violation the driver commits
is a traffic infraction; or

B. A Class E crime if the violation the driver commits is a
crime.

PART E

Sec. E-1. Appropriation. The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

2000-01

JUDICIAL DEPARTMENT

**Courts - Supreme, Superior, District
and Administrative**

Positions - Legislative Count	(5,000)
Personal Services	\$74,883
All Other	29,250

Provides funds for one Programmer Analyst
position, one Administrative Clerk position
effective January 1, 2001 and 3 Assistant
Clerk positions effective June 4, 2001 and
related costs associated with the expansion
of the Violations Bureau.

**JUDICIAL DEPARTMENT
TOTAL**

\$104,133

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Sec. E-2. Effective date. This Part takes effect 90 days after adjournment of the Second Regular Session of the 119th Legislature.

PART F

Sec. F-1. Application. This Act applies to violations committed on or after July 1, 2001.

Sec. F-2. Effective date. This Act takes effect July 1, 2001 except as otherwise provided.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

General Fund	\$104,133
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This bill includes a General Fund appropriation of \$104,133 in fiscal year 2000-01 for the Judicial Department for additional staff and related costs associated with the expansion of the Judicial Branch Violations Bureau. The estimated General Fund appropriations required to fund the full year costs will be approximately \$202,400 annually beginning in fiscal year 2001-02.

This bill may also reduce prosecutions for Class D and Class E crimes. If the number of jail sentences is reduced, the savings to the counties are estimated to be \$83.36 per day per prisoner. The amount of any reduction of jail time and the resulting savings to the county jail system can not be determined at this time.

Requiring certain mailing requirements for the issuance of Uniform Summons and Complaint may result in additional costs incurred by law enforcement officers employed by the Department of Conservation, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources. The amounts can not be determined at this time.'

SUMMARY

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This amendment replaces the bill.

4

6 Part A expands the jurisdiction of the Violations Bureau of
the District Court to include all civil violations, not just
8 traffic infractions, except specific civil violations. Law
enforcement officers will submit the Violations Summons and
10 Complaint to the violations bureau. The person summonsed for the
civil violation will have a certain amount of time to pay the
12 specified fine to the violations bureau or to ask for a court
date to contest the violation.

14

Part B makes certain crimes enforced by the Department of
16 Inland Fisheries and Wildlife civil violations. These include
certain water-skiing, motorboat, airmobile, snowmobile,
18 all-terrain vehicle and field dog training violations.

20

Part C makes certain marine resources crimes civil
22 violations. These include violations relating to obstructing
fishways, fish kills, lobster harvester logbooks, dumping dead
24 marine animals or scaled fish, monofilament nets, marking ice
fishing shacks, herring measurement, sealing boats, taking
Pacific salmon, diver's down flags, noncommercial scallop
26 licenses, lobster shipping containers, shrimp labeling and
cultchless American oysters.

28

Part D makes certain motor vehicle crimes traffic
30 infractions. These include certain violations relating to
odometers, dealers' licenses and dealers' plates, vehicle auction
32 licenses and records, the time period for obtaining a driver's
license, insurance for dealers and transporters, regrooved tires
34 and railroad grade crossings. This Part also corrects language
concerning contesting summonses. It also revises the law
governing permitting unlawful use. This amendment makes it a
36 traffic infraction for a vehicle owner to allow another person to
use the vehicle when the driver commits a traffic infraction with
38 the vehicle. Current law makes all permitted unlawful use a
Class E crime.

40

The civil violations that do not fall under the jurisdiction
42 of the violations bureau are the following:

44

1. Violation of fish stocking permits, which can result in
a civil penalty of up to \$10,000;

46

2. Violation of the laws governing the possession and use
48 of cigarettes and tobacco products by minors;

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3. Violation of the laws governing possession of alcohol by
2 minors; and

4 4. Environmental violations, which can result in a civil
6 penalty of \$25,000 or more.

8 The amendment includes an appropriation section and adds a
fiscal note to the bill.

10 The amendment has an effective date of July 1, 2001 and
12 applies to violations committed on or after July 1, 2001, except
that the Judicial Department may hire staff before that time to
begin the transition process.