

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2088

S.P. 738

In Senate, March 30, 1999

An Act to Revise Certain Provisions of the 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 that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative CLARK of Millinocket and
Senator KIEFFER of Aroostook, Representatives: DUNLAP of Old Town, TRAHAN of
Waldoboro, TRUE of Fryeburg.

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 §7071, sub-§9,** as enacted by PL 1993, c. 459,
26 §1, is amended to read:

28 **9. Persons prohibited from possessing firearm.** A person
who is prohibited from possessing a firearm under Title 15,
30 section 393, subsection 1 is not eligible to obtain or possess
any license or permit issued by the department that authorizes a
32 person to hunt with a firearm, unless that person possesses a
valid permit in accordance with Title 15, section 393, subsection
34 2.

36 **Sec. 2. 12 MRSA §7073, sub-§7** is enacted to read:

38 **7. License must be signed.** A license issued by the
department must be signed by the licensee prior to use.

40 **Sec. 3. 12 MRSA §7076, sub-§1,** as repealed and replaced by PL
42 1995, c. 462, Pt. A, §33, is amended to read:

44 **1. Residents over 70 years of age.** A complimentary license
to hunt, trap or fish, including an archery license under section
46 7102-A or 7102-B, a pheasant hunting permit under section 7106-B
and a muzzle-loading hunting license under section 7107-A, must
48 be issued to any resident of Maine who is 70 years of age or
older upon application to the commissioner. These complimentary
50 licenses, upon issuance, remain valid for the remainder of the

2 life of the license holder, provided the license holder continues
3 to satisfy the residency requirements set out in section 7001,
4 subsection 32 and provided the license is not revoked or
5 suspended. Residents who apply for these complimentary licenses
6 at any time during the calendar year of their 70th birthday must
7 be issued a license upon application, regardless of the actual
8 date during that calendar year in which they attain age 70. A
9 guide license may be renewed without charge for any resident of
10 Maine who is 70 years of age or older upon application to the
11 commissioner. The application must be accompanied by a birth
12 certificate or other certified evidence of the applicant's date
13 of birth and residency. When the holder of a license issued
14 under this subsection no longer satisfies the residency
15 requirements set out in section 7001, subsection 32, the license
16 is no longer valid and further use of the license for purposes of
17 hunting, fishing or trapping constitutes a license violation
18 under section 7371, subsection 3.

19 **Sec. 4. 12 MRSA §7076, sub-§4-B,** as enacted by PL 1997, c.
20 432, §14, is amended to read:

21 **4-B. Resident disabled veteran.** A resident disabled
22 veteran may apply to the commissioner for one or more of the
23 following complimentary permits and licenses: a license to hunt
24 with a firearm, a license to fish, ~~an~~ archery hunting ~~license~~
25 licenses as provided in ~~section~~ sections 7102-A and 7102-B, a
26 pheasant hunting permit as provided in section 7106-B and a
27 muzzle-loading hunting license as provided in section 7107-A.
28 The commissioner must issue the permit, license or licenses
29 requested under this subsection if the commissioner determines
30 the applicant is a resident disabled veteran and is not otherwise
31 ineligible to hold that permit or license. For the purposes of
32 this subsection, "resident disabled veteran" means a person who:

33 A. Is a resident as defined in section 7001, subsection 32;

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

36 C. Has a service-connected disability evaluated at:

37 (1) One hundred percent; or

38 (2) Seventy percent or more as a result of honorable
39 military service and who has served in a combat zone
40 during any armed conflict in which participants were
41 exposed to war risk hazards as defined in 42 United
42 States Code, Section 1711 (b).

2 Each application must be accompanied by satisfactory evidence
3 that the applicant meets the requirements of this subsection. A
4 permit or license issued under this subsection remains valid for
5 the life of the permit or license holder, as long as the permit
6 or license holder continues to satisfy the residency requirement
7 in section 7001, subsection 32, and the permit or license is not
8 revoked or suspended.

9 **Sec. 5. 12 MRSA §7077, sub-§1-A, ¶E,** as enacted by PL 1993, c.
10 136, §1, is repealed.

11 **Sec. 6. 12 MRSA §7102-A, sub-§6, ¶B,** as enacted by PL 1993, c.
12 24, §3 and affected by §7, is amended to read:

13 B. Except as provided in section 7377, subsection 1, an
14 archery hunting license is required for persons 16 years of
15 age or older to hunt ~~wild-animals-or-wild-birds~~ deer with
16 bow and arrow during the special open season on deer
17 established under paragraph C.

18 **Sec. 7. 12 MRSA §7102-B, sub-§8,** as enacted by PL 1997, c.
19 471, §2, is repealed.

20 **Sec. 8. 12 MRSA §7105, sub-§2,** as amended by PL 1993, c. 574,
21 §10, is further amended to read:

22 2. **Fee.** The fee for a special commercial shooting area
23 hunting license is ~~\$17-for-1994,--\$18-for-1995--and \$19 for-1996~~
24 ~~and every year after 1996~~ , except that a person may purchase a
25 one-day commercial shooting area hunting license for a fee of \$5.

26 **Sec. 9. 12 MRSA §7107-A, sub-§5, ¶D,** as enacted by PL 1985, c.
27 320, §2, is repealed.

28 **Sec. 10. 12 MRSA §7133, sub-§5, ¶B,** as enacted by PL 1987, c.
29 317, §8, is repealed.

30 **Sec. 11. 12 MRSA §7242, sub-§2,** as enacted by PL 1979, c. 420,
31 §1, is repealed.

32 **Sec. 12. 12 MRSA §7311, sub-§2,** as amended by PL 1993, c. 62,
33 §1, is further amended to read:

34 2. **Qualifications.** In order to qualify for a guide
35 license, a person must:

- 36 A. Be at least 18;
37 B. Pass the guide exam;

2 C. If a first-time applicant for a guide license, be
currently certified in first aid through completion of any
4 standard first aid course that meets the criteria
established by rule of the commissioner. For purposes of
6 this paragraph, "first-time applicant" means any applicant
who has not previously been issued a guide license in this
8 State. Any person, other than a first-time applicant, who
applies for a guide license shall submit satisfactory
10 evidence, as determined by the commissioner, of having held
a guide license in this State; and

12 D. Meet all requirements established by rules of the
14 commissioner.

A person prohibited from possessing a firearm pursuant to Title
16 15, section 393, subsection 1 is not eligible to obtain or
possess the specialized hunting guide license defined by rule of
18 the commissioner.

20 **Sec. 13. 12 MRSA §7318**, as enacted by PL 1987, c. 742, §7, is
amended to read:

22

§7318. Violations by clients

24

A guide who has knowledge of a violation by a client of any
26 of the provisions of chapters 701 to 721 shall, ~~within-24-hours,~~
~~or-as-soon-as-safely~~ by the quickest means of communication
28 possible, inform-a report the violation committed, the name of
the violator and the location of the offense to a person
30 authorized to enforce those chapters.

32 **Sec. 14. 12 MRSA §7352-A, sub-§2**, as enacted by PL 1991, c.
642, is amended to read:

34

2. Expiration. All licenses issued under this section are
36 valid for a period commencing ~~October~~ September 1st and ending
December 31st of the year in which the license is issued.

38

40 **Sec. 15. 12 MRSA §7377, sub-§4, ¶C**, as amended by PL 1997, c.
432, §39, is further amended to read:

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

2 **Sec. 16. 12 MRSA §7406, sub-§9-A**, as enacted by PL 1997, c.
796, §5, is amended to read:

4 **9-A. Shooting from or having a loaded firearm in or on a**
motor vehicle or motorboat. Except as provided in subsection 20,
6 paragraph A, a person is guilty of shooting from or having a
loaded firearm in or on a motor vehicle or motorboat if that
8 person:

10 A. Shoots while in or on a motor vehicle or motorboat or
while in or on a trailer or other type of vehicle being
12 hauled by a motor vehicle; or

14 B. While in or on a motor vehicle or motorboat or in or on
a trailer or other type of vehicle being hauled by a motor
16 vehicle, has any firearm with a cartridge or shell in the
chamber or in an attached magazine, clip or cylinder or a
18 muzzle-loading firearm charged with powder, lead and a
primed-ignition device or mechanism.

20 **Sec. 17. 12 MRSA §7406, sub-§20, ¶A**, as amended by PL 1983, c.
22 797, §10, is further amended to read:

24 A. Notwithstanding the provisions of subsection 8 9-A:

26 (1) A person may hunt migratory waterfowl from a
motorboat in accordance with federal regulations;

28 (2) A person who has a valid Maine permit to carry a
concealed weapon may have in or on a motor vehicle or
30 trailer a loaded pistol or revolver covered by such
32 that permit; and

34 (3) Paraplegics and single or double amputees of the
legs may hunt from motor vehicles which that are not in
36 motion.

38 **Sec. 18. 12 MRSA §7432, sub-§11, ¶A**, as amended by PL 1991, c.
282, §1, is further amended to read:

40 A. Sets or tends a snare for the purpose of trapping any
42 wild animal or wild bird, except as provided in section
7453-A 7452, subsection 15, paragraph A and section 7453-B;

44 **Sec. 19. 12 MRSA §7452, sub-§1-A**, as amended by PL 1989, c.
46 493, §30, is further amended to read:

48 **1-A. Nonresident hunting bear with dogs.** A nonresident is
guilty of unlawfully hunting bear with dogs if the nonresident:
50

2 A. Hunts bear with the use of a dog or dogs; and

4 B. Does not employ and hunt with a ~~resident~~ licensed Maine
6 guide. The total number of clients with a ~~resident~~ licensed
Maine guide may not be more than 3 in order to satisfy the
requirements of this paragraph.

8 ~~This subsection does not apply to nonresidents who hold a valid
10 Maine guide license.~~

12 **Sec. 20. 12 MRSA §7452, sub-§1-D**, as enacted by PL 1989, c.
913, Pt. B, §7, is amended to read:

14 **1-D. Illegal trapping of bear.** A person is guilty of
16 illegally trapping bear if that person sets more than 2 traps for
another person to kill or register that bear.

18 **Sec. 21. 12 MRSA §7452, sub-§8, ¶C**, as amended by PL 1979, c.
20 723, §18, is further amended to read:

22 C. Fails to notify a warden within ~~12~~ 18 hours of the
24 location of the bear and the circumstances necessitating his
leaving the bear.

26 **Sec. 22. 12 MRSA §7455, first ¶**, as amended by PL 1985, c. 718,
28 §9, is repealed.

30 **Sec. 23. 12 MRSA §7458, sub-§9, ¶B**, as enacted by PL 1993, c.
156, §1, is amended to read:

32 B. Hunts Except as provided in subsection 15, paragraph H,
34 hunts from an observation stand or blind overlooking salt,
grain, fruit, nuts or other foods known to be attractive to
deer.

36 **Sec. 24. 12 MRSA §7458, sub-§15, ¶G**, as repealed and replaced
38 by PL 1983, c. 186, is amended to read:

40 G. Notwithstanding the provisions of subsection 4-A:

42 (1) A person on a hunting trip in an unorganized
44 township and staying at a temporary place of lodging
of lodging for a period not to exceed 7 days or until
46 he that person leaves the woods, whichever comes first;
and

48 (2) A person may leave an unregistered deer in the
50 woods if he that person notifies a warden within ~~12~~ 18

2 hours as to the location of the deer and the
circumstances necessitating his leaving the deer in the
4 woods.

6 **Sec. 25. 12 MRSA §7464, sub-§3, ¶B**, as amended by PL 1987, c.
696, §12, is further amended to read:

8 B. The moose tag portion of the permit bearing the name and
address of the person who killed the moose is not securely
10 attached to the moose; or

12 **Sec. 26. 12 MRSA §7464, sub-§3, ¶C**, as amended by PL 1981, c.
118, §4, is further amended to read:

14 C. The person who killed the moose does not accompany the
16 moose while it is being moved or transported~~+-e#.~~

18 **Sec. 27. 12 MRSA §7464, sub-§3, ¶D**, as enacted by PL 1981, c.
118, §4, is repealed.

20 **Sec. 28. 12 MRSA §7464, sub-§5-A**, as enacted by PL 1981, c.
22 118, §7, is amended to read:

24 **5-A. Keeping an unregistered moose.** A person is guilty of
keeping an unregistered moose if he that person keeps an
26 unregistered moose at his home, or any place of storage except at
an official moose registration station or at the office of an
28 inland fisheries and wildlife warden, for more than 12 18 hours.
A person may leave an unregistered moose in the woods if he that
30 person notifies a warden within 12 18 hours as to the location of
the moose and the circumstances necessitating his leaving the
32 moose in the woods.

34 **Sec. 29. 12 MRSA §7653, sub-§4**, as amended by PL 1995, c. 455,
§39, is further amended to read:

36 **4. Fees.** The commissioner may establish reasonable fees for
admission to the ~~Fish-and-Wildlife-Visitors'-Center-at-Gray,~~
38 ~~Cumberland-County,~~ Maine Wildlife Park and the Steve Powell
40 Wildlife Management Area at Perkins Township, Sagadahoc County,
known as Swan Island and Little Swan Island.

42 **Sec. 30. 12 MRSA §7735-A**, as enacted by PL 1991, c. 528, Pt.
44 KK, §2 and affected by c. 528, Pt. RRR and enacted by c. 591, Pt.
KK, §2, is amended to read:

46 **§7735-A. Maine Wildlife Park Fund**

48 **1. Establishment.** There is established the ~~Visitors'-~~
50 ~~Center-at-Gray~~ Maine Wildlife Park Fund, referred to in this

2 section as the "fund." The fund receives all funds collected by
the department from the operation of the Visitors'-Center-at-Gray
4 Maine Wildlife Park, including gate fees, the proceeds of any
sales at the Visitors'-Center-at-Gray Maine Wildlife Park and any
6 donations, grants or other funds presented to the department for
the benefit of the Visitors'-Center-at-Gray Maine Wildlife Park.
8 All money deposited in the fund and the earnings on the money
remain in the fund to be used for the management and maintenance
10 of the Visitors'-Center-at-Gray Maine Wildlife Park. Unexpended
balances in the fund at the end of the fiscal year may not lapse
12 but must be carried forward to the next fiscal year to be used
for the same purposes.

14 **2. Report.** By February 1st of each year the commissioner
shall submit an annual report to the joint standing committee of
16 the Legislature having jurisdiction over fisheries and wildlife
matters and the joint standing committee of the Legislature
18 having jurisdiction over appropriations and financial affairs.
The report must detail the amount of money collected in the fund
20 over the course of the prior year and the expense of managing and
maintaining the Visitors'-Center-at-Gray Maine Wildlife Park.
22 The commissioner shall make recommendations concerning how the
fund may be increased or expenses reduced or both so that the
24 Visitors'-Center-at-Gray Maine Wildlife Park becomes increasingly
financially self-sustaining.

26 **Sec. 31. 12 MRSA §7825-B**, as enacted by PL 1997, c. 614, §1
28 and c. 739, §7, is repealed and the following enacted in its
place:

30 **§7825-B. Snowmobile rental agent certificate**

32 **1. Registration and issuance.** Except as provided in this
34 section, a person or business may not rent or lease a snowmobile
unless that person or business:

36 **A. Registers with the department as a snowmobile rental**
38 **agent and is issued a snowmobile rental agent certificate**
from the commissioner;

40 **B. Obtains a Maine certificate of number for each**
42 **snowmobile being offered for rent or lease in the name of**
the person or business holding that certificate; and

44 **C. Instructs each person who rents or leases a snowmobile**
46 **how to operate the snowmobile, including how to use the**
brake, throttle and kill switch, and provides to that person
48 **a pamphlet describing proper hand signals.**

2 2. Fee. The fee for a snowmobile rental agent certificate
is \$25. The certificate is valid from July 1st to June 30th.

4 3. Exception. This section does not apply to a person
lawfully engaged in guiding activities under section 7311 who
6 accompanies others on guided trips that include the use of
snowmobiles, except that those persons must provide those
8 operators of snowmobiles with instructions equivalent to those
described in subsection 1, paragraph C.

10 Sec. 32. 12 MRSA §7825-C is enacted to read:

12 §7825-C. Personal watercraft rental agent certificate

14 1. Registration and issuance. Except as provided in this
16 section, a person or business may not rent or lease a personal
watercraft after January 1, 1999 unless that person or business:

18 A. Registers with the department as a personal watercraft
20 rental agent and is issued a personal watercraft rental and
leasing agent certificate from the commissioner;

22 B. Obtains a Maine certificate of number for each personal
24 watercraft being offered for rent or lease in the name of
the person or business holding that certificate; and

26 C. Provides each person who rents or leases a personal
28 watercraft with written instructions on how to operate the
personal watercraft.

30 2. Fee. The fee for a personal watercraft rental and
32 leasing agent certificate is \$25. The certificate is valid from
January 1st to December 31st.

34 3. Revocation of certificate. The commissioner may revoke
36 a personal watercraft rental and leasing agent certificate if the
commissioner determines that the certificate holder:

38 A. Rented or leased a personal watercraft that was unsafe;
40 or

42 B. Failed to instruct a person intending to rent or lease a
personal watercraft on personal watercraft safety. The
44 department shall provide each certificate holder with
written materials and instructional guidelines on personal
46 watercraft safety that the certificate holder shall review
with each personal watercraft renter or lessor before that
48 person operates that personal watercraft.

50 4. Exception. This section does not apply to:

- 2 6. It repeals the provision of law that repeals the laws
governing the expanded archery season.
- 4 7. It establishes a one-day license for commercial hunting
areas for a fee of \$5.
- 6 8. It repeals a provision in the laws governing the
8 muzzle-loading hunting season that if a person takes a deer
during any open season on deer, that person is precluded from
10 further hunting for deer during that year.
- 12 9. It moves the provision regarding the number of traps
that may be used to trap bear from the license section to the
14 bear trapping section along with other restrictions.
- 16 10. It repeals the requirement that anyone who has been
issued a permit to hunt, trap, possess, band and transport wild
18 animals and wild birds for scientific purposes must report to the
commissioner every year.
- 20 11. It prohibits certain persons who are prohibited from
22 possessing or being in control of firearms from obtaining or
possessing the specialized hunting guide license.
- 24 12. Current law provides that a guide must report a
26 violation by a client within 24 hours or as soon as safely
possible. This bill requires that the violation be reported by
28 the quickest means of communication possible.
- 30 13. Current law states that a special hide dealer's license
is valid for a period commencing October 1st. This bill makes
32 the license valid one month earlier.
- 34 14. It clarifies that a person licensed or otherwise
entitled to fish in waters in this State may take suckers only
36 for that person's own use.
- 38 15. It clarifies that a person is guilty of having a loaded
firearm in or on a motor vehicle if that person while in or on a
40 motor vehicle has any firearm with a cartridge or shell in the
chamber or in an attached magazine, clip or cylinder or a
42 muzzle-loading firearm charged with powder, lead and a
primed-ignition device or mechanism. It also prohibits shooting
44 from or having a loaded firearm in or on a motorboat.
- 46 16. It makes certain technical changes.
- 48 17. It amends the laws governing a nonresident hunting bear
with dogs.
- 50

2 18. It provides that a person may leave an unregistered
4 deer, bear or moose in the woods for a period of time no longer
6 than 18 hours before notifying a warden.

8 19. It repeals certain provisions relating to open season
10 for hunting partridge.

12 20. It repeals the requirement that if a moose is
14 dismembered for ease of transportation all pieces of the moose
16 must be labeled with the name and address of the person who
18 killed the moose.

20 21. It changes references to the "Visitor's Center at Gray"
22 to the "Maine Wildlife Park" as it is now known.

24 22. It amends the laws regarding snowmobile rental agents
by requiring that they register a snowmobile that they rent or
lease in this State.

26 23. It amends the laws regarding personal watercraft rental
28 agents by requiring that they register a personal watercraft that
they rent or lease in this State and also changes the rental
agent certificate to be valid for a calendar year to be
consistent with boat registrations.