

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2691

S.P. 1088

In Senate, April 14, 2000

An Act to Clarify the Law Enforcement Authority of Game Wardens.

(EMERGENCY)

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. (GOVERNOR'S BILL).
Cosponsored by Representative DUNLAP of Old Town and
Senator FERGUSON of Oxford, Representatives: LaVERDIERE of Wilton, LINDAHL of
Northport, MARTIN of Eagle Lake, PERKINS of Penobscot, SAVAGE of Union, SAVAGE
of Buxton.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 **Whereas,** it is necessary to resolve the issue of enforcement
6 of fish and wildlife conservation laws in order to clarify the
rights and responsibilities of the public and game wardens; and

8 **Whereas,** in the judgment of the Legislature, these facts
10 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

16 **Sec. 1.** 12 MRSA §7053, sub-§2, ¶D-1, as amended by PL 1999, c.
18 317, §1, is repealed.

20 **Sec. 2.** 12 MRSA §7053, sub-§2, ¶D-2, as enacted by PL 1999, c.
22 317, §2, is repealed.

24 **Sec. 3.** 12 MRSA §7053, sub-§2, ¶¶D-3 and D-4 are enacted to
read:

26 D-3. If the warden is in uniform and has reasonable and
28 articulable suspicion to believe that a violation of law has
taken place or is taking place, stop a motor vehicle or
watercraft for the purpose of:

30 (1) Arresting the operator for a criminal violation;

32 (2) Issuing the appropriate written process for a
34 criminal or civil violation or a traffic infraction; or

36 (3) Questioning the operator or occupants;

38 D-4. In order to protect fish and wildlife:

40 (1) If the warden is in uniform, stop a person for the
42 purpose of determining compliance with license, permit,
equipment or other requirements or restrictions if the
44 person, at the time of the stop, is:

46 (a) Engaged in hunting, fishing or trapping; and

48 (b) Not in or on a motor vehicle; and

50 (2) Pursuant to policy established by the
commissioner, establish checkpoints to stop any type

2 of vehicle and conduct checks to gather statistics
3 concerning hunting, fishing and trapping and to
4 determine compliance with fish and wildlife laws;

6 **Sec. 4. 12 MRSA §7053, sub-§3**, as enacted by PL 1979, c. 420,
§1, is amended to read:

8 **3. Same duties and powers as sheriffs.** In addition to their
9 specified duties and powers, wardens have the same duties and
10 powers throughout the several counties of the State as sheriffs
11 have in their respective counties, except that a warden's
12 primary responsibility is enforcement of laws protecting fish and
13 wildlife.

14 A. Wardens have the same rights as sheriffs to require aid
15 in executing the duties of their offices.

16 B. Wardens are entitled to the same fees as sheriffs and
17 their deputies for like services, except before the District
18 Court. All the fees shall must be paid to the commissioner.

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

24 SUMMARY

25 This bill clarifies the law enforcement authority of game
26 wardens.

27 This bill amends the laws delineating wardens' powers to
28 provide authority to stop a motor vehicle or watercraft, as those
29 terms are defined in the fish and wildlife laws, only when the
30 warden is in uniform and has reasonable and articulable suspicion
31 to believe that a violation has taken place or is taking place.
32 This power is consistent with the general authority of law
33 enforcement officers to stop motor vehicles under the Maine
34 Revised Statutes, Title 29-A.

35 This bill authorizes game wardens to make regulatory stops
36 to determine compliance with license, permit, equipment or other
37 requirements or restrictions when the following circumstances
38 exist:

- 39 1. The game warden is in uniform;

2 2. The person is in the act of hunting, fishing or
trapping; and

4
6 3. The person is not in or on a motor vehicle. The
definition of "motor vehicle" in the fish and wildlife laws
excludes motorboats but includes all other motor-driven vehicles.

8
10 This bill also clarifies that wardens have the authority to
establish checkpoints to collect statistics and determine
12 compliance with the fish and wildlife laws. Such checkpoints
must be established pursuant to policy established by the
14 Commissioner of Inland Fisheries and Wildlife. Current law
authorizes wardens to issue citations and prosecute violations
and to seize fish and wildlife unlawfully taken.

16
18 Finally, this bill states that wardens' primary
responsibility is enforcement of laws protecting fish and
wildlife.