

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1482

H.P. 1087

House of Representatives, March 31, 2003

**An Act To Revise Certain Provisions of Maine's 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.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUNLAP of Old Town.
Cosponsored by Senator BRYANT of Oxford and
Representatives: HONEY of Boothbay, PELLON of Machias, TRAHAN of Waldoboro,
USHER of Westbrook, WATSON of Bath, WHEELER of Kittery, WOTTON of Littleton,
Senator: CARPENTER of York.

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

4
6 **Whereas,** confusion exists as to the application of certain
laws administered by the Department of Inland Fisheries and
Wildlife; and

8
10 **Whereas,** this confusion poses difficulties for the sporting
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
18 **Whereas,** in the judgment of the Legislature, these facts
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 §7035, sub-§8,** as amended by PL 1995, c. 667,
26 Pt. A, §5, is further amended to read:

28 **8. Sale of publications.** If the commissioner determines it
advisable for the more effective dissemination of factual
30 information, information of public interest or information
tending to promote better public relations, the commissioner may
32 fix the price, if any, of certain publications and materials of
the department, and sell and deliver them. Publications and
34 materials included within this authority are all publications,
articles, biological and statistical data, professional and
36 technical service reports by departmental personnel and other
materials in the department's possession and pertaining to the
38 department, except publications of the laws in whatever form as
described in section 7034, subsection 5. Fees may be established
to offset the cost of printing extra copies of chapters 701 to
721 as provided in section 7034, subsection 6. These
42 publications may not carry any advertising of a political nature,
but may carry commercial advertising. The commissioner shall
44 accept commercial advertising in the department's general
circulation magazine entitled "Maine Fish and Wildlife" and any
46 successor or similar publication developed by the department.

48 The commissioner may sell or lease video tapes, photographs or
negatives owned by the department and may fix the price, if any,
50 giving consideration to their fair market value.

2 **Sec. 2. 12 MRSA §7035, sub-§21**, as enacted by PL 2001, c. 223,
§1, is amended to read:

4
6 **21. Disabled hunter, trapper and angler advisory
committee.** The commissioner shall establish a disabled hunter,
trapper and angler advisory committee composed of 4 disabled
8 persons, ~~a-licensed-physician~~, a representative of state agencies
that work on disability issues, 2 statewide organizations
10 representing hunters, trappers or anglers, and one interested
person. The purpose of the advisory committee is to advise the
12 commissioner on applications for a special permit under section
7076, subsection 16 and to provide recommendations to the
14 commissioner on ways to promote and enhance access to hunting,
fishing and trapping opportunities in this State for disabled
16 persons. The commissioner shall meet with the advisory committee
at least twice a year, once during the month of January, February
18 or March and once during the month of July, August or September,
to review applications for special permits to accommodate
20 permanent physical disabilities provided for in section 7076,
subsection 16 but may meet more often as the commissioner
22 determines necessary. The commissioner may, within existing
budgeted resources, reimburse advisory committee members for
24 mileage or other expenses related to their attending meetings of
the advisory committee.

26 **Sec. 3. 12 MRSA §7035, sub-§22** is enacted to read:

28 **22. Becoming an Outdoors Woman.** The Becoming an Outdoors
30 Woman program is established in the department to encourage women
to participate in hunting, fishing and other outdoor activities
32 within the State. The commissioner may sponsor Becoming an
Outdoors Woman events, establish appropriate fees for
34 participation and accept money, goods and services donated to the
department for the Becoming an Outdoors Woman program.

36 **Sec. 4. 12 MRSA §7071, sub-§8**, as amended by PL 1997, c. 137,
38 §1, is repealed.

40 **Sec. 5. 12 MRSA §7073, sub-§3-A**, as repealed and replaced by
PL 1997, c. 137, §3, is repealed.

42 **Sec. 6. 12 MRSA §7073, sub-§3-B**, as enacted by PL 1993, c.
44 459, §2 and affected by §3, is repealed.

46 **Sec. 7. 12 MRSA §7076, sub-§13-A** is enacted to read:

48 **13-A. Persons with acquired brain injury.** A complimentary
license to fish must be issued to any person with a head injury
50 as defined by Title 22, section 3086, upon application to the

2 commissioner. This complimentary license remains effective for
3 the life of the license holder, if the license is not revoked or
4 suspended.

6 **Sec. 8. 12 MRSA §7079-B, sub-§3** is enacted to read:

8 3. Suspension of license. If a license or registration is
9 suspended pursuant to Title 19-A, section 2201, the suspension
10 remains in effect until the person is in compliance with a court
11 order of support. On condition of payment of a \$25 reinstatement
12 fee to the department, the suspension is rescinded and the
13 license reinstated.

14 **Sec. 9. 12 MRSA §7109, sub-§4, ¶C**, as enacted by PL 1985, c.
15 304, §12, is amended to read:

16 C. Migratory Beginning January 1, 2004, migratory waterfowl
17 hunting permits shall expire on June--30th--following--the
18 season--for--which--the--permits--were December 31st of the year
19 issued. Permits issued in the year 2003 are valid for the
20 2003-2004 migratory waterfowl season.

22 **Sec. 10. 12 MRSA §7367, sub-§3, ¶A**, as amended by PL 1989, c.
23 883, §8, is further amended to read:

24 A. A written report of any accident occurring in connection
25 with a whitewater trip conducted by that outfitter and which
26 that results in the death of a person, a person's losing
27 consciousness or receiving professional medical treatment, a
28 person's becoming disabled for more than 24 hours, a
29 person's disappearance from a whitewater craft under
30 circumstances indicating death or injury, or damage to the
31 whitewater craft or other property of more than \$100 \$1,000;
32 and
33

34 **Sec. 11. 12 MRSA §7451, sub-§2, ¶B**, as repealed and replaced
35 by PL 1989, c. 913, Pt. A, §8, is repealed.

36 **Sec. 12. 12 MRSA §7457, sub-§1, ¶E**, as amended by PL 1983, c.
37 271, is further amended to read:

38 E. The commissioner may shorten the open season on deer in
39 any part of the State, provided that:

40 (1) The demarcation of the areas with the shortened
41 season follow recognizable physical boundaries, such as
42 rivers and railroad rights-of-way; and

43 (2) ~~The determination is made and published prior to~~
44 ~~June 1st of any year; and~~

2 (3) The Saturday preceding the first day of open
3 season on deer shall-be is an open day for residents of
4 this State only.

6 **Sec. 13. 12 MRSA §7457, sub-§1, ¶H,** as amended by PL 2001, c.
7 690, Pt. A, §8 and affected by §18, is further amended to read:

8
9 H. The commissioner may regulate the taking of antlerless
10 deer within any area of the State, as necessary, to maintain
11 deer populations in balance with available habitat if the
12 following conditions are met.

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

18 ~~(2) --The determination must be made and published prior
19 to August 1st of each year.~~

20
21 (4) The commissioner may adopt rules necessary for the
22 administration, implementation, enforcement and
23 interpretation of this subsection, except that there
24 may not be an antlerless deer permit system unless
25 otherwise specified in this paragraph. Any rules
26 adopted by the commissioner that provide for permits to
27 be issued to nonresident or alien hunters must provide
28 that:

30 (a) The percentage of antlerless deer permits
31 issued to nonresident and alien hunters may not
32 exceed the average percentage of applicants for
33 antlerless deer permits over the previous 3 years
34 who were nonresidents or aliens; and

36 (b) No more than 15% of the antlerless deer
37 permits issued in any one district or in any one
38 zone may be issued to nonresident and alien
39 hunters.

40
41 (5) An antlerless deer permit system adopted by the
42 commissioner pursuant to this section may include a
43 provision giving special consideration to landowners
44 who keep their lands open to hunting by the public.
45 Any 2 or more areas of land owned by the same person
46 that are open for hunting and that would be contiguous
47 except for being divided by one or more roads are
48 considered contiguous for the purposes of determining
49 landowner eligibility for special consideration under
50 this subparagraph.

2 A junior hunter or a person 65 years of age or older may
4 take an antlerless deer, if a person who holds a valid
6 antlerless deer permit transfers the permit to the junior
8 hunter or person 65 years of age or older by identifying the
10 name, age and address of the transferee on the permit as
12 well as any other information reasonably requested by the
14 commissioner and then returns the permit to the department
16 prior to the start of the firearm season on deer. The
commissioner shall record the transfer and return the permit
to the junior hunter or person 65 years of age or older. A
valid permit must be in the possession of the transferee in
order for the transferee to take an antlerless deer. If the
person transfers the permit to the junior hunter or person
65 years of age or older, that person is prohibited from
taking an antlerless deer.

18 **Sec. 14. 12 MRSA §7457, sub-§1, ¶I,** as amended by PL 2001, c.
690, Pt. A, §9 and affected by §18, is further amended to read:

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

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

30 ~~(2) -- The determination of these areas must be made and
32 published prior to August 1st of each year.~~

34 (3) The commissioner may implement a permit system to
36 regulate hunter participation in a special season and
38 the number, sex and age of deer harvested. If permits
are issued, the fee for a deer permit other than an
antlerless deer permit is \$30 and the fee for an
antlerless deer permit is \$10.

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

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

50 **Sec. 15. 12 MRSA §7457, sub-§2, ¶B,** as enacted by PL 1979, c.
420, §1, is repealed.

2 **Sec. 16. 12 MRSA §7457, sub-§3**, as amended by PL 1997, c. 463,
§2, is further amended to read:

4 **3. Deer tags.** The commissioner shall prescribe the form
6 and content of a deer tag and shall produce a deer tag that is
part--of issued with a big game hunting license issued--for
8 calendar-year-1998-and-thereafter.

10 **Sec. 17. 12 MRSA §7463-A, sub-§12**, as enacted by PL 1981, c.
118, §2, is amended to read:

12 **12. Authority of commissioner.** The commissioner may issue
14 applications for moose hunting permits, issue permits and make
all rules and--regulations pertaining therete to moose hunting
16 permits, including provisins for permittees who are selected for
a permit but unable to use the permit. The commissioner may make
18 all other rules and--regulations--which-he that the commissioner
considers necessary for the protection of the moose resource.

20 **Sec. 18. 12 MRSA §7469, sub-§6**, as enacted by PL 1985, c. 95,
22 §1, is amended to read:

24 **6. Keeping an unregistered wild turkey.** A person is guilty
of keeping an unregistered wild turkey if he that person keeps an
26 unregistered wild turkey at his that person's home, or any place
of storage except at an official wild turkey registration station
28 or at the office of an inland fisheries and wildlife warden, for
more than ~~12~~ 18 hours.

30 **Sec. 19. 12 MRSA §7505, sub-§3**, as enacted by PL 1979, c. 420,
32 §1, is amended to read:

34 **3. Failure to restrain or control a nuisance dog.** The owner
or keeper of a dog is guilty of failure to restrain or control a
36 nuisance dog if:

38 A. His That person's dog is found chasing or pursuing any
moose, ~~caribou,~~ deer or elk wild turkey at any time, or any
40 other wild animal in closed season;

42 B. His That person's dog is found killing or wounding any
moose, ~~caribou,~~ deer or elk wild turkey at any time, or any
44 other wild animal in closed season;

46 C. His That person's bird dog, retrieving dog or hound is
found killing or wounding any moose, ~~caribou,~~ deer or elk
48 wild turkey during the period in which it is lawful to train
dogs, as provided for in section 7863, subsection 1, while

2 the dog is at a licensed dog training area or at a licensed
trial for retrieving dogs; or

4 D. He That person has been notified under section 7504,
6 subsection 6, paragraph C, and he that person permits any
dog mentioned in the notice to leave his that person's
8 immediate control.

10 **Sec. 20. 12 MRSA §7553, sub-§1**, as amended by PL 1999, c. 403,
§§29 and 30 and as corrected by RR 1999, c. 1, §23, is further
12 amended to read:

14 **1. Fishway dams.** The area within 150 feet of any dam-~~in~~
~~which-a~~ operational fishway ~~is-located~~, except:

16 B. At the following places, the fishway and the area within
18 75 feet of any part of the fishway are closed to fishing at
all times:

20 (1) Grand Falls Powerhouse Dam on the St. Croix River
in Baileyville; and

22 (2) Woodland Dam on the St. Croix River in Baileyville;

24 B-1. At the following places, the area within 75 feet of
26 the mouth of the fishway is closed to fishing at all times:

28 (1) East Grand Lake Dam in Forest City Township, T9 R4
NBPP; and

30 (2) Spednic Lake Dam in Vanceboro;

32 C. At the so-called ice control dam on the Narraguagus
34 River in the Town of Cherryfield, the area within 100 feet
of the dam must be closed to fishing at all times;

36 D. At East Outlet Dam in Sapling Township (T1R7) in
38 Somerset County and in Big Squaw Township (T2R6) in
Piscataquis County at the outlet of Moosehead Lake, the
40 fishway and the area within 50 feet of any part of the
fishway must be closed to fishing at all times; and

42 E. There is no fishing in or from the fishway at the
44 Sheepscot Lake Dam in the Town of Palermo in Waldo County.

46 **Sec. 21. 12 MRSA §7606, sub-§1-A**, as amended by PL 1989, c.
618, §1 and affected by §2, is further amended to read:

48 **1-A. Sale of bait or baitfish in biodegradable worm**
50 **containers.** A person who sells bait or baitfish shall net

2 provide or sell the bait or baitfish in containers that are
composed ~~in-whole-or-in-part-of-polystyrene-foam-plastic~~ of
biodegradable paper or cardboard.

4
6 **Sec. 22. 12 MRSA §7827, sub-§§5 and 6,** as enacted by PL 1979,
c. 420, §1, are amended to read:

8 **5. Failing to stop a snowmobile before entering a public**
way. A person is guilty of failing to stop a snowmobile before
10 entering a public way or a private way maintained for travel if
he that person fails to bring a snowmobile to a complete stop
12 before entering a public way or a private way maintained for
travel.

14 **6. Failing to yield right-of-way while operating a**
snowmobile. A person is guilty of failing to yield the
16 right-of-way while operating a snowmobile if he that person fails
18 to yield the right-of-way to all vehicular traffic while
operating a snowmobile on a public way or a private way
20 maintained for travel.

22 **Sec. 23. 12 MRSA §7827, sub-§10, ¶A,** as enacted by PL 1997, c.
432, §53, is amended to read:

24 A. A person may not operate a snowmobile ~~on-the-statewide~~
26 ~~snowmobile-trail-system-or-a-public-right-of-way-that-is~~
~~open-to-snowmobiling~~ except at a reasonable and prudent
28 speed for the existing conditions, including when
approaching and crossing an intersection or railway grade
30 crossing, when approaching and taking a curve, when
approaching a hill crest, when traveling upon any narrow or
32 winding trail and when a special hazard exists with respect
to pedestrians, skiers or other traffic by reason of weather
34 or trail conditions.

36 **Sec. 24. 12 MRSA §7827, sub-§21,** as enacted by PL 1979, c.
420, §1, is amended to read:

38 **21. Unlawfully permitting operation.** A person is guilty of
40 unlawfully permitting operation of a snowmobile if he that person
owns a snowmobile ~~and-knowingly-permits-it-to-be-operated~~ that is
42 operated by another person in violation of any section of this
subchapter. A person is guilty of unlawfully permitting
44 operation of a snowmobile if that person is the parent or
guardian responsible for the care of a minor under 18 years of
46 age who operates a snowmobile in violation of this subchapter.

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

50

2

SUMMARY

4 This bill makes several changes in the laws involving the
Department of Inland Fisheries and Wildlife.

6

8 1. In the law governing accident reports by whitewater trip
outfitters, it changes the amount of property damage requiring a
report from \$100 to \$1,000, which is consistent with other
10 reporting requirements for boating, and clarifies that the
reporting requirement for medical attention is for professional
12 medical attention.

14 2. It repeals laws requiring the department to publish
lists of bear and deer registration stations in a daily newspaper.

16

18 3. It repeals the requirement that if rulemaking is
necessary to shorten the open season on deer, regulate the taking
of antlerless deer or create special hunting seasons, the
20 determination must be made and published by a certain date.

22 4. It repeals the requirement that the disabled hunter,
trapper and angler advisory committee have a licensed physician
24 as a member.

26 5. It establishes the Becoming an Outdoors Woman program as
a program within the department.

28

30 6. It authorizes the department to issue complimentary
fishing licenses to persons with acquired brain injury.

32 7. It amends the law regarding deer tags so that the
department has flexibility in how the tag is issued.

34

36 8. It authorizes the department to sell extra copies of the
Maine Revised Statutes, Title 12, chapters 701 to 721, as
prepared and printed by the department to help offset the cost of
38 printing.

40 9. It repeals the requirements that a trespass reminder and
convicted felon statement be printed on licenses.

42

44 10. It establishes a reinstatement fee for licenses that
are suspended for failure to comply with court-ordered support
under the Maine Revised Statutes, Title 19-A, section 2201.

46

48 11. It requires that bait and baitfish be sold in
containers that are composed in whole of biodegradable paper or
cardboard.

50

2 12. It makes the amount of time for registering wild
turkeys the same as that for registering bear, deer and moose, 18
4 hours. It is currently 12 hours.

6 13. It amends the law prohibiting fishing from a dam in
which a fishway is located to make it unlawful to fish from any
8 operational fishway rather than from the dam.

10 14. It amends the snowmobile laws by making a parent or
guardian of a minor under 18 years of age responsible if that
12 minor operates a snowmobile in violation of the snowmobile laws.
This is consistent with ATV law.

14 15. Currently, the violation of operating to endanger only
applies on the statewide snowmobile trail system or a public
16 right-of-way that is open to snowmobiling. This bill removes
that language.

18 16. It establishes a grace period for migratory waterfowl
20 permits and changes the permit to a calendar year permit.
Currently, permits expire on June 30th following the season for
22 which they were issued. These permits are now issued in the form
of a license rather than a stamp and will coincide with the
24 licensing year.

26 17. It requires that snowmobile operators stop before
entering a public way or private way maintained for travel and
28 that snowmobile operators yield the right-of-way to all vehicular
traffic while operating on a public way or private way
30 maintained for travel.

32 18. It amends the law regarding dogs chasing, wounding or
killing moose and deer, adding wild turkeys to the list.

34 19. It allows the Commissioner of Inland Fisheries and
36 Wildlife to establish rules regarding permittees that are
selected to receive a moose hunting permit but are unable to use
38 the permit.