

# MAINE STATE LEGISLATURE

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7/11/04

L.D. 1662

DATE: 2-11-04

(Filing No. H-692)

**INLAND FISHERIES AND WILDLIFE**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1238, L.D. 1662, Bill, "An Act To Strengthen the Prohibition against Night Hunting"

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

**Sec. 1. 12 MRSA §10502**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

**§10502. Seizure of fish, wildlife and equipment**

**1. Seizure; filing libel.** All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of this Part, and all equipment, including but not limited to firearms, possessed or used in violation of this Part are contraband and subject to seizure by any officer authorized to enforce this Part. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 10503.

**2. Exemption from libel proceedings.** The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

**COMMITTEE AMENDMENT**

2 A. Unless reasonable doubt exists as to ownership, property  
4 having a value less than \$10;

6 B. Any A firearm seized in connection with a violation of:

8 (1) Section 11206;

10 (2) Section 10902, subsection 6; or

12 (3) Section 10752, subsection 6, paragraph B and  
section 10902, subsection 4, paragraphs A and B;

14 C. ~~Any-fishing~~ Fishing equipment that ~~is-contraband-under~~  
16 ~~this-section-and~~ is seized in connection with a violation of  
section 10902, subsection 8 except for motor boats or motor  
18 vehicles; and

20 D. ~~Any-fish~~ Fish or wildlife that is ~~contraband-under-this~~  
section ~~and-is~~ seized in connection with any a violation of  
22 this Part; and

24 E. Night vision equipment seized in connection with a  
violation of section 11206.

26 Property seized by the commissioner that is exempt from libel  
28 under this subsection must be retained by the commissioner  
pending disposition of ~~eximial~~ proceedings and is forfeited to  
30 the State upon conviction or adjudication that the person  
committed the violation.

32 3. Disposal of forfeited property. The commissioner may  
34 dispose of property forfeited to the State under this section in  
any manner considered appropriated by the commissioner.

36 ~~Property-forfeited-to-the-State-under-this-section-may-be~~  
38 ~~disposed--of--by--the--commissioner--in--any--manner--considered~~  
~~appropriate-by-the-commissioner.~~

40 **Sec. 2. 12 MRSA §11206**, as enacted by PL 2003, c. 414, Pt. A,  
42 §2 and affected by Pt. D, @7, is repealed and the following  
enacted in its place:

44 **§11206. Night hunting**

46 1. Prohibition. Except as otherwise provided in this Part,  
48 a person may not:

50 A. Hunt wild birds or wild animals from 30 minutes after  
sunset to 30 minutes before sunrise of the following day; or

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C. Possess any wild animal or wild bird taken in violation of paragraph A.

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

B. A person who violates subsection 1 and is in possession of night vision equipment commits a Class D crime for which the court shall impose a sentencing alternative of not less than 6 days for the first offense, none of which may be suspended, and of not less than 20 days for each succeeding offense, not of which may be suspended; the court also shall impose a fine of not less than \$2,000, none of which may be suspended.

For purposes of this paragraph, "night vision equipment" means spotting scopes, rifle scopes or headset night vision gear.

**Sec. 3. 12 MRSA §11901**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed and the following enacted in its place:

**§11901. Raccoons**

1. Open season. An open season for hunting raccoons established by the commissioner must be of uniform duration throughout the State.

2. Night hunting. Notwithstanding the night hunting prohibition in section 11206, raccoons may be hunted at night during an open season established pursuant to this section.'

**SUMMARY**

This amendment replaces the bill and doubles the mandatory minimum penalty for night hunting in cases where night vision equipment is involved. It also exempts night vision equipment seized in connection with a night hunting violation from libel proceedings and clarifies that the current exemption from libel

COMMITTEE AMENDMENT "A" to H.P. 1238, L.D. 1662

2 proceedings for fishing equipment seized in connection with  
3 certain fishing violations does not include motorboats or motor  
4 vehicles. The amendment also incorporates changes made by Public  
5 Law 2003, chapter 333 in order to incorporate those changes into  
6 the new Maine Revised Statutes, Title 12, Part 13. Finally, the  
7 amendment clarifies that raccoons may be hunted at night during  
8 the open season.

10 **FISCAL NOTE REQUIRED**  
**(See attached)**

**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1662**

**An Act To Strengthen the Prohibition against Night Hunting**



**LR 2600(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Inland Fisheries and Wildlife**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Current biennium revenue increase - General Fund

**Correctional and Judicial Impact Statements**

Increasing penalties will generate more fine revenue and increase county correctional costs