# MAINE STATE LEGISLATURE

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## 121st MAINE LEGISLATURE

### **SECOND SPECIAL SESSION-2004**

Legislative Document

No. 1938

I.B. 5

House of Representatives, March 18, 2004

### An Act Prohibiting Certain Bear Hunting Practices

Transmitted to the Clerk of the 121st Maine Legislature by the Secretary of State on March 17, 2004 and ordered printed.

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Millicent M. MacFARLAND

Clerk

	Be it enacted by the People of the State of Maine as follows:
2	
4	PART A
6	
8	<pre>Sec. A-1. 12 MRSA §7077, sub-§1-A, ¶F, as enacted by PL 1993, c. 136, §1, is amended to read:</pre>
10	F. Hunting ertrapping bear after having killed one, exceeding the bag limit on bear or buying or selling bear in
12	violation of section 7452, subsection 3, 4 or 9;
14	Sec. A-2. 12 MRSA §7077-A, sub-§6 is enacted to read:
16	6. Unsportsmanlike practices regarding hunting or trapping
18	bear. A person convicted of a violation of section 7451, subsection 3-A; section 7452, subsection 1; or section 7452, subsection 2-A is not eligible to obtain any license issued by
20	the department for 5 years from the date of conviction in the case of a first offense and permanently from the date of
22	conviction in the case of a 2nd or subsequent offense. Any license in effect at the time of conviction is revoked upon
24	conviction and must be immediately surrendered to the commissioner.
26	Sec. A-3. 12 MRSA §7104-A, sub-§§1 and 2, as enacted by PL
28	1993, c. 216, §1, are amended to read:
30	1. Gate fees. Gate fees or other access fees that are unrelated to the taking of game; $\underline{\text{or}}$
32	2. Guiding fees. Fees charged by licensed guides or other
34	fees that are unrelated to access to land; -er.
36	Sec. A-4. 12 MRSA §7104-A, sub-§3, as enacted by PL 1993, c. 216, §1, is repealed.
38	Sec. A-5. 12 MRSA §7110, sub-§1, as repealed and replaced by
40	PL 1989, c. 878, Pt. A, §34, is amended to read:
42	1. Permit required. A permit is required to hunt for bear from the first Monday preceding September 1st to theday
44	preceding-the-open-firearm-season-on-deer November 30th. This sestion-does-not-apply-to-trapping-for-bear-
46	Sec. A-6. 12 MRSA §7451, sub-§1, ¶A, as amended by PL 1993, c.
48	167, §1, is further amended to read:
50	A. There is an open season on hunting bear from the first

2	Monday preceding September 1st to November 30th annually. The-commissioner-may,-pursuant-to-section-7035,-subsection
	1,-adopt-rules-prohibiting-the-use-ef-bait-te-hunt-black
4	bear-during-any-pertien-ef-the-epen-bear-hunting-seasen-
6	Sec. A-7. 12 MRSA §7451, sub-§1, ¶B, as repealed and replaced by PL 1981, c. 224, §1, is repealed.
8	Sec. A-8. 12 MRSA §7451, sub-§1, ¶C, as amended by PL 1989, c.
10	493, §29, is repealed.
12	Sec. A-9. 12 MRSA $$7451$ , sub- $$1$ , $\PD$ , as amended by PL 1989, c. 913, Pt. A, $$7$ , is further amended to read:
14	D. The commissioner may shorten the open seasens season on
16	bear as established in paragraphs paragraph A7-B-and-C in any part of the State provided that:
18	(1) The demarcation of the areas with a shortened
20	season follows recognizable physical boundaries such as rivers and railroad rights-of-way; and
22	(2) The decision is made and published prior to
24	February 1st of any year.
26	Sec. A-10. 12 MRSA $$7451$ , sub- $$1$ , $\P E$ , as enacted by PL 1981, c. 224, $$1$ , is amended to read:
28	E. The commissioner may terminate the open season on bear
30	as established in paragraph $A_7 - B - and - C$ at any time in any part of the State, if in his the commissioner's opinion, an
32	immediate emergency action is necessary due to adverse weather conditions or severe hunting er-trapping pressure.
34	
36	Sec. A-11. 12 MRSA §7451, sub-§3, as amended by PL 2003, c. 333, §11, is repealed.
38	Sec. A-12. 12 MRSA §7451, sub-§3-A is enacted to read:
40	3-A. Placing of bear bait prohibited. Bait, including, but not limited to, doughnuts and other pastries, grease, meat,
42	fruits, vegetables, honey and any other food known to be
44	attractive to bear, may not be used to hunt or attract bear. Such use of bait is unlawful unless:
46	A. The bait is used by state or federal employees, acting in their official capacity, to attract a specific offending
48	animal for purposes of protecting livestock, domestic
50	animals, threatened or endangered wildlife, public or private property or public safety;

4	b: The bart is used in conjunction with the operation of a
	feeding station for bear in order to prevent damage to
4	commercial timberland, as long as the bait is used by owners
	or operators of that land, or their employees, pursuant to a
6	permit granted by the department, but in no event for the
	purpose of killing bear; or
8	
	C. The bait is used by the department or pursuant to a
0	permit granted by the department to an accredited university
U	for scientific or research purposes, but in no event for the
2	
2	purpose of killing bear.
4	Sec. A.13 12 MDSA 87452 cub 81
4	Sec. A-13. 12 MRSA §7452, sub-§1, as enacted by PL 1979, c.
_	420, §1, is repealed and the following enacted in its place:
6	
	<ol> <li>Unlawfully hunting or pursuing bear with dogs;</li> </ol>
8	hounding. The following provisions govern hunting or pursuing
	bear with dogs, also known as hounding.
0	
	A. It is unlawful to use a dog or dogs to hunt or pursue
2	bear, except as provided in paragraph B.
	B. The use of a dog or dogs to hunt or pursue bear is
	lawful in the following circumstances:
	(1) The dog or dogs are used by state or federal
	employees to pursue a specific offending animal when
	the employees, or their designees, are acting in their
	official capacity for purposes of protecting livestock,
	domestic animals, threatened or endangered wildlife,
	<pre>public or private property or public safety; or</pre>
	(0) (1)
	(2) The dog or dogs are used by the department or
	pursuant to a permit granted by the department to an
	accredited university for scientific or research
	purposes, but in no event for the purpose of killing
	<u>bear.</u>
	Sec. A-14. 12 MRSA §7452, sub-§1-A, as amended by PL 1989, c.
	493, §30, is repealed.
	Sec. A-15. 12 MRSA §7452, sub-§1-B, as enacted by PL 1987, c.
	696, §10, is amended to read:
	, , , , , , , , , , , , , , , , , , ,
	1-B. Illegal harvest of bear. A person isguiltyof
	illegally-harvesting-bear-if may not, without the permission of
	the person conducting the hunt that-person-kills, kill or wounds
	wound a bear that is treed or held at bay by another person's-deg
0	er-degs <u>person</u> .

2	Sec. A-16. 12 MRSA §7452, sub-§1-C, as enacted by PL 1989, c. 493, §31, is amended to read:
4	
6	1-C. Illegal baiting of bear. A person is guilty of illegally baiting bear if that person places bear bait in any manner which that does not conform to section 7451, subsection 3
8	$\frac{3-A}{2}$ .
10	<pre>Sec. A-17. 12 MRSA §7452, sub-§1-D, as enacted by PL 1989, c. 913, Pt. B, §7, is repealed.</pre>
12	Sec. A-18. 12 MRSA §7452, sub-§2, as amended by PL 1979, c.
14	543, §38, is repealed.
16	Sec. A-19. 12 MRSA §7452, sub-§2-A is enacted to read:
18	2-A. Unlawful hunting of bear with trap. The following provisions govern the hunting of bear with a trap.
20	A. It is unlawful to use or set a trap to hunt or capture
22	bear, except as provided in paragraph B.
24	B. The use of a trap to hunt or capture bear is lawful in the following circumstances, provided any use of a trap
<ul><li>26</li><li>28</li></ul>	<pre>pursuant to this paragraph is undertaken in the most humane manner practicable:</pre>
30	(1) The trap is used by state or federal employees, acting in their official capacity, to hunt or capture a
32	specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety;
34	or
36	(2) The trap is used by the department or pursuant to a permit granted by the department to an accredited
38	university for scientific or research purposes, but in no event for the purpose of killing bear.
40	Sec. A-20. 12 MRSA §7452, sub-§3, as enacted by PL 1979, c.
42	420, §1, is amended to read:
44	3. Hunting bear after having killed one. A person is guilty of hunting er-trapping bear after having killed one if he
46	that person hunts er-traps bear after he-has having killed or
48	registered one during any open season.
50	Sec. A-21. 12 MRSA §7452, sub-§5, as amended by PL 2003, c. 333, §13, is further amended to read:

2	5. Hunting bear near dumps. The commissioner, or the
4	commissioner's agent, shall establish a line of demarcation at least 500 yards from sites permitted or licensed for the disposal
_	of solid waste. A person may not hunt, trac, molest or harass a
6	bear er-release-dogs-for-the purpose of hunting-bear within this area. The commissioner, or the commissioner's agent, is exempt
8	from this prohibition for the purpose of live trapping nuisance
	bears <u>pursuant to subsection 2-A</u> .
LO	
12	Sec. A-22. 12 MRSA §7452, sub-§15, ¶A, as amended by PL 2003, c. 331, §10, is repealed.
L4	Sec. A-23. 12 MRSA §7458, sub-§15, ¶H, as enacted by PL 1993,
16	c. 156, §2, is amended to read:
	H. Subsection 9, paragraph B does not apply to hunting from
18	an observation stand or blind overlooking:
20	(1) Standing crops;
22	(2) Foods that have been left as a result of normal agricultural operations or as a result of natural
24	occurrence; or
LI	occurrence, or
26	(3) Bear bait that has been placed at a bear hunting
	stand or blind in accordance with section 7451,
28	subsection 3 $3-A$ .
30	Sec. A-24. 12 MRSA §7504, sub-§8, as enacted by PL 1981, c.
	563, §3, is amended to read:
32	
2.4	8. Raccoons and bears.
34	A. The commissioner may suspend the game laws relating to
36	raccoons and bears in such restricted localities and for
	such periods of time as he the commissioner finds it
38	advisable to relieve excessive damage being done by them to
	sweet corn or other crops. Nothing in this paragraph is
40	intended to limit or create an exception to section 7451,
	subsection 3-A; section 7452, subsection 1; or section 7452,
42	subsection 2-A.
44	B. The commissioner may suspend subsection 6 for the
4.6	purpose only of allowing dogs to be used in hunting and
46	killing raccoons and-bears, providing the dogs are under the
<i>1</i> 0	personal supervision of the owner at all times, for such
48	periods of time as the commissioner finds it advisable.
50	Sec. A-25. 12 MRSA §7861, sub-§1, ¶C, as enacted by PL 1989,
	c. 913, Pt. A, §18, is repealed.
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2	Sec. A-26. 12 MRSA 3/901-A, sub-30, \(\mathbb{C}\), as repealed and
	replaced by PL 2003, c. 331, §36 and c. 333, §24, is amended by
4	repealing and replacing subparagraph (1) to read:
6	(1) Hunting bear near a site permitted or licensed for
	the disposal of solid waste as described in section
8	7452, subsection 5;
10	Sec. A-27. 12 MRSA §7901-A, sub-§7, ¶C, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:
12	C. The following crimes are Class D crimes for which the
14	court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days; the court also shall
16	impose a fine of not less than \$1,000, none of which may be suspended:
18	(1) Hunting a bear during the closed season or
20	possessing a bear taken during the closed season as described in section 7406, subsection 1;
22	(2) Hunting ortrapping a bear after having killed
24	one, as described in section 7452, subsection 3; and
26	(3) Exceeding the bag limit on bears as described in section 7452, subsection 4.
28	Sec. A-28. 12 MRSA §7901-A, sub-§7, ¶¶F and G are enacted to
30	read:
32	F. In the case of a first offense, the following are unsportsmanlike practices that are Class D crimes:
34	(1) Unlawfully hunting or attracting bear using bait
36	as described in section 7451, subsection 3-A;
38	(2) Unlawfully hunting or pursuing bear with dogs, also known as hounding, as described in section 7452,
40	subsection 1; and
42	(3) Unlawfully hunting or capturing bear with a trap as described in section 7452, subsection 2-A.
44	
	G. In the case of a 2nd or subsequent offense, the
46	following are unsportsmanlike practices that are Class C crimes:
48	<del></del>

	(1) Unlawfully nunting of attracting bear using balt
2	as described in section 7451, subsection 3-A;
4	(2) Unlawfully hunting or pursuing bear with dogs,
б	<pre>also known as hounding, as described in section 7452, subsection 1; and</pre>
8	(3) Unlawfully hunting or capturing bear with a trap as described in section 7452, subsection 2-A.
10	de described in Section (192) Subsection and
12	PART B
14	Sec. B-1. 12 MRSA $\$10902$ , sub- $\$6$ , $\PE$ , as enacted by PL 2003, c. 414, Pt. A, $\$2$ and affected by Pt. D, $\$7$ , is amended to read:
16 18	E. Buying or selling bear, or hunting ertrapping bear after having killed one or exceeding the bag limit on bear,
20	in violation of section 11217 or 11351;
22	Sec. B-2. 12 MRSA §10902, sub-§9 is enacted to read:
24	9. Mandatory hunting license revocation for unsportsmanlike practices regarding bear. The commissioner shall suspend a
26	<pre>person's hunting license for at least 5 years if that person is convicted of:</pre>
28	A. Bear baiting in violation of section 11301-A;
30	B. Hounding in violation of section 11302-A; or
32	C. Illegal bear trapping in violation of section 12260-A.
34	If a person is convicted of any of the violations in paragraphs A to C for a 2nd or subsequent time, the commissioner shall revoke
36	such person's hunting license permanently.
38	Sec. B-3. 12 MRSA §11151, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:
40	<ol> <li>Permit required. Except as otherwise authorized</li> </ol>
42	pursuant to this Part, a person may not hunt for bear without a permit from the first Monday preceding September 1st to the-day
44	preceding-the-open-firearm-season-on-deer November 30th. This section-does-not-apply-to-trapping-for-bear.
46	Each day a person violates this subsection that person commits a
48	Class E crime for which a minimum of \$50 and an amount equal to twice the applicable license fee must be imposed.

2	Sec. B-4. 12 MRSA §11218, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:
4	
6	§11218. Game fees
	A person may not charge any fee for access to land if the
8	fee is contingent upon the taking of game on the land or directly related to the taking of game on the land unless the land is an
LO	authorized commercial shooting area licensed under section 12101. This section does not apply to:
.2	
.4	<ol> <li>Gate fees. Gate fees or other access fees that are unrelated to the taking of game; or</li> </ol>
.6	2. Guiding fees. Fees charged by licensed guides or other fees that are unrelated to access to land+- $\Theta$ F.
:0	3Fees - forplacing - bear - baitFees - thataredirectly related-te-the-placing-of-bear-bait-on-land.
2	A person who violates this section commits a Class E crime.
4	Sec. B-5. 12 MRSA $\S11251$ , as enacted by PL 2003, c. 414, Pt. A, $\S2$ and affected by Pt. D, $\S7$ , is amended to read:
:6 :8	§11251. Open and closed seasons
0	1. Open season on bear; commissioner's authority. This subsection governs the open and closed seasons on bear.
2	A. There is an open season on hunting bear from the first Monday preceding September 1st to November 30th annually. The-commissioner-may,-pursuant-te-section-10104,-subsection 1,-adopt-rules-prohibiting-the-use-ef-bait-te-hunt-black
16	bear-during-any-portion-of-the-open-bear-hunting-season.
88	BThere-isanopen-seasononusing-adogordogsin conjunctionwithbearhuntingfromthefirstMonday
10	precedingSeptemberlsttothedayprecedingtheopen firearm-season-on-deer-provided-in-sections-11401-and-11402-
12	
14	C. The commissioner may shorten the open seasens <u>season</u> on bear as established in paragraphs <u>paragraph</u> A and B in any part of the State as long as:
16	
8	(1) The demarcation of the areas with a shortened season follows recognizable physical boundaries such as rivers and railroad rights-of-way; and
50	11vois and latitoda lights-of-way, and

2	(2) The decision is made and published prior to February 1st of any year.
4	D. The commissioner may terminate the open season on bear as established in paragraphs paragraph A and-B at any time
6	in any part of the State if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse
8	weather conditions or severe hunting of trapping pressure.
10	Sec. B-6. 12 MRSA §§11301 and 11302, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, are repealed.
12	Sec. B-7. 12 MRSA §§11301-A and 11302-A are enacted to read:
14	\$11301-A. Bear baiting
16	
18	1. Prohibition. Bait, including, but not limited to, doughnuts and other pastries, grease, meat, fruits, vegetables, honey and any other food known to be attractive to bear, may not
20	be used to hunt or attract bear, except as provided in subsection 2.
22	2. Exceptions. The use of bait to hunt or attract bear is
24	lawful if:
26	A. The bait is used by state or federal employees, acting in their official capacity, to attract a specific offending
28	animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or
30	private property or public safety;
32	B. The bait is used in conjunction with the operation of a feeding station for bear in order to prevent damage to
34	commercial timberland, as long as the bait is used by owners or operators of that land, or their employees, pursuant to a
36	permit granted by the department, but in no event for the purpose of killing bear; or
38	C The best is used by the description of a constraint to a
40	C. The bait is used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the
42	purpose of killing bear.
44	3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of bear baiting, which is a Class
46	D crime for the first offense. A 2nd or subsequent offense is a
4.0	Class C crime.
48	§11302-A. Unlawfully hunting or pursuing bear with dogs; hounding
50	

2	in subsection 2.
4	2. Exception. The use of a dog or dogs to hunt or pursue
6	bear is lawful in the following circumstances:
8	A. The dog or dogs are used by state or federal employees to pursue a specific offending animal when the employees, or
10	their designees, are acting in their official capacity for purposes of protecting livestock, domestic animals,
12	threatened or endangered wildlife, public or private property or public safety; or
14	B. The dog or dogs are used by the department or pursuant
16	to a permit granted by the department to an accredited university for scientific or research purposes, but in no
18	event for the purpose of killing bear.
20	3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of hounding, which is a Class D
22	crime for the first offense. A 2nd or subsequent offense is a Class C crime.
24	Sec. B-8. 12 MRSA §11303, sub-§2, as enacted by PL 2003, c.
26	414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:
28	2. Prohibition. A person may not hunt, trap, molest or harass a bear er-release-degs-for-the-purpose-ef-hunting-bear
30	within the area described in subsection 1. The commissioner, or the commissioner's agent, is exempt from this prohibition for the
32	purpose of live-trapping nuisance bears <u>pursuant to section</u> 12260-A.
34	Sec. B-9. 12 MRSA §11304, as enacted by PL 2003, c. 414, Pt.
36	A, §2 and affected by Pt. D, §7, is amended to read:
38	§11304. Permission to harvest another person's bear
40	A person may not, without the permission of the person conducting the hunt, kill or wound a bear that is treed or held
42	at bay by another person's-dog-er-dogs person.
44	Sec. B-10. 12 MRSA §11351, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:
46	
48	1. Hunting bear after having killed one. A person may not hunt er-trap bear after that person has killed or registered one during any open season. A person who violates this subsection
50	commits a Class D crime for which the court shall impose a

ехсе	encing alternative involving a term of imprisonment not to ed 180 days; the court also shall impose a fine of not less a \$1,000, none of which may be suspended.
A, §	Sec. B-11. 12 MRSA §12260, as enacted by PL 2003, c. 414, Pt. 22 and affected by Pt. D, §7, is repealed.
	Sec. B-12. 12 MRSA §12260-A is enacted to read:
<u>§122</u>	260-A. Illegal trapping of bear
	1. Prohibition. It is unlawful to use or set a trap to
<u>hunt</u>	or capture bear, except as provided in subsection 2.
	2. Exception. The use of a trap to hunt or capture bear is
lawf	ul in the following circumstances, provided any use of a trap
purs	suant to this subsection is undertaken in the most humane
mann	mer practicable:
	A. The trap is used by state or federal employees, acting
	in their official capacity, to hunt or capture a specific
	offending animal for purposes of protecting livestock,
	domestic animals, threatened or endangered wildlife, public
	or private property or public safety; or
	or prayade proporty or public ourself. Vi
	B. The trap is used by the department or pursuant to a
	permit granted by the department to an accredited university
	for scientific or research purposes, but in no event for the
	purpose of killing bear.
	3. Penalty. A person who violates this section is guilty
	the unsportsmanlike practice of illegal bear trapping, which
	a Class D crime for the first offense. A 2nd or subsequent
offe	ense is a Class C crime.
	Sec. B-13. 12 MRSA §12404, sub-§1, ¶C, as enacted by PL 2003,
c. 4	114, Pt. A, §2 and affected by Pt. D, §7, is amended to read:
	C. The commissioner may suspend the game laws relating to
	bears in such restricted localities and for such periods of
	time as the commissioner finds it advisable to relieve
	excessive damage being done by bears to sweet corn or other
	crops. Nothing in this paragraph is intended to limit or
	create an exception to sections 11301-A, 11302-A and 12260-A.
	Sec. B-14. 12 MRSA §12404, sub-§1, ¶D, as enacted by PL 2003,
с. 4	114, Pt. A, $\S 2$ and affected by Pt. D, $\S 7$ , is repealed.

Sec. B-15. Contingent effective date. This Part takes effect only if the Maine Revised Statutes, Title 12, Part 13, as enacted by Public Law 2003, chapter 414, Part A, section 2, takes effect.

#### SUMMARY

This initiated bill prohibits the use of bait to hunt or attract bear, the use of a dog to hunt or pursue bear and the use or setting of a trap to hunt or capture bear except under certain circumstances. The use of bait, a dog or a trap is permitted for certain scientific purposes or if undertaken by state or federal employees to kill or capture a specific animal that threatens livestock, domestic animals, threatened or endangered wildlife, property or public safety. Baiting is also permitted if used in conjunction with the operation of a feeding station for bear by owners or operators of commercial timberland or their employees in order to prevent damage to commercial timberland.