

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 1004

S.P. 344

In Senate, February 24, 2005

### An Act To Amend Certain Fish and Wildlife Laws

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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 BRYANT of Oxford.  
Cosponsored by Senator: WOODCOCK of Franklin, Representatives: CEBRA of Naples,  
LUNDEEN of Mars Hill, MOODY of Manchester, RICHARDSON of Carmel, WHEELER of  
Kittery.

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

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**Sec. 1. 12 MRSA §10308, sub-§5, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over ~~energy-matters,~~ natural resources matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan.

**Sec. 2. 12 MRSA §10502, sub-§2, ¶B,** as amended by PL 2003, c. 592, §1 and affected by §5; c. 614, §9; and c. 655, Pt. C, §§5 and 6, is further amended to read:

B. A firearm, a bow and arrow, archery equipment and hunting equipment seized in connection with a violation of:

- (1) Section 11206;
- (2) Section 10902, subsection 6; or
- (3) Section 10752, subsection 6, paragraph B and section 10902, subsection 4, paragraphs A and B;

**Sec. 3. 12 MRSA §10853, sub-§4,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**4. Resident disabled veteran.** A resident disabled veteran may apply to the commissioner for one or more of the following complimentary permits and licenses: a license to hunt with a firearm, a license to trap, a license to fish, archery hunting licenses as provided in section 11109, subsection 7, a pheasant hunting permit as provided in section 11156 ~~and,~~ a muzzle-loading hunting ~~license permit~~ permit as provided in section 11109, subsection 4, a migratory waterfowl permit under section 11157 and a bear hunting permit under section 11151. The commissioner shall issue the ~~permit, or permits or~~ license or licenses requested under this subsection if the commissioner determines the applicant is a resident disabled veteran and is not otherwise ineligible to hold that permit or license. For the purposes of this subsection, "resident disabled veteran" means a person who:

- A. Is a resident as defined in section 10001, subsection 53;
- B. Is a veteran as defined in Title 37-B, section 505, subsection 2, paragraph A, subparagraph (3); and

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

4 (1) One hundred percent; or

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

16 Each application must be accompanied by satisfactory evidence  
18 that the applicant meets the requirements of this subsection. A  
20 permit or license issued under this subsection remains valid for  
22 the life of the permit or license holder, as long as the permit  
24 or license holder continues to satisfy the residency requirement  
26 in section 10001, subsection 53 and the permit or license is not  
28 revoked or suspended.

30 **Sec. 4. 12 MRSA §10902, sub-§9, ¶F**, as enacted by PL 2003, c.  
32 695, Pt. B, §8 and affected by Pt. C, §1, is amended to read:

34 F. Operating an ATV on the land of another without  
36 permission, as prohibited under section ~~13157~~ 13157-A,  
38 subsection 1-A; or

40 **Sec. 5. 12 MRSA §11106, sub-§1, ¶A**, as enacted by PL 2003, c.  
42 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

44 A. A resident or nonresident 16 years of age or older who  
46 has satisfied ~~section 11105~~ the requirements of subsection 2  
48 may obtain an archery hunting license to hunt with bow and  
arrow from the commissioner or the commissioner's authorized  
agent.

30 **Sec. 6. 12 MRSA §11107, sub-§§1 and 2**, as enacted by PL 2003,  
32 c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

34 **1. Big game license.** A person 16 years of age or older at  
36 the beginning of the special season established under section  
38 11404, subsection 1 may obtain a muzzle-loading ~~license~~ permit  
40 from the commissioner or the commissioner's authorized agent if  
42 the person possesses a valid license to hunt big game with  
44 firearms.

46 **2. Junior license.** A person 10 years of age or older and  
48 under 16 years of age may obtain a muzzle-loading ~~license~~ permit  
from the commissioner or the commissioner's authorized agent if  
the person possesses a valid junior hunting license.

2           **Sec. 7. 12 MRSA §11109, sub-§§1, 4 and 5**, as enacted by PL 2003,  
c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

4           **1. License required.** Except as otherwise authorized  
6 pursuant to this Part, a person may not engage in an activity for  
which a license may be issued under this section unless that  
8 person has a valid license issued under this section. Each day a  
person violates this subsection that person commits a Class E  
10 crime for which a minimum fine of ~~\$50 and an amount equal to~~  
~~twice the applicable license fee~~ \$100 must be imposed.

12           **4. Muzzle-loading permit; issuance and agent's fee.** The  
commissioner, through the commissioner's agent, shall issue  
14 muzzle-loading ~~licenses~~ permits to eligible persons. The issuing  
agent shall charge a fee of \$1 for each ~~license~~ permit issued.

16           **5. Muzzle-loading permits and fees.** Muzzle-loading hunting  
18 ~~licenses~~ permits and fees are as follows:

20           A. A resident muzzle-loading hunting ~~license~~ permit is \$11;

22           B. A nonresident muzzle-loading hunting ~~license~~ permit is  
\$33;

24           C. An alien muzzle-loading hunting ~~license~~ permit is \$58.

26           **Sec. 8. 12 MRSA §12404, sub-§6, ¶G**, as enacted by PL 2003, c.  
28 655, Pt. B, §243 and affected by §422, is amended to read:

30           G. The owner or keeper of a dog is in violation of this  
32 paragraph if that owner's or keeper's dog is found killing  
or wounding a moose, deer or wild turkey at any time or any  
other wild animal in closed season.

34           (1) A person who violates this paragraph commits a  
36 civil violation for which a fine of not less than ~~\$100~~  
~~\$500~~ nor more than ~~\$500~~ \$1,000 may be adjudged.

38           (2) A person who violates this paragraph after having  
40 been adjudicated as having committed 3 or more civil  
42 violations under this Part within the previous 5-year  
period commits a Class E crime.

44           **Sec. 9. 12 MRSA §12654-A, sub-§1**, as enacted by PL 2003, c.  
655, Pt. B, §277 and affected by §422, is amended to read:

46           **1. Prohibition.** A person may not fish with more than 3  
48 unbaited artificial flies individually attached ~~to a line~~.

2           **Sec. 10. 12 MRSA §12659-A, sub-§1, ¶¶A and B**, as enacted by PL  
2003, c. 655, Pt. B, §282 and affected by §422, are repealed.

4           **Sec. 11. 12 MRSA §12659-A, sub-§2**, as enacted by PL 2003, c.  
655, Pt. B, §282 and affected by §422, is repealed.

6           **Sec. 12. 12 MRSA §12659-A, sub-§§3, 4 and 5** are enacted to read:

8           **3. Unattended lines.** Except as provided in subsection 4, a  
10 person licensed to fish shall have all lines under that person's  
12 immediate supervision.

14           **4. Checking cusk lines.** In waters that are opened under  
16 section 12454, subsection 1, paragraph B, a person fishing  
through the ice for cusk in the nighttime shall visit at least  
once every hour all lines set by that person for cusk.

18           **5. Penalty.** The following penalties apply to violations of  
20 this section.

22           **A.** A person who violates this section commits a civil  
24 violation for which a fine or not less than \$100 nor more  
than \$500 may be adjudged.

26           **B.** A person who violates this section after having been  
28 adjudicated as having committed 3 or more civil violations  
under this Part within the previous 5-year period commits a  
Class E crime.

30           **Sec. 13. 12 MRSA §12662, sub-§1**, as affected by PL 2003, c.  
32 614, §9 and amended by c. 655, Pt. B, §285 and affected by §422,  
is further amended to read:

34           **1. Prohibition.** Except as provided in section 12659-A  
36 12454, subsection 1, paragraph B, a person may not ice fish from  
1/2 hour after sunset to 1/2 hour before sunrise of the following  
38 morning.

40           **Sec. 14. 12 MRSA §12763, sub-§4**, as affected by PL 2003, c.  
42 614, §9 and amended by c. 655, Pt. B, §307 and affected by §422,  
is further amended to read:

44           **4. Permits allowing use of gill nets by federal agencies or**  
46 **other state agencies.** The department may authorize the use of  
gill nets by federal agencies or other state agencies for  
48 purposes of scientific research or public safety projects. Any  
authorization by the department for a federal agency or another  
state agency to utilize gill nets must be given through written  
50 permit.

2 A. The authority granted to the department under this  
subsection is subject to the following constraints.

4 (2) Both ends of the gill net must be marked with  
6 buoys that are clearly visible from a distance of 300  
feet and that identify the state or federal agency  
8 responsible for setting the net.

10 (3) The results of each netting must be forwarded on a  
weekly basis to the department, and the records of the  
12 results must be available for public inspection at the  
department.

14 B. The following penalties apply to violations of paragraph  
16 A.

18 (1) A person who violates paragraph A commits a civil  
violation for which a fine of not less than \$100 nor  
20 more than \$500 may be adjudged.

22 (2) A person who violates paragraph A after having  
been adjudicated as having committed 3 or more civil  
24 violations under this Part within the previous 5-year  
period commits a Class E crime.

26 **Sec. 15. 12 MRSA §12955, sub-§3**, as enacted by PL 2003, c.  
414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

28 **3. Expiration.** All licenses issued under this section are  
30 valid for a period commencing ~~September~~ August 1st and ending  
December 31st of the year in which the license is issued.

32 **Sec. 16. 12 MRSA §13058, sub-§1**, as affected by PL 2003, c.  
34 614, §9; amended by c. 627, §1 and c. 655, Pt. B, §362 and  
affected by §422, is repealed and the following enacted in its  
36 place:

38 **1. Prohibition.** A person may not place or operate a  
40 motorboat or personal watercraft on the inland waters of the  
State unless a valid lake and river protection sticker issued  
42 annually under subsection 3 is permanently affixed to each side  
of the bow above the water line and approximately 3 inches behind  
44 the validation sticker required under section 13056. This  
sticker is nontransferable.

46 **Sec. 17. 12 MRSA §13157**, as repealed by PL 2003, c. 655, Pt.  
B, §413 and affected by §422 and amended by c. 695, Pt. B, §§15  
48 to 23 and affected by Pt. C, §1, is repealed.

2           **Sec. 18. 12 MRSA §13157-A, sub-§1**, as enacted by PL 2003, c.  
655, Pt. B, §414 and affected by §422, is repealed.

4           **Sec. 19. 12 MRSA §13157-A, sub-§1-A** is enacted to read:

6           **1-A. Permission required.** A person may not operate an ATV  
8           on the land of another without the permission of the landowner or  
10           lessee. Permission is presumed on ATV trails that are  
12           conspicuously posted or in areas open to ATVs by landowner  
14           policy. Written permission of the landowner or lessee is  
16           required on cropland or pastureland or in an orchard. As used in  
18           this subsection, "cropland" means acreage in tillage rotation,  
20           land being cropped and land in bush fruits and "pastureland"  
22           means acreage devoted to the production of forage plants used for  
24           animal production.

26           A. A person who violates this subsection commits a civil  
28           violation for which a fine of not less than \$100 or more  
30           than \$500 may be adjudged.

32           B. A person who violates this subsection after having been  
34           adjudicated of having committed 3 or more civil violations  
36           under this Part within the previous 5-year period commits a  
38           Class E crime.

40           **Sec. 20. 12 MRSA §13157-A, sub-§22, ¶¶B and C**, as enacted by PL  
2003, c. 655, Pt. B, §414 and affected by §422, are amended to  
read:

30           B. Leave open a gate or bars on another person's land; or

32           C. Trample or destroy crops on another person's land; or

34           **Sec. 21. 12 MRSA §13157-A, sub-§22, ¶D** is enacted to read:

36           D. Remove or destroy signs or posted notices.

38           **Sec. 22. 12 MRSA §13157-A, sub-§23**, as enacted by PL 2003, c.  
655, Pt. B, §414 and affected by §422, is repealed.

40           **Sec. 23. 12 MRSA §13157-A, sub-§§24 to 27** are enacted to read:

42           **24. Operation of ATV on temporarily closed trail.** A person  
44           may not operate an ATV on any section of a trail posted with a  
46           notice of temporary closure in accordance with this subsection.  
48           The notice must specify the section of trail that is closed and  
the period of the closure and must be conspicuously posted at  
each end of the closed section of the trail.



2 A. A person who violates this subsection commits a civil  
3 violation for which a fine of not less than \$100 or more  
4 than \$500 may be adjudged.

6 B. A person who violates this subsection after having been  
7 adjudicated of having committed 3 or more civil violations  
8 under this Part within the previous 5-year period commits a  
9 Class E crime.

10 25. ATV noise and fire control devices. The following  
11 provisions pertain to ATV muffling and fire control devices and  
12 noise level limits.

14 A. Except as provided in section 13159, a person may not:

16 (1) Operate an ATV that is not equipped at all times  
17 with an effective and suitable muffling device on its  
18 engine to effectively deaden or muffle the noise of the  
19 exhaust;

20 (2) Modify the exhaust system of an ATV in any manner  
21 that will increase the noise emitted above the  
22 following emission standard:

24 (a) Each ATV must meet noise emission standards  
25 of the United States Environmental Protection  
26 Agency and in no case exceed 96 decibels of sound  
27 pressure when measured from a distance of 20  
28 inches using test procedures established by the  
29 commissioner; or

31 (3) Operate an ATV without a working spark arrester.

33 B. The following penalties apply to violations of this  
34 subsection.

35 (1) A person who violates this subsection commits a  
36 civil violation for which a fine of not less than \$100  
37 or more than \$500 may be adjudged.

38 (2) A person who violates this subsection after having  
39 been adjudicated as having committed 3 or more civil  
40 violations under this Part within the previous 5-year  
41 period commits a Class E crime.

42 (3) In addition to any penalties imposed under this  
43 subsection, the court may, subject to section 9321 and  
44 Title 17-A, chapter 54, order restitution for fire  
45 suppression costs incurred by state or municipal  
46 authorities.

2                   government entities in suppressing a fire caused by an  
3                   ATV operating without a working spark arrester.

4                   26. Prohibited equipment. A person may not operate an ATV  
5                   that is equipped with a snorkel kit or other equipment designed  
6                   to allow the ATV to be used in deep water except with the  
7                   permission of the owner of the land on which the ATV is operated  
8                   or as provided in section 13159.

10                   A. A person who violates this subsection commits a civil  
11                   violation for which a fine of not less than \$100 or more  
12                   than \$500 may be adjudged.

14                   B. A person who violates this subsection after having been  
15                   adjudicated of having committed 3 or more civil violations  
16                   under this Part within the previous 5-year period commits a  
17                   Class E crime.

18                   27. Operation of ATV in prohibited area. The following  
19                   provisions establish areas where the operation of an ATV is  
20                   prohibited.

22                   A. A person may not operate an ATV:

24                                   (1) On a salt marsh, intertidal zone, marine sand  
25                                   beach or sand dune or any cemetery, burial place or  
26                                   burying ground; or

28                                   (2) When the ground is not frozen and sufficiently  
29                                   covered with snow to prevent direct damage to the  
30                                   vegetation:

32   (a) On alpine tundra;

34   (b) On a freshwater marsh or bog, river, brook,  
35   stream, great pond, nonforested wetland or vernal  
36   pool; or

38   (c) In a source water protection area as defined  
39   in Title 30-A, section 2001, subsection 20-A.

42                   The provisions of this subparagraph do not apply to a  
43                   trail designated for ATV use by the Department of  
44                   Conservation. The provisions of this subparagraph also  
45                   do not apply to a person accessing land for maintenance  
46                   or inspection purposes with the landowner's permission  
47                   or to local, state or federal government personnel in  
48                   the performance of official duties, provided there is  
49                   no significant ground disturbance or sedimentation of  
50                   water bodies.

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B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. 24. 12 MRSA §13159**, as amended by PL 2003, c. 655, Pt. B, §417 and affected by §422 and amended by c. 695, Pt. B, §24 and affected by Pt. C, §1, is repealed and the following enacted in its place:

**§13159. Racing meets**

Notwithstanding section 13155 and section 13157-A, subsection 15, subsection 16, paragraph A, subsection 17 and subsection 25, ATVs used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this chapter concerning registration, mufflers, snorkel kits and lights during the time of operation at these meets and at all prerace practices at the location of the meets.

**SUMMARY**

This bill does the following.

It adds bow and arrow, archery equipment and hunting equipment to the items subject to seizure but not subject to libel requirements under enforcement and court procedures.

It adds 2 permits to the list of items available to resident disabled veterans, making it consistent with the over-70 complimentary licenses and permits.

It corrects the reference to the education program that is required for archery licenses.

It changes the term "muzzle-loading license" to "muzzle-loading permit." It is not considered a license because a person must possess a firearms license in order to obtain this permit.

2           It changes the penalty for hunting without a license from  
3 \$50 plus an amount equal to twice the applicable license fee to a  
4 \$100 fine. The \$100 fine is consistent with other license  
5 violation penalties.

6           It removes the restriction under fishing with artificial  
7 flies of attaching the flies to a line so that anglers would be  
8 allowed to attach dropper flies to the shank of the hook.

10           It changes the beginning date that the special hide dealer's  
11 license is valid from September 1st to August 1st so that it  
12 falls within the time period that hunting seasons are open.

14           It clarifies that lake and river protection stickers must be  
15 permanently affixed to watercraft and are not transferable.

16           It corrects conflicts within the all-terrain vehicle laws.

18           It changes language dealing with penalties to bring the  
19 inland fisheries and wildlife laws into conformity with MCJUSTIS.

22           It corrects cross-references.