

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1939

S.P. 740

In Senate, January 4, 2006

An Act To Revise Certain Fish and Wildlife Laws

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 Representative WATSON of Bath and
Senator: DIAMOND of Cumberland, Representatives: BRYANT of Windham, PATRICK of
Rumford.

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

2
4 **Sec. 1. 3 MRSA §959, sub-§1, ¶G,** as amended by PL 2003, c. 600, §1, is further amended to read:

6 G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

10 (1) Department of Inland Fisheries and Wildlife in 2005 2007;

14 (2) Advisory Board for the Licensing of Taxidermists in 2007; and

18 (3) Atlantic Salmon Commission in 2011.

20 **Sec. 2. 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:

22 **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 as provided in section 11109, subsection 4, a migratory waterfowl permit under section 11157, a bear hunting permit under section 11151 and, upon meeting the qualifications as established in section 12853, subsection 4, a guide license. 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:

38 A. Is a resident as defined in section 10001, subsection 53;

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

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

46 (1) One hundred percent; or

48 (2) Seventy percent or more as a result of honorable military service and who has served in a combat zone during any armed conflict in which participants were

2 exposed to war risk hazards as defined in 42 United
States Code, Section 1711 (b).

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

12 **Sec. 3. 12 MRSA §10902, sub-§9, ¶C,** as corrected by RR 2003,
c. 2, §19, is amended to read:

14 C. Operating an ATV under the influence ~~under-21-years-of~~
16 age, as prohibited under section 10701, subsection 1-A,
18 paragraph D, ~~subparagraph-(3);~~

20 **Sec. 4. 12 MRSA §11109-A,** as enacted by PL 2005, c. 12, Pt.
III, §6, is repealed and the following enacted in its place:

22 **§11109-A. Super pack license**

24 A super pack license permits a person to hunt and fish all
26 legal game and fish species, subject to the restrictions placed
28 on the equivalent individual license or permit issued under this
30 Part for that species. All restrictions and conditions on
hunting and fishing apply to a super pack licensee, including
issuance and eligibility requirements for the equivalent license
or permit.

32 1. **Moose lottery chances.** A super pack license includes,
34 upon application, 6 chances in the moose lottery under section
11154, subsection 6.

36 2. **Antlerless deer permit.** A super pack license includes
38 an antlerless deer permit as provided under section 11152, except
40 that it is valid only for antlerless deer in wildlife management
42 districts in which at least 5,000 antlerless deer permits are
44 issued. No more than 2.5% of those antlerless deer permits may
be in the form of a super pack license. An antlerless deer
permit issued pursuant to this subsection does not authorize the
holder to take a deer pursuant to that permit. The commissioner
shall implement a system for issuing antlerless deer permits
under this subsection.

46 3. **Harvest of 2 deer.** Notwithstanding section 11501, a
48 super pack license authorizes the holder to take one deer during
50 the regular open firearm season and one antlerless deer pursuant
to subsection 2.

2 4. Licenses not included. A super pack license does not
include a moose permit or trapping privileges.

4 5. Fee. The fee for a super pack license is \$200 for
6 residents and \$175 for a person holding 2 or more lifetime
licenses.

8 **Sec. 5. 12 MRSA §11152, sub-§1**, as affected by PL 2003, c.
10 614, §9 and amended by c. 655, Pt. B, §119 and affected by §422,
is further amended to read:

12 **1. Permit required.** Except as otherwise authorized
14 pursuant to this Part, a person may not hunt antlerless deer as
authorized in this section unless that person has a valid permit
16 issued under this section.

18 ~~Each day a person violates this subsection that person commits a~~
~~Class E crime for which a minimum fine of \$50 and an amount equal~~
20 ~~to twice the applicable license fee must be imposed.~~

22 A. Except as provided in paragraph B, each day a person
24 violates this subsection that person commits a Class E crime
for which a minimum fine of \$50 and an amount equal to twice
the applicable license fee must be imposed.

26 B. A violation of this subsection in Washington County is a
28 Class D crime for which a minimum fine of \$1,000 must be
imposed, and the court shall impose a sentencing alternative
30 involving a term of imprisonment of at least 3 days, none of
which may be suspended.

32 **Sec. 6. 12 MRSA §11203, sub-§1**, as enacted by PL 2003, c. 414,
34 Pt. A, §2 and affected by c. 614, §9, is amended to read:

36 **1. Hunter orange required.** A person may not hunt with
firearms or crossbows during the open firearm season on deer
38 unless that person is wearing 2 articles of hunter orange
clothing that are in good, serviceable condition and visible from
40 all sides, except that a person hunting waterfowl from a boat or
blind or in conjunction with waterfowl decoys is not required to
42 wear hunter orange clothing. One article of clothing must be a
solid-colored hunter orange hat. The other article of clothing
44 must cover a major portion of the torso, such as a jacket, vest,
coat or poncho, and must be a minimum of 50% hunter orange in
46 color. The presence of a decal on an article of clothing that is
otherwise solid-colored hunter orange does not disqualify that
48 article of clothing from satisfying the requirements of this
subsection.

50

2 **Sec. 7. 12 MRSA §11208**, as affected by PL 2003, c. 614, §9
and amended by c. 655, Pt. B, §139 and affected by §422, is
further amended to read:

4 **§11208. Unlawful shooting or discharge of firearm or crossbow**

6 **1. Shooting or discharge of firearm or crossbow over or**
8 **near public paved way.** A person may not:

10 A. Shoot at any wild animal or wild bird from any public
12 paved way or within 10 feet of the edge of the pavement of
the public paved way or from within the right-of-way of any
controlled access highway;

14 B. Discharge any firearm or crossbow over a public paved
16 way; or

18 C. Possess any wild animal or wild bird taken in violation
20 of paragraph A or B, except as otherwise provided in this
Part.

22 This subsection does not prohibit a person who has a valid permit
24 to carry a concealed weapon from possessing that weapon on or
near a public paved way as long as it is not used for shooting at
wild animals or wild birds or discharged in violation of this
26 subsection.

28 **2. Penalty.** A person who violates subsection 1 commits a
Class E crime.

30 **Sec. 8. 12 MRSA §11209**, as affected by PL 2003, c. 614, §9
32 and amended by c. 655, Pt. B, §140 and affected by Pt. B, §422
and Pt. C, §§1 and 6, is further amended to read:

34 **§11209. Discharge of firearm or crossbow near dwelling**

36 **1. Prohibition.** A person may not:

38 A. Unless a relevant municipal ordinance provides otherwise
40 and except as provided in sections 12401 and 12402,
42 discharge a firearm or crossbow within 100 yards of a
residential dwelling or a farm building used for sheltering
livestock, machines or harvested crops without the
44 permission of the owner or, in the owner's absence, of an
adult occupant of that dwelling; or

46 B. Possess a wild animal or wild bird taken in violation of
48 this subsection, except as otherwise provided in this Part.

2 This subsection may not be construed to prohibit a person from
3 killing or taking a wild animal in accordance with sections 12401
4 and 12402.

5
6 **2. Penalty.** A person who violates subsection 1 commits a
7 Class E crime.

8 **Sec. 9. 12 MRSA §11212, sub-§1,** as affected by PL 2003, c.
9 614, §9 and amended by c. 655, Pt. B, §142 and affected by §422,
10 is further amended to read:

11
12 **1. Prohibition.** The following provisions apply to shooting
13 from a motor vehicle or motorboat or possessing a loaded firearm
14 or a crossbow in a motor vehicle.

15
16 A. A person may not shoot while in or on a motor vehicle or
17 motorboat or while in or on a trailer or other type of
18 vehicle being hauled by a motor vehicle except:

19
20 (1) A person may hunt migratory waterfowl from a
21 motorboat in accordance with federal regulations;

22
23 (2) Paraplegics and single or double amputees of the
24 legs may shoot from motor vehicles that are not in
25 motion; and

26
27 (3) A person may shoot from a motorboat if that boat
28 is not being propelled by its motor.

29
30 B. A person may not, while in or on a motor vehicle or in
31 or on a trailer or other type of vehicle being hauled by a
32 motor vehicle, have a cocked and armed crossbow or a firearm
33 with a cartridge or shell in the chamber or in an attached
34 magazine, clip or cylinder or a muzzle-loading firearm
35 charged with powder, lead and a primed ignition device or
36 mechanism, except that a person who has a valid Maine permit
37 to carry a concealed weapon may have in or on a motor
38 vehicle or trailer a loaded pistol or revolver covered by
39 that permit.

40
41 C. A person may not possess a wild animal or wild bird
42 taken in violation of paragraph A or B, except as otherwise
43 provided in this Part.

44
45 **Sec. 10. 12 MRSA §11214, sub-§1, ¶H,** as enacted by PL 2003, c.
46 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

47
48 H. Use for hunting or possess for hunting an arrow or a
49 bolt having either an explosive or poisonous tip;
50

2 **Sec. 11. 12 MRSA §11223, sub-§1**, as enacted by PL 2003, c.
414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4 **1. Duty.** A person who knows or has reason to know that
6 that person has inflicted injury or may have inflicted injury on
another person by the use of a firearm ~~or~~ bow and arrow or
crossbow shall:

8 A. Make that person known to the victim;

10 B. Render first aid and assistance as that person is
12 capable of rendering under the circumstances; and

14 C. Give notice of the event by the quickest means to a game
16 warden or, in the event that a game warden can not be
contacted, to the law enforcement officer nearest the place
where the event occurred.

18 **Sec. 12. 12 MRSA §11454, sub-§1**, as enacted by PL 2003, c.
20 655, Pt. B, §172 and affected by §422, is amended to read:

22 **1. Prohibition.** A person may not hunt deer with any
24 firearms using a .17 or .22 caliber rimfire cartridge, except
that the use of the .22 caliber rimfire magnum cartridge is not
prohibited.

26 **Sec. 13. 12 MRSA §11603, sub-§1**, as enacted by PL 2003, c.
28 655, Pt. B, §177 and affected by §422, is amended to read:

30 **1. Prohibition.** A person may not use a .17 or .22 caliber
32 rimfire firearm ~~or~~ a shotgun using shot loads or a crossbow to
hunt moose.

34 **Sec. 14. 12 MRSA §12404, sub-§6, ¶G**, as enacted by PL 2003, c.
36 655, Pt. B, §243 and affected by §422, is amended to read:

38 G. The owner or keeper of a dog is in violation of this
40 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.

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

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

50

2 **Sec. 15. 12 MRSA §12457, sub-§1, ¶A**, as affected by PL 2003,
c. 614, §9 and amended by c. 655, Pt. B, §245 and affected by
§422, is further amended to read:

4
6 A. The area within 150 feet of any operational fishway,
except:

8 (1) At the following places, the fishway and the area
10 within 75 feet of any part of the fishway are closed to
fishing at all times:

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

14 (b) Woodland Dam on the St. Croix River in
16 Baileyville;

18 (2) At the following places, the area within the
20 fishway and within 75 feet of the downstream mouth of
the fishway is closed to fishing at all times:

22 (a) East Grand Lake Dam in Forest City Township,
T9 R4 NBPP, except that fishing upstream from the
24 dam at the top of the fishway is lawful; and

26 ~~(b) Spednic Lake Dam in Vanceboro;~~

28 (2-A) At the following places, the area within 75 feet
30 of the mouth of the fishway is closed to fishing at all
times:

32 (a) Spednic Lake Dam in Vanceboro;

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

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

44 (5) There is no fishing in or from the fishway at the
46 Sheepscot Lake Dam in the Town of Palermo in Waldo
County;

48 **Sec. 16. 12 MRSA §12654-A, sub-§1**, as enacted by PL 2003, c.
50 655, Pt. B, §277 and affected by §422, is amended to read:

2 **1. Prohibition.** A person may not fish with more than 3
unbaited artificial flies individually attached to a line or hook.

4 **Sec. 17. 12 MRSA §12708, sub-§1, ¶A,** as amended by PL 2003, c.
6 587, §1 and affected by §2 and c. 614, §9 and c. 655, Pt. C, §§4
and 6, is further amended to read:

8 A. The following described territories are classified as
10 wildlife management areas to be managed by the commissioner
in accordance with the principles of wildlife management, as
12 defined in section 10001, subsection 73, and subject to the
commissioner's authority under section 12701:

14 (1) Bartlett's Island in Hancock County;

16 (2) Colby College Area: The Mayflower Hill Campus of
18 Colby College comprising approximately 640 acres of
land. It is located west of the center of Waterville
20 bounded in general as follows:

22 From a stone marker on the west bank of Messalonskee
Stream, said marker located across the stream from a
24 point approximately 400 feet north of Riverview Avenue.
Runs north along bank of Messalonskee Stream to a point
26 approximately 2,000 feet north of Cedar Bridge (North
Street), thence in a northeasterly direction to a
28 cement marker on the Second Rangeway at a point
approximately 900 feet northeast of intersection with
30 Rice Rips Road, thence in a southwesterly direction to
Rice Rips Road, thence east approximately 300 feet,
32 thence southwesterly again approximately parallel to
and west of the Second Rangeway for approximately 1,800
34 feet to a cement marker, thence easterly to the Second
Rangeway, thence in a southerly direction on east side
36 of Second Rangeway for approximately 1,900 feet to a
cement marker and college sign; thence southeast
38 approximately 5,400 feet to Mt. Merici property line
post and cement marker; thence in easterly direction to
40 and across Mayflower Hill Drive in offset manner (east
offset marked with stone or cement marker post) to and
42 across Maine Central railroad to the point of beginning
on west bank of Messalonskee Stream;

44 (3) Deer Isle and Stonington: The Towns of Deer Isle
46 and Stonington, Hancock County;

48 ~~(5)---Long--Lake--Wildlife--Management--Area,--Areosteeck~~
50 ~~County+--within--the--following--boundaries--in--the--Towns--of~~
~~St.--Agatha--and--Madawaska,--Areosteeck--County:--Beginning~~

2 in the Village of St. Agatha at the junction of Route
162 and road that is near the northwesterly shore of
4 Long Lake, easterly and northerly along said road to
its junction with another road near Brishlotte Lake
6 outlet stream, thence easterly along said road to its
junction with the road that is along the easterly side
8 of said Long Lake, thence southerly along said road to
its junction with the road leading westerly to Birch
10 Point, so called, thence along said road to its nearest
point to said Long Lake, thence westerly to a red
12 painted stake on the east shore of said Long Lake,
thence southwesterly across said Long Lake to a red
14 painted stake on the west shore of said Long Lake,
thence in the same direction until this line intersects
16 Route 162, thence northwesterly along said Route 162 to
the point of beginning. This is intended to include the
18 large and smaller islands in the northerly end of said
Long Lake;

20 (6) Lowell E. Barnes Wildlife Management Area: Certain
lots or parcels of land situated in Hiram, County of
22 Oxford, State of Maine, bounded and described as
follows:

24 (a) A parcel of land containing 700 acres more or
26 less bounded northerly by land now or formerly of
Lusanna Hubbard, Lemuel Cotton and M.L.
28 Wardsworth; easterly by land now or formerly of
James Edgecomb; southerly by land now or formerly
30 owned or occupied by Llewellyn A. Wardsworth,
Asbury Huntress and Orison Adams; and westerly by
32 land now or formerly of James Ayer, Harrison
Sanburn, James Ayer again, the George F. Brooks
34 place, so called, being the lot next below
described and land now or formerly of Fred Small,
36 Seth Spring and Freeman Flye;

38 (b) A parcel of land containing 25 acres, more or
less, situated westerly of the above described lot
40 and known as the George F. Brooks place; and

42 (c) A parcel of land containing 70 acres, more or
less, situated adjacent to the first parcel above
44 described and bounded north, east and west by said
first above described parcel and southerly by land
46 now or formerly of James Ayer and Elmer Hodgdon.
Said parcel is known as the Dennis Stanley place;

48 (7) Marsh Island: Marsh Island in Penobscot County; and
50

2 (8) Oak Grove: The campus and land of Oak Grove
4 School, in the Town of Vassalboro, County of Kennebec,
6 situated on the east side of Route No. 100; and all the
8 land of said school situated on the west side of Route
No. 100. Sebago Lake Basin Wildlife Management Area:
All that portion of Sebago Lake commonly known as
Sebago Lake Basin lying below the high water mark in
the Towns of Standish and Windham.

10 **Sec. 18. 12 MRSA §12763, sub-§4**, as affected by PL 2003, c.
12 614, §9 and amended by c. 655, Pt. B, §307 and affected by §422,
is further amended to read:

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

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

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

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

34 B. The following penalties apply to violations of paragraph
36 A.

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

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

48 **Sec. 19. 12 MRSA §12808, sub-§1-A, ¶C**, as enacted by PL 2003,
c. 655, Pt. B, §312 and affected by §422, is amended to read:

2 C. Possess, process, sell, offer for sale, deliver, carry,
transport or ship, by any means whatsoever, any endangered
4 or threatened species or any part of an endangered or
threatened species. A person who violates this paragraph
commits a Class D crime; or

6
8 **Sec. 20. 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:

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

14 **Sec. 21. 12 MRSA §13058, sub-§1**, as repealed and replaced by
PL 2005, c. 397, Pt. E, §13, is amended to read:

16
18 **1. Prohibition.** A person may not place or operate a
motorboat or personal watercraft on the inland waters of the
State unless a valid lake and river protection sticker issued
20 annually under subsection 3 is permanently affixed to each side
of the bow above the water line and approximately 3 inches behind
22 the validation sticker required under section 13056. This
sticker is nontransferable.

24
26 **Sec. 22. 16 MRSA §357, last ¶**, as enacted by PL 1987, c. 791,
§3, is amended to read:

28 Notwithstanding this section, the result of a laboratory or
any other test kept by a hospital or other medical facility,
30 ~~which that~~ reflects blood-alcohol concentration, ~~shall~~ may not be
excluded as evidence in a criminal or civil proceeding by reason
32 of any claim of confidentiality or privilege and may be admitted
provided that the result is relevant and reliable evidence if the
34 proceeding is one in which the operator of a motor vehicle,
snowmobile, all-terrain vehicle or watercraft is alleged to have
36 operated under the influence of intoxicating liquor or drugs, and
the court is satisfied that probable cause exists to believe that
38 the operator committed the offense charged.

40
42 **SUMMARY**

44 This bill makes the following numerous changes to fisheries
and wildlife laws including:

46 1. It changes the State Government Evaluation Act review
for the Department of Inland Fisheries and Wildlife from 2005 to
48 2007;

2 2. It changes taking an antlerless deer in Washington
3 County without a permit from a Class E crime to a Class D crime
4 and increases the penalty to a mandatory minimum fine of \$1,000
5 and at least 3 days in jail;

6 3. It clarifies where a person can fish around fishways on
7 East Grand Lake Dam and Spednic Lake Dam;

8 4. It clarifies that the prohibition on possessing, selling
9 or transporting an endangered or threatened species also applies
10 to the parts of those species;

11 5. It provides a resident disabled veteran a complimentary
12 migratory waterfowl permit, a bear hunting permit and a guide
13 license if that veteran meets the qualifications for a guide
14 license under the Maine Revised Statutes, Title 12;

15 6. It clarifies that a person may not fish with more than 3
16 unbaited artificial flies individually attached to a line or hook;

17 7. It adds snowmobiles and all-terrain vehicles to the
18 provision of law regarding obtaining test results from hospitals
19 when a person has been involved in an accident while operating
20 under the influence. Current law covers motor vehicles and
21 watercraft;

22 8. It adds .17 caliber firearms to the law prohibiting the
23 use of .22 caliber firearms for hunting deer and moose;

24 9. It removes Long Lake Wildlife Management Area in
25 Aroostook County from the list of designated wildlife management
26 areas; and

27 10. It extends to hunting with crossbows application of
28 many laws regarding hunting with firearms.