

MAINE STATE LEGISLATURE

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Date: 6-3-11

MINORITY

(Filing No. S-246)

INLAND FISHERIES AND WILDLIFE

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 317, L.D. 1084, Bill, "An Act To Amend Certain Provisions of Maine Fish and Wildlife Laws"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Inland Fisheries and Wildlife has recently conducted a moose survey that indicates the State's moose population has been increasing and could sustain additional hunting opportunities; and

Whereas, the lottery drawing for the 2011 moose permits takes place in June and the authorization to issue more moose permits needs to take effect before the drawing; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 12 MRSA §10052-A is enacted to read:

§10052-A. Division of Engineering

The Division of Engineering is established within the Department of Inland Fisheries and Wildlife. The division is equal in organizational level and status with other major organizational units within the department or its successors. The division is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility for administering all the powers and duties of the division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the division include the design, maintenance

1 and repair of department-owned facilities, including the preparation of a capital
2 improvement plan to be printed in the budget document.

3 **Sec. 3. 12 MRSA §10155, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
4 affected by c. 614, §9, is amended to read:

5 **1. Membership.** Members of the board must be residents of the State. The board
6 consists of the following ~~§ 4~~ members:

7 A. Two employees of the department, appointed by the commissioner one of whom
8 may be a retired employee who has experience in taxidermy;

9 B. ~~Two~~ One licensed ~~taxidermists~~ taxidermist with expertise in the art of taxidermy,
10 appointed by the Governor; and

11 C. One member of the general public with no affiliation to the art of taxidermy,
12 appointed by the Governor.'

13 Amend the bill in section 3 in subsection 1 in the 3rd line (page 1, line 31 in L.D.) by
14 inserting after the following: "currency" the following: 'used in violation of this Part'

15 Amend the bill in section 6 in paragraph B in subparagraph (2) in the blocked
16 paragraph in the last line (page 2, line 38 in L.D.) by inserting after the following: "stand"
17 the following: 'For purposes of this subparagraph, "observation stand" does not include
18 a portable blind utilized at ground level that remains in the physical possession of the
19 hunter'

20 Amend the bill in section 7 in subsection 11 in the 4th line (page 3, line 7 in L.D.) by
21 striking out the following: "or could result" and inserting the following: 'in a serious
22 injury or'

23 Amend the bill in section 11 by striking out all of paragraph D (page 3, lines 30 to 36
24 in L.D.) and inserting the following:

25 'D. For a resident 70 years of age or older. A For a person who holds a valid senior
26 lifetime license under this section upon turning at any time during the calendar year
27 that person turns 70 years of age may obtain at no cost, that lifetime license includes
28 all hunting permits and licenses authorized in this Part and may renew at no cost a
29 guide license under section 12853. A person who is 70 years of age or older may
30 purchase a senior lifetime license that entitles the holder to all the privileges
31 described in this paragraph for a one-time \$8 fee.'

32 Amend the bill in section 12 by striking out all of subsection 5 and inserting the
33 following:

34 '**5. Hunting license revocation or suspension for endangerment or harm to**
35 **another.** The commissioner may bring a complaint in the District Court seeking to
36 revoke or suspend the current hunting license or the privilege to obtain a hunting license
37 of any person whom the commissioner reasonably believes to have killed, wounded or
38 recklessly endangered the safety of another human being while hunting in this State or
39 another jurisdiction. The District Court shall revoke or suspend the person's license or
40 privilege for a period of at least 5 years if the court finds that the person, while hunting,
41 has killed, wounded or recklessly endangered the safety of another human being and the
42 public safety will be endangered by the person's retention of that license or privilege. For

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1 the purpose of this subsection, "recklessly" has the same meaning as that set out in Title
2 17-A, section 35, subsection 3.

3 A. A person whose hunting license has been revoked or suspended or whose right
4 to hunt or the right to obtain a hunting license has been denied under this subsection,
5 may, after the expiration of one year from the date of the revocation or suspension,
6 petition the commissioner for restoration of the person's privilege to procure such a
7 license.

8 B. The commissioner, after hearing, may restore the petitioner's privilege if the
9 commissioner determines that the public safety will not be endangered by restoring
10 that privilege.

11 C. If the commissioner disallows the petition and thereby refuses to grant the
12 restoration of the privilege, the petitioner may appeal to the commissioner's advisory
13 council, which, after hearing on the petition, may allow it and restore the privilege.'

14 Amend the bill by striking out all of section 20 and inserting the following:

15 'Sec. 20. 12 MRSA §11701-A is enacted to read:

16 **§11701-A. Hunting hours for wild turkey**

17 Notwithstanding the provision in section 11701 regarding legal hunting times for
18 wild turkey, a person may hunt for wild turkey between sunrise and sunset. This section
19 is repealed March 5, 2014.'

20 Amend the bill in section 23 in §12159 in subsection 2 in the 2nd line (page 7, line 5
21 in L.D.) by striking out the following: "resale" and inserting the following: 'resale sale'

22 Amend the bill by striking out all of section 24 and inserting the following:

23 'Sec. 24. 12 MRSA §12161 is enacted to read:

24 **§12161. Taking of certain nonmarine invertebrates from the wild for commercial**
25 **purposes**

26 **1. Prohibition; penalties.** Except as provided in this section, a person may not take
27 and possess certain nonmarine invertebrates, specifically freshwater mussels, butterflies,
28 moths, dragonflies or beetles, from the wild for export, sale or commercial purposes.

29 A. A person who violates this subsection commits a civil violation for which a fine
30 of not less than \$100 nor more than \$500 may be adjudged.

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

34 **2. Commercial nonmarine invertebrate permit.** Persons harvesting freshwater
35 mussels, butterflies, moths, dragonflies or beetles for export, sale or commercial purposes
36 are required to obtain a permit from the commissioner.

37 **3. Rules.** The commissioner may by rule:

38 A. Require reporting of commercial harvest activities, including at a minimum dates,
39 locations and numbers collected by species;

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- B. Establish daily and season possession limits;
- C. Establish a fee schedule to implement a permit system under this section; and
- D. Require humane harvest, confinement and disposal methods.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

Amend the bill in section 25 in subsection 3 by striking out all of the first paragraph (page 8, lines 5 to 7 in L.D.) and inserting the following:

3. Nonresident trapping beaver. A nonresident may not trap beaver in this State unless that nonresident's state or province of residency allows Maine residents to trap beaver in that state or province.'

Amend the bill by inserting after section 25 the following:

'Sec. 26. 12 MRSA §12260, sub-§3, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. A person may not set a bear trap other than a cable trap, ~~unless it conforms to the following specifications or a cage-type trap as authorized by the commissioner.~~

- ~~(1) The trap must be enclosed by at least 2 strands of wire, one strand 2 feet from the ground and one strand 4 feet from the ground.~~
- ~~(2) The wire must be securely held in position.~~
- ~~(3) The wire must be not less than 5 yards nor more than 10 yards at any point from the enclosed trap.~~
- ~~(4) The trap enclosure must be marked by substantial signs with the words "BEAR TRAP" in letters not less than 3 inches in height.~~
- ~~(5) The signs must be spaced around each enclosure at intervals of not more than 20 feet.~~
- ~~(6) Each sign must be securely fastened to the top strand of wire.~~

Sec. 27. 12 MRSA §12457, sub-§1, as amended by PL 2009, c. 550, §8, is further amended to read:

1. Closed waters. Except as the commissioner may by rule provide and as provided in subsection 2, the following waters are closed to fishing:

- A. The area within 150 feet of any operational fishway, except:
 - (1) At the following places, the fishway and the area within 75 feet of any part of the fishway are closed to fishing at all times:
 - (a) Grand Falls Powerhouse Dam on the St. Croix River in Baileyville; and
 - (b) Woodland Dam on the St. Croix River in Baileyville;
 - (2) At the following places, the area within the fishway and within 75 feet of the downstream mouth of the fishway is closed to fishing at all times:

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

3 (2-A) At the following places, the area within 75 feet of the mouth of the
4 fishway is closed to fishing at all times:

5 (a) Spednic Lake Dam in Vanceboro;

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

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

13 (5) There is no fishing in or from the fishway at the Sheepscot Lake Dam in the
14 Town of Palermo in Waldo County, Chain of Ponds Dam in Chain of Ponds
15 Township in Franklin County ~~or~~, Long Pond Dam in Seven Ponds Township in
16 Franklin County, Beaver Pond Dam in Seven Ponds Township in Franklin
17 County and Little Island Pond Dam in Seven Ponds Township in Franklin
18 County;

19 B. All waters within 200 feet of any fish hatchery or rearing station; and

20 C. The property owned by the Unity Utilities District located on Route 139 and
21 Prairie Road in the municipality of Unity in Waldo County.

22 For purposes of this subsection, "operational" means a fishway capable of fish passage
23 whether or not it is allowing the passage of fish at any given time.'

24 Amend the bill by inserting after section 27 the following:

25 'Sec. 28. 12 MRSA §12551-A, sub-§9-A is enacted to read:

26 9-A. Record inspection. Records retained as required in this section must be open
27 for inspection by the commissioner or the commissioner's agent.'

28 Amend the bill by inserting after section 30 the following:

29 'Sec. 31. 12 MRSA §12708, sub-§1, ¶B, as amended by PL 2007, c. 463, §7, is
30 further amended to read:

31 B. The following areas are classified as state-owned wildlife management areas, or
32 "WMAs":

33 (1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS -
34 Piscataquis County;

35 (2) Brownfield WMA - Brownfield, Denmark, Fryeburg - Oxford County;

36 (3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec
37 County;

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- 1 (4) Caesar Pond WMA - Bowdoin - Sagadahoc County;
- 2 (5) Chesterville WMA - Chesterville - Franklin County;
- 3 (6) Coast of Maine WMA - all state-owned coastal islands that are owned or
- 4 managed by the Department of Inland Fisheries and Wildlife;
- 5 (7) Dickwood Lake WMA - Eagle Lake - Aroostook County;
- 6 (8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot
- 7 County;
- 8 (9) Fahi Pond WMA - Embden - Somerset County;
- 9 (10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock
- 10 County;
- 11 (11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor,
- 12 Vassalboro, China - Kennebec County;
- 13 (12) Great Works WMA - Edmunds Township - Washington County;
- 14 (13) Jamies Pond WMA - Manchester, Farmingdale, Hallowell - Kennebec
- 15 County;
- 16 (14) Jonesboro WMA - Jonesboro - Washington County;
- 17 (15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;
- 18 (16) Kennebunk Plains WMA - Kennebunk - York County;
- 19 (17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft,
- 20 Garland - Penobscot County and Piscataquis County;
- 21 (18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill -
- 22 Waldo County;
- 23 (19) Long Lake WMA - St. Agatha - Aroostook County (all of Long Lake within
- 24 the Town of St. Agatha);
- 25 (20) Madawaska WMA - Palmyra - Somerset County;
- 26 (20-A) Maine Youth Conservation WMA - T32MD - Hancock County;
- 27 (21) Mainstream WMA - Cambridge, Ripley - Somerset County;
- 28 (22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus -
- 29 Aroostook County;
- 30 (23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York
- 31 County;
- 32 (24) Mercer Bog WMA - Mercer - Somerset County;
- 33 (25) Merrymeeting Bay WMA - Dresden, Bowdoinham, Woolwich, Bath,
- 34 Topsham - Lincoln County and Sagadahoc County;

- 1 (26) Morgan Meadow WMA - Raymond - Cumberland County;
- 2 (27) Mt. Agamenticus WMA - York, South Berwick - York County;
- 3 (28) Muddy River WMA - Topsham - Sagadahoc County;
- 4 (29) Narraguagus Junction WMA - Cherryfield - Washington County;
- 5 (30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;
- 6 (31) Orange River WMA - Whiting - Washington County;
- 7 (32) Peaks Island WMA - Portland - Cumberland County;
- 8 (33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;
- 9 (34) Steve Powell WMA - Perkins Township - Sagadahoc County (being the
- 10 islands in the Kennebec River near Richmond known as Swan Island and Little
- 11 Swan Island, formerly known as Alexander Islands);
- 12 (35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;
- 13 (36) James Dorso Ruffingham Meadow WMA - Montville, Searsmont - Waldo
- 14 County;
- 15 (37) St. Albans WMA - St. Albans - Somerset County;
- 16 (38) Sandy Point WMA - Stockton Springs - Waldo County;
- 17 (39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland
- 18 County and York County;
- 19 (40) Steep Falls WMA - Standish, Baldwin - Cumberland County;
- 20 (41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;
- 21 (42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;
- 22 (43) R. Waldo Tyler Weskeag Marsh WMA - South Thomaston, Thomaston,
- 23 Rockland, Owl's Head, Friendship - Knox County;
- 24 (43-A) Kennebec River Estuary WMA - Arrowsic, Bath, Georgetown,
- 25 Phippsburg, West Bath, Woolwich - Sagadahoc County;
- 26 (43-B) Tolla Wolla WMA - Livermore - Androscoggin County;
- 27 (43-C) Green Point WMA - Dresden - Lincoln County;
- 28 (43-D) Hurds Pond WMA - Swanville - Waldo County;
- 29 (43-E) Sherman Lake WMA - Newcastle, Damariscotta - Lincoln County;
- 30 (43-F) Ducktrap River WMA - Belmont, Lincolnville - Waldo County; and
- 31 ~~(44) Such other areas as the commissioner designates, by rules adopted in~~
- 32 ~~accordance with section 12701, as state-owned wildlife management areas.~~

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- 1 1. It makes the newly established Division of Engineering equal in organizational
2 level to the other divisions and bureaus within the Department of Inland Fisheries and
3 Wildlife;
- 4 2. It clarifies that currency used in the violation of a fish and wildlife law is
5 contraband and subject to seizure by law enforcement;
- 6 3. It clarifies that a portable blind used on the ground that remains in the physical
7 possession of the hunter is not considered a portable observation stand for purposes of
8 landowner permission;
- 9 4. It amends the section of the bill regarding a person who holds a valid senior
10 lifetime license and turns 70 years of age to remove the word "entitled" and provides that
11 all hunting licenses and permits are included in the lifetime license at that time;
- 12 5. It clarifies that the Commissioner of Inland Fisheries and Wildlife may bring a
13 complaint in the District Court seeking to revoke or suspend the current hunting license
14 or the privilege to obtain a hunting license of a person who the commissioner has reason
15 to believe has killed, wounded or recklessly endangered the safety of another person
16 while hunting regardless of where the incident took place;
- 17 6. It provides that a person must obtain a permit from the commissioner to harvest
18 nonmarine invertebrates for commercial purposes;
- 19 7. It makes changes to the membership of the Advisory Board for the Licensing of
20 Taxidermists;
- 21 8. It adds 2 dams to the list of dams at which fishing in or from the fishway is
22 prohibited and provides a definition of an operational fishway;
- 23 9. It allows the cage-type trap for trapping bears and removes the statutory
24 requirements for marking bear traps;
- 25 10. It requires that records retained by smelt or baitfish dealers be open for inspection
26 by the Commissioner of Inland Fisheries and Wildlife;
- 27 11. It establishes 13 more state-owned wildlife management areas;
- 28 12. It authorizes the Commissioner of Inland Fisheries and Wildlife to issue
29 additional moose hunting permits for the 2011 moose hunting season; and
- 30 13. It allows a person to hunt wild turkey between sunrise and sunset and directs the
31 Commissioner of Inland Fisheries and Wildlife to report on the impact of the expanded
32 hunting hours on the wild turkey population to the joint standing committee of the
33 Legislature having jurisdiction over inland fisheries and wildlife matters by December 15,
34 2013. This provision is repealed March 5, 2014.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



125th MAINE LEGISLATURE

LD 1084

LR 622(03)

An Act To Amend Certain Provisions of Maine Fish and Wildlife Laws

Fiscal Note for Bill as Amended by Committee Amendment "B" S-246

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class E crimes and civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Department of Inland Fisheries and Wildlife associated with rulemaking and reporting on the impact on the wild turkey population can be absorbed with existing staff and within existing budgeted resources. General Fund revenue may increase by a minor amount from the new commercial nonmarine invertebrate permit established in the bill.