

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1031

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H.P. 766

House of Representatives, March 10, 2021

### **An Act To Create an Administrative Review Process for Hunting Violations**

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative DILLINGHAM of Oxford.  
Cosponsored by Representatives: BERNARD of Caribou, KRYZAK of Acton, THERIAULT of China.

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

2 **Sec. 1. 12 MRSA §10657, sub-§4** is enacted to read:

3 **4. Administrative penalties; mutually exclusive penalties.** A person who violates  
4 this section who is not convicted or adjudicated of a crime or civil violation under  
5 subsection 2 may be subject to administrative penalties under section 10902-A. A person  
6 who violates this section and receives an administrative penalty for that violation under  
7 section 10902-A is not subject to conviction or adjudication under this section for that  
8 violation.

9 **Sec. 2. 12 MRSA §10902-A** is enacted to read:

10 **§10902-A. Suspension of license through administrative process for civil trespass**  
11 **while hunting**

12 The department in an adjudicatory proceeding may impose an administrative penalty  
13 for a violation of section 10657 in accordance with this section.

14 **1. Initiation and notice.** If the director of the Bureau of Warden Service delivers to  
15 the commissioner a written statement under oath that the director has probable cause to  
16 suspect that a person has violated section 10657 while hunting and the person alleged to  
17 have violated section 10657 has not been convicted or adjudicated of a crime or civil  
18 violation under that section, the commissioner immediately shall examine the statement  
19 and determine whether to conduct an adjudicatory proceeding for the purpose of imposing  
20 an administrative penalty under this section. If the commissioner determines that the  
21 imposition of a penalty is necessary, the commissioner shall, in accordance with Title 5,  
22 section 9052, immediately notify the person who is alleged to have violated section 10657.  
23 The provided notice under this subsection must state that the person may request a hearing  
24 in accordance with subsection 2 within 10 days of receipt of notice. Notice is deemed  
25 received 3 days after the mailing. If a person who has been notified pursuant to this  
26 subsection does not request a hearing within 10 days after receipt of notice, the  
27 commissioner may implement administrative penalties under subsection 3 without a  
28 hearing.

29 **2. Hearing.** If a person alleged to have violated section 10657 requests a hearing  
30 pursuant to subsection 1, the commissioner or commissioner's designee shall appoint a  
31 presiding officer who shall hold the hearing within 30 business days after the request. If  
32 the hearing is continued, it must be held no later than 60 days after the original notice,  
33 unless the presiding officer finds that a continuance beyond 60 days is warranted. The  
34 hearing must be held in accordance with Title 5, chapter 375, subchapter 4, except that:

35 A. Issues of the hearing are limited to whether the person while hunting violated  
36 section 10657;

37 B. If the presiding officer determines that the person while hunting committed a  
38 violation of section 10657, the presiding officer shall immediately notify the  
39 commissioner of the finding; and

40 C. The presiding officer shall provide a written decision that contains the findings and  
41 recommended penalties under subsection 3 no more than 10 business days after  
42 completion of the hearing, after which the commissioner or the commissioner's  
43 designee may take administrative action under subsection 3.

1 **3. Administrative action.** In accordance with this section, if the commissioner or the  
2 commissioner's designee determines, after receiving the findings and recommendations of  
3 the presiding officer under subsection 2 or in accordance with Title 5, section 9053 if a  
4 hearing has not been requested, that a person who holds a license to hunt violated section  
5 10657 while hunting, the commissioner or the commissioner's designee may impose the  
6 following penalties:

7 A. For a first violation, revocation of the person's hunting licenses for one year from  
8 the date the commissioner or the commissioner's designee issues a decision under this  
9 subsection;

10 B. For a 2nd violation, revocation of the person's hunting licenses for 2 years from the  
11 date the commissioner or the commissioner's designee issues a decision under this  
12 subsection; or

13 C. For subsequent violations, revocation of the person's hunting licenses for 3 years  
14 from the date the commissioner or the commissioner's designee issues a decision under  
15 this subsection.

16 **4. Additional penalties; mutually exclusive penalties.** In addition to the penalties  
17 specified in subsection 3, a person who violates section 10657 while hunting, as determined  
18 by the presiding officer, the commissioner or the commissioner's designee under this  
19 section, must successfully complete the outdoor ethics course for hunters under section  
20 10903-A before the person is eligible to obtain a hunting license. If a person who violates  
21 section 10657 while hunting does not possess a hunting license at the time of violation, the  
22 commissioner or commissioner's designee may refuse to issue a hunting license to that  
23 person for up to 5 years following the violation in accordance with the procedures  
24 established in this section. If the person alleged to have violated section 10657 is convicted  
25 or adjudicated of a crime or civil violation under that section, the commissioner or the  
26 commissioner's designee may not impose an administrative penalty under this section.

27 **5. Appeal.** A person may appeal an administrative action under subsection 3 or 4 to  
28 the Superior Court within 30 days of receipt of the commissioner's or the commissioner's  
29 designee's decision under subsection 3 or 4.

30 **SUMMARY**

31 This bill establishes a procedure for the Commissioner of Inland Fisheries and Wildlife  
32 to take administrative action regarding civil trespass while hunting without first requiring  
33 a criminal conviction or civil adjudication. If a person alleged to have committed a violation  
34 of the Maine Revised Statutes, Title 12, section 10657 while hunting is not charged with  
35 violating section 10657, the commissioner may initiate administrative proceedings, which  
36 include notice and an opportunity to be heard, and impose administrative penalties  
37 including revocation of a license to hunt for up to 3 years. If the person violates section  
38 10657 while hunting and does not hold a hunting license, the commissioner may refuse to  
39 issue a hunting license to that person for up to 5 years. The decision of the commissioner  
40 may be appealed to Superior Court.