

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

---

Legislative Document

No. 131

---

S.P. 70

In Senate, January 10, 2023

### **An Act to Clarify and Correct Inland Fisheries 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 black ink, appearing to read "D M Grant".

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BLACK of Franklin.

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

2 **Sec. 1. 12 MRSA §10107-A**, as enacted by PL 2011, c. 381, §3, is repealed.

3 **Sec. 2. 12 MRSA §10260**, as corrected by RR 2015, c. 1, §6, is amended to read:

4 **§10260. Black Bear Research and Management Fund**

5 The Black Bear Research and Management Fund, referred to in this section as "the  
6 fund," is established within the department as a nonlapsing fund to be used by the  
7 commissioner to fund or assist in funding ~~studies related to~~ research on and the  
8 management of black bears. Revenue from the nonresident late season bear hunting permit  
9 under section 11151-A and the bear trapping permit under section 12260-A must be  
10 deposited in the fund. The commissioner may accept and deposit into the fund monetary  
11 gifts, donations or other contributions from public or private sources for the purposes  
12 specified in this section. The fund must be held separate and apart from all other money,  
13 funds and accounts.

14 **Sec. 3. 12 MRSA §10703, sub-§2**, as amended by PL 2019, c. 452, §3, is further  
15 amended to read:

16 **2. Prerequisites to tests.** ~~The~~ After a person's refusal to submit to a chemical test, the  
17 law enforcement officer shall inform the person to be tested of the consequences of refusing  
18 to comply with the test. If the person fails to comply with the duty to submit to and  
19 complete the requested chemical tests at the direction of the law enforcement officer, that  
20 person is committing a civil violation for which the person may be required to pay a fine  
21 of up to \$500. The officer shall also inform the person that the failure to comply with the  
22 duty to submit to a chemical test is admissible in evidence against that person at any trial  
23 for hunting or operating under the influence of intoxicating liquor or drugs or a combination  
24 of liquor and drugs.

25 Test results may not be excluded as evidence in any proceeding before any administrative  
26 officer or court of this State as a result of the failure of the law enforcement officer to  
27 comply with these prerequisites. The only effects of the failure of the officer to comply  
28 with the prerequisites are as provided in subsection 7.

29 **Sec. 4. 12 MRSA §10703, sub-§7, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2  
30 and affected by c. 614, §9, is amended to read:

31 D. The failure of a person to comply with the duty to submit to and complete a  
32 chemical test under section 10702, subsection 1 is admissible in evidence on the issue  
33 of whether that person was under the influence of intoxicating liquor or drugs. If the  
34 law enforcement officer having probable cause to believe that the person hunted wild  
35 animals or wild birds or operated or attempted to operate a watercraft, snowmobile or  
36 ATV while under the influence of intoxicating liquor or drugs fails to give either of the  
37 warnings required under subsection 2, the failure of the person to comply with the duty  
38 to submit to a chemical test is not admissible, except when a test was required pursuant  
39 to subsection ~~H~~ 11-A. If a failure to submit to and complete a chemical test is not  
40 admitted into evidence, the court may inform the jury of the fact that a test result is not  
41 available.

42 **Sec. 5. 12 MRSA §10703, sub-§11**, as amended by PL 2011, c. 253, §8, is repealed.

1           **Sec. 6. 12 MRSA §10703, sub-§11-A** is enacted to read:

2           **11-A. Mandatory submission to test.** A person hunting wild animals or wild birds  
3 who is involved in a hunting incident or an operator of a watercraft, snowmobile or ATV  
4 who is involved in a watercraft, snowmobile or ATV crash shall submit to chemical tests,  
5 as described in this section, to determine the person's or operator's alcohol level or the  
6 presence of a drug or drug metabolite in the person's or operator's blood in the same manner  
7 as for operating under the influence of intoxicants or with an excessive alcohol level  
8 pursuant to Title 29-A, if there is probable cause to believe that serious injury or death has  
9 occurred or will occur as a result of the incident or crash and there is probable cause to  
10 believe that the person hunting wild animals or wild birds or operating the watercraft,  
11 snowmobile or ATV was impaired by alcohol, drugs or a combination of alcohol and drugs.  
12 The terms "watercraft," "snowmobile" and "ATV" have the same meanings as in section  
13 13001.

14           **Sec. 7. 12 MRSA §10853, sub-§8,** as amended by PL 2017, c. 164, §5, is further  
15 amended to read:

16           **8. Members of federally recognized Indian nation, band or tribe.** The  
17 commissioner shall issue a hunting, trapping and fishing license, including an archery  
18 hunting license under this chapter, and including all permits, stamps and other permission  
19 needed to hunt, trap and fish, to a person who is an enrolled member of the Passamaquoddy  
20 Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band  
21 of Micmacs that is valid for the life of that person without any charge or fee pursuant to  
22 section 11109, if the person presents certification from the ~~respective~~ appropriate  
23 reservation chief or governor or the Aroostook Micmac Council stating that the person  
24 described is an enrolled member of a federally recognized Indian nation, band or tribe listed  
25 in this subsection. Holders of these licenses are subject to this Part, including, but not  
26 limited to, a lottery or drawing system for issuing a particular license or permit. Members  
27 of a federally recognized Indian nation, band or tribe listed in this subsection are exempt  
28 from the trapper ~~evaluation~~ education program required for a license under section 12201,  
29 the bear trapping education course required by section 12260-A, subsection 4 and the  
30 archery hunter education course under section 11106. A license holder under this  
31 subsection who qualifies to hunt during the special season on deer under section 11153 and  
32 who meets the eligibility requirements of section 11106 must have included in that person's  
33 license one antlerless deer permit and one either-sex permit.

34           **Sec. 8. 12 MRSA §11109-A, sub-§2-A,** as amended by PL 2021, c. 599, §8, is  
35 repealed and the following enacted in its place:

36           **2-A. Antlerless deer permit.** The following provisions govern the ability of a super  
37 pack license holder to obtain an antlerless deer permit.

38           A. In a wildlife management district in which the commissioner issues at least 2,000  
39 antlerless deer permits, the commissioner may allocate up to 2.5% of those antlerless  
40 deer permits to super pack license holders. The commissioner shall award to successful  
41 applicants an antlerless deer permit as described under section 11152, valid for use  
42 only in a designated district.

43           B. In order to receive a super pack antlerless deer permit, a super pack licensee must  
44 apply through the antlerless deer permit lottery. If the applicant receives a super pack  
45 antlerless deer permit in accordance with paragraph A, the applicant may claim the

1 permit at no cost. If the applicant receives but does not claim the permit, the applicant  
2 forfeits the permit. If the applicant does not receive a super pack antlerless deer permit  
3 in accordance with paragraph A, the applicant is eligible to receive an antlerless deer  
4 permit by means of the antlerless deer permit lottery as described in section 11152 and  
5 if received may claim and pay for the antlerless deer permit. The applicant may  
6 purchase an antlerless deer permit over the counter.

7 **Sec. 9. 12 MRSA §11109-A, sub-§3**, as amended by PL 2021, c. 599, §9, is further  
8 amended to read:

9 **3. ~~Harvest of 5 deer~~ Deer harvest authorizations.** Notwithstanding section 11501,  
10 a super pack license authorizes the holder to take:

11 A. One deer during either the regular open firearm season or the regular archery season  
12 or the special muzzle-loading season in accordance with sections 11401, 11403 and  
13 11404, respectively; and

14 ~~B. One deer in accordance with subsection 2-A, paragraph A; and~~

15 C. Three antlerless deer during the special archery season in accordance with section  
16 11402, subsection 4.

17 **Sec. 10. 12 MRSA §11552, first ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and  
18 affected by c. 614, §9, is amended to read:

19 Rules adopted under this section are routine technical rules as defined in Title 5, chapter  
20 375, subchapter 2-A. ~~The commissioner shall report to the joint standing committee of the~~  
21 ~~Legislature having jurisdiction over wildlife matters by February 1st of each year on~~  
22 ~~proposed actions under this section.~~

23 **Sec. 11. 12 MRSA §12260-A, sub-§4**, as enacted by PL 2021, c. 100, §12 and  
24 affected by §13, is amended by enacting a new 2nd blocked paragraph to read:

25 A person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation,  
26 the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs who presents  
27 certification from the appropriate reservation chief or governor or the Aroostook Micmac  
28 Council stating that the person is an enrolled member of a federally recognized Indian  
29 nation, band or tribe listed in this paragraph is exempt from this subsection.

30 **Sec. 12. 12 MRSA §12501, sub-§6, ¶B**, as amended by PL 2009, c. 213, Pt. OO,  
31 §11, is further amended to read:

32 B. A resident combination hunting and fishing license is \$42 ~~§43~~.

33 **Sec. 13. 12 MRSA §12501, sub-§6, ¶C**, as amended by PL 2009, c. 213, Pt. OO,  
34 §11, is further amended to read:

35 C. A resident combination archery hunting and fishing license is \$42 ~~§43~~.

36 **Sec. 14. 12 MRSA §13068-A, sub-§4, ¶A**, as enacted by PL 2003, c. 655, Pt. B,  
37 §380 and affected by §422, is amended by amending subparagraph (3) to read:

38 (3) Fails to wear a Coast Guard approved ~~Type I, Type II or Type III~~ personal  
39 flotation device while canoeing or kayaking on the Saco River between Hiram Dam  
40 and the Atlantic Ocean between January 1st and June 1st; or

1 **Sec. 15. 12 MRSA §13068-A, sub-§4, ¶A,** as enacted by PL 2003, c. 655, Pt. B,  
2 §380 and affected by §422, is amended by amending subparagraph (4) to read:

3 (4) Fails to wear a Coast Guard approved ~~Type I, Type II, Type III or Type V~~  
4 personal flotation device while operating a watercraft on:

5 (a) The Penobscot River, between the gorge and the head of Big Eddy; or

6 (b) The Kennebec River, between Harris Station and Turtle Island, at the foot  
7 of Black Brook Rapids.

8 **Sec. 16. 12 MRSA §13071-A, sub-§2, ¶A,** as enacted by PL 2003, c. 655, Pt. B,  
9 §384 and affected by §422, is amended by amending subparagraph (1) to read:

10 (1) Operate or be a passenger on a personal watercraft unless the person is wearing  
11 a Coast Guard approved ~~Type I, Type II or Type III~~ personal flotation devices  
12 device; or

13 **Sec. 17. 12 MRSA §13152, sub-§2,** as repealed and replaced by PL 2005, c. 397,  
14 Pt. E, §17, is amended by amending the first blocked paragraph to read:

15 ~~A person under 16 years of age must attend the training program with that person's parent~~  
16 ~~or guardian.~~ The training program must include instruction on the safe operation of ATVs,  
17 the laws pertaining to ATVs, the effect of ATVs on the environment and ways to minimize  
18 that effect, courtesy to landowners and other recreationists and landowners and other  
19 materials as determined by the department.

20 **Sec. 18. Effective date.** That section of this Act that repeals and replaces the Maine  
21 Revised Statutes, Title 12, section 11109-A, subsection 2-A takes effect January 1, 2024.

## 22 SUMMARY

23 This bill does the following.

24 1. It eliminates provisions relating to the annual reports to the joint standing committee  
25 of the Legislature having jurisdiction over inland fisheries and wildlife matters on deer and  
26 moose management.

27 2. It replaces the provision that requires mandatory submission to complete chemical  
28 tests to determine a person's alcohol level or other chemical use by analysis of blood, breath  
29 or urine after that person has been involved in a hunting accident or operated a watercraft,  
30 snowmobile or ATV and it resulted in serious injury or death. It also removes the provision  
31 requiring a person under 16 years of age to be accompanied by a parent or guardian in an  
32 ATV training program.

33 3. It provides clarity on how a super pack licensee applies for an antlerless deer permit.

34 4. It resolves a conflict in the Maine Revised Statutes, Title 12 regarding the cost of  
35 combination licenses.

36 5. It removes references to specific types of personal flotation device.

37 6. It renames the Black Bear Research Fund the Black Bear Research and Management  
38 Fund and modifies its purpose to allow the fund to be used for both research and  
39 management activities.

1           7. It exempts members of certain federally recognized Indian nations, bands or tribes  
2 from the requirement to complete a bear trapping education course.