

MAINE STATE LEGISLATURE

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Date 5/12/23 Majority L D 428 (Filing No H- 124)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to HP 261, L D 428, "An Act to Reclassify Certain Offenses Under the Inland Fisheries and Wildlife Laws and Increase the Efficiency of the Criminal Justice System"

Amend the bill by striking out the title and substituting the following
'An Act to Reclassify Certain Offenses Under the Inland Fisheries and Wildlife Laws'

Amend the bill by striking out everything after the enacting clause and inserting the following

'Sec. 1. 12 MRSA §11109, sub-§1, as amended by PL 2015, c 281, Pt A, §4, is further amended to read

1. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a license may be issued under this section unless that person has a valid license issued under this section. An electronic license or permit fulfills the requirement under this subsection that a person must have a physical paper license or permit if the electronic license or permit can be displayed upon request to a game warden or other law enforcement officer, an employee of the department, a registered Maine guide or the owner of the land on which the licensed activity is taking place. Each ~~Each~~ Except as otherwise provided in this section, 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 to twice the applicable license fee must be imposed~~ the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5

Sec. 2. 12 MRSA §11109, sub-§3, ¶A, as amended by PL 2017, c 164, §8, is further amended to read

A A resident junior hunting license, for a person under 16 years of age, is \$8 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a resident junior hunting license includes all permits, stamps and other permissions needed to hunt at no

COMMITTEE AMENDMENT

1 additional cost A license holder under this paragraph who qualifies to hunt during the
 2 special season on deer under section 11153 and who meets the eligibility requirements
 3 of section 11106 must have included in that person's license one antlerless deer permit
 4 and one either-sex permit A resident junior hunting license does not exempt the holder
 5 of the license from lottery-related application requirements under this Part A resident
 6 under 16 years of age who hunts without a resident junior hunting license commits a
 7 civil violation

8 **Sec. 3. 12 MRSA §11109, sub-§3, ¶F**, as amended by PL 2019, c 501, §8, is
 9 further amended to read

10 F A nonresident junior hunting license, for a person under 16 years of age, is \$35 and
 11 permits hunting of all legal species, subject to the permit requirements in subchapter 3
 12 Notwithstanding the permit fees established in subchapter 3, a nonresident junior
 13 hunting license includes all permits, stamps and other permissions needed to hunt at no
 14 additional cost A license holder under this paragraph who qualifies to hunt during the
 15 special season on deer under section 11153 and who meets the eligibility requirements
 16 of section 11106 must have included in that person's license one antlerless deer permit
 17 and one either-sex permit A nonresident junior hunting license does not exempt the
 18 holder of the license from lottery-related application requirements under this Part A
 19 nonresident under 16 years of age who hunts without a nonresident junior hunting
 20 license commits a civil violation

21 **Sec. 4. 12 MRSA §11159, sub-§1**, as enacted by PL 2003, c 414, Pt A, §2 and
 22 affected by c 614, §9, is amended to read

23 **1. Permit required.** Except as otherwise authorized in this Part, a person may not
 24 engage in the practice of falconry unless that person has a valid permit issued under this
 25 section Each day a person violates this subsection that person commits a ~~Class E crime~~
 26 ~~for which a minimum fine of \$50 and an amount equal to twice the applicable license fee~~
 27 ~~must be imposed~~ civil violation

28 **Sec. 5. 12 MRSA §11214, sub-§1, ¶F**, as enacted by PL 2003, c 414, Pt A, §2
 29 and affected by c 614, §9, is amended to read

30 F Hunt migratory game birds with a shotgun of any description originally capable of
 31 holding more than 3 shells, unless the shotgun's magazine has been cut off, altered or
 32 plugged with a one-piece filler incapable of removal without disassembling the gun so
 33 as to reduce the capacity of the gun to not more than 3 shells in the magazine and
 34 chamber combined A person who violates this paragraph commits a civil violation
 35 This paragraph does not apply to

36 (1) Military organizations authorized by law to bear arms or to the National Guard
 37 in the performance of its duty,

38 **Sec. 6. 12 MRSA §11214, sub-§1, ¶I**, as enacted by PL 2003, c 414, Pt A, §2
 39 and affected by c 614, §9, is amended to read

40 I Allow duck decoys to remain in waters of Merrymeeting Bay at any time during the
 41 period from one hour after legal shooting time until one hour before legal shooting time
 42 the next day A person who violates this paragraph commits a civil violation,

1 **Sec. 7. 12 MRSA §11214, sub-§1, ¶J**, as enacted by PL 2003, c 414, Pt A, §2
2 and affected by c 614, §9, is amended to read

3 J Leave or allow to remain in waters of Merrymeeting Bay an artificial cover, that is,
4 a "stationary blind," or parts of an artificial cover used for hunting purposes between
5 one hour after legal shooting time and one hour before legal shooting time the next day.
6 A person who violates this paragraph commits a civil violation.

7 **Sec. 8. 12 MRSA §11214, sub-§2**, as enacted by PL 2003, c 655, Pt B, §146 and
8 affected by §422, is amended to read

9 **2. Penalty.** A Except as provided in subsection 1, paragraphs F, I and J, a person who
10 violates subsection 1 commits a Class E crime for which the sentencing alternative may
11 include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title
12 17-A, section 1705, subsection 5

13 **Sec. 9. 12 MRSA §11301**, as amended by PL 2021, c 100, §6 and affected by §13,
14 is further amended to read

15 **§11301. Placing of bear bait**

16 **1. Bear baiting, penalty** A person may not place bait to entice, hunt or trap black
17 bear, unless

18 A The bait is placed at least 50 yards from a travel way that is accessible by a
19 conventional 2-wheel-drive or 4-wheel-drive vehicle,

20 B The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the
21 name and address of the baiter,

22 C The bait is placed more than 500 yards from a site permitted or licensed for the
23 disposal of solid waste or a campground,

24 D The bait is placed more than 500 yards from an occupied dwelling, unless written
25 permission is granted by the owner or lessee,

26 E The bait is placed not more than 30 days before the opening day of the season, and
27 not more than 30 days before the first Monday preceding September 1st and not after
28 October 31st,

29 F The bait areas will be cleaned up by November 10th, as defined by the state litter
30 laws, and

31 G The person hunting from a stand or blind of another person has permission of the
32 owner of that stand or blind

33 A person may not use bait to hunt or trap black bear without the oral or written permission
34 of the landowner

35 A person who violates this subsection commits a civil violation

36 **1-A ~~Prohibition~~ Prohibitions; penalty.** During the open season on hunting bear, a
37 person may not within 50 yards of a bait site established by another person in accordance
38 with section 11227 without the written permission of the person who established the bait
39 site

40 A Hunt, trap, molest or harass bear or release a dog or dogs for the purpose of hunting
41 bear or training dogs to hunt bear, ~~or~~

1 A person who violates this paragraph commits a Class E crime for which the sentencing
 2 alternative may include only the penalties provided in Title 17-A, section 1704,
 3 subsection 5 and Title 17-A, section 1705, subsection 5, or

4 B Disturb the bait site through the use of chemicals or take other action intended to
 5 interfere with the hunting of bear at the bait site by the person who established the bait
 6 site.

7 A person who violates this paragraph commits a Class E crime for which the sentencing
 8 alternative may include only the penalties provided in Title 17-A, section 1704,
 9 subsection 5 and Title 17-A, section 1705, subsection 5

10 ~~2. Penalty. A person who violates this section commits a Class E crime~~

11 **Sec. 10. 12 MRSA §11302, sub-§3**, as enacted by PL 2003, c 655, Pt B, §158 and
 12 affected by §422, is amended to read

13 **3. Penalty.** A person who violates this section commits a ~~Class E crime~~ civil violation

14 **Sec. 11. 12 MRSA §12051, sub-§1**, as repealed and replaced by PL 2013, c 588,
 15 Pt A, §16, is amended by amending the 2nd blocked paragraph to read

16 A person who violates this subsection commits a ~~Class E crime~~ civil violation

17 **Sec. 12. 12 MRSA §12054, sub-§2**, as enacted by PL 2003, c 414, Pt A, §2 and
 18 affected by c 614, §9, is amended to read

19 **2. Rabbit hound field trials.** A person may not hold field trials for beagles and other
 20 rabbit hounds except from September 1st through the following April 10th A person who
 21 violates this subsection commits a ~~Class E crime~~ civil violation

22 **Sec. 13. 12 MRSA §12055, sub-§1**, as enacted by PL 2003, c 414, Pt A, §2 and
 23 affected by c 614, §9, is amended to read

24 **1. License required.** A club or organization may not hold field trials as provided
 25 under this section unless the club or organization has a valid license issued under this
 26 section Each day a person violates this subsection that person commits a ~~Class E crime~~
 27 ~~for which a minimum fine of \$50 and an amount equal to twice the applicable license fee~~
 28 ~~must be imposed~~ civil violation

29 **Sec. 14. 12 MRSA §12101, sub-§1-A**, as enacted by PL 2003, c 655, Pt B, §199
 30 and affected by §422, is amended to read

31 **1-A. License required** A person may not charge others for the opportunity to hunt
 32 mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in an area or
 33 establish a commercial shooting area for such purposes unless that person has a valid
 34 license issued under this section Each day a person violates this subsection that person
 35 commits a ~~Class E crime for which a minimum fine of \$50 and an amount equal to twice~~
 36 ~~the applicable license fee must be imposed~~ civil violation

37 A Nothing in this subsection prohibits the operator of a commercial shooting area
 38 from authorizing a person to hunt other wild birds or wild animals in the commercial
 39 shooting area during the regular open season on those species, in accordance with this
 40 Part, as long as the person possesses a valid state hunting license that allows the hunting
 41 of those wild birds and wild animals

ROS

1 **Sec. 15. 12 MRSA §12508, sub-§1**, as enacted by PL 2003, c 414, Pt A, §2 and
2 affected by c 614, §9, is amended by amending the first blocked paragraph to read

3 Each day a person violates this subsection, that person commits a Class E crime for which
4 a minimum fine of \$50 and an amount equal to twice the applicable license fee must be
5 imposed civil violation

6 **Sec. 16. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c 655, Pt B,
7 §259 and affected by §422, is amended by amending subparagraph (2) to read

8 (2) Shall present a receipted invoice, bill of lading, bill of sale or other satisfactory
9 evidence of the lawful possession of live baitfish or smelts for retail sale to any
10 agent of the commissioner upon request A person who violates this subparagraph
11 commits a civil violation, or

12 **Sec. 17. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c 655, Pt B,
13 §259 and affected by §422, is amended by amending the first blocked paragraph to read

14 ~~Each~~ Except for a violation of subparagraph (2), each day a person violates this
15 paragraph that person commits a class Class E crime for which the sentencing
16 alternative may include only the penalties provided in Title 17-A, section 1704,
17 subsection 5 and Title 17-A, section 1705, subsection 5

18 **Sec. 18. 12 MRSA §12551-A, sub-§6, ¶B**, as enacted by PL 2003, c 655, Pt B,
19 §259 and affected by §422, is amended by amending subparagraph (1) to read

20 (1) When engaged in taking, or assisting in taking, live baitfish for resale from
21 inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the
22 commissioner upon request A person who violates this subparagraph commits a
23 Class E crime for which the sentencing alternative may include only the penalties
24 provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705,
25 subsection 5,

26 **Sec. 19. 12 MRSA §12551-A, sub-§6, ¶B**, as enacted by PL 2003, c 655, Pt B,
27 §259 and affected by §422, is amended by amending the first blocked paragraph to read

28 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
29 paragraph that person commits a class Class E crime for which the sentencing
30 alternative may include only the penalties provided in Title 17-A, section 1704,
31 subsection 5 and Title 17-A, section 1705, subsection 5

32 **Sec. 20. 12 MRSA §12551-A, sub-§7, ¶B**, as amended by PL 2005, c 237, §3, is
33 further amended by amending subparagraph (1) to read

34 (1) When engaged in taking, or assisting in taking, live smelts for resale from
35 inland waters, fail to exhibit the license to any agent of the commissioner upon
36 request A person who violates this subparagraph commits a Class E crime for
37 which the sentencing alternative may include only the penalties provided in Title
38 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5,

39 **Sec. 21. 12 MRSA §12551-A, sub-§7, ¶B**, as amended by PL 2005, c 237, §3, is
40 further amended by amending the first blocked paragraph to read

41 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
42 paragraph that person commits a Class E crime for which the sentencing alternative

1 may include only the penalties provided in Title 17-A, section 1704, subsection 5 and
2 Title 17-A, section 1705, subsection 5

3 **Sec. 22. Appropriations and allocations.** The following appropriations and
4 allocations are made

5 **JUDICIAL DEPARTMENT**

6 **Courts - Supreme, Superior and District 0063**

7 Initiative Provides one-time funding for computer programming costs to update
8 classifications of offenses

9	GENERAL FUND	2023-24	2024-25
10	All Other	\$3,400	\$0
11			
12	GENERAL FUND TOTAL	<u>\$3,400</u>	<u>\$0</u>

13 **Sec. 23. Effective date.** This Act takes effect January 1, 2024 '

14 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
15 number to read consecutively

16 **SUMMARY**

17 This amendment is the majority report of the committee. The amendment changes the
18 bill title and does the following

19 1 It removes from the bill the provision that updates the definition of "habitual
20 violator" under the inland fisheries and wildlife laws

21 2 It changes the penalty for the following inland fisheries and wildlife crimes from a
22 Class E crime for which a fine may be imposed and a term of incarceration may not be
23 imposed to a Class E crime for which a sentencing alternative may include only the
24 penalties provided in the Maine Revised Statutes, Title 17-A relating to maximum fines for
25 Class E crimes

26 A Hunting without a license,

27 B Interfering with another person's bait site during the open season on hunting bear,

28 C When a live bait retailer possesses any species of fish that cannot be sold as bait at
29 that retailer's place of business,

30 D When the holder of a baitfish wholesaler's license takes baitfish other than by use
31 of a seine, a baitfish trap, a dip net, a drop net, a lift net or a bag net, or by hook and
32 line, attempts to take live bait for resale from the inland waters of the State by fishing
33 through the ice using drop nets unless the holder marks all holes made in the ice by the
34 holder for that purpose, takes eels, takes or sells suckers greater than 10 inches in length
35 between April 1st and September 30th of each year, or possesses at that person's place
36 of business any species of fish that may not legally be sold as bait, and

37 E Several violations pertaining to holders of a smelt wholesale dealer's license

38 3 It changes the penalty for the following offenses from a civil violation to a Class E
39 crime for which a sentencing alternative may include only the penalties provided in Title
40 17-A relating to maximum fines for Class E crimes

- 1 A When the holder of a baitfish wholesaler's license, when engaged in taking, or
- 2 assisting in taking, live baitfish for resale from inland waters, fails to exhibit a baitfish
- 3 wholesaler's license to any agent of the Commissioner of Inland Fisheries and Wildlife
- 4 upon request, and

- 5 B When the holder of a smelt wholesale dealer's license, when engaged in taking, or
- 6 assisting in taking, live smelts for resale from inland waters, fails to exhibit the license
- 7 to any agent of the commissioner upon request

- 8 4 It eliminates from the bill provisions that expand the law that evidence obtained
- 9 pursuant to an unlawful search and seizure is not admissible in a civil violation and permit
- 10 a law enforcement officer who has probable cause that a violation of law has taken place
- 11 or is taking place to make application for a search warrant

- 12 5 It adds an appropriations and allocations section

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 428

LR 496(02)

An Act to Reclassify Certain Offenses Under the Inland Fisheries and Wildlife Laws and Increase the Efficiency of the Criminal Justice System

**Fiscal Note for Bill as Amended by Committee Amendment "A" (H-124)
Committee: Criminal Justice and Public Safety**

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$3,400	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$3,400	\$0	\$0	\$0

Correctional and Judicial Impact Statements

Reductions in the collection of fines related to those cases where the class of crime is decreased from Class E to a civil violation will decrease General Fund or other dedicated revenue by minor amounts

Fiscal Detail and Notes

The bill includes a one-time General Fund appropriation of \$3,400 in fiscal year 2023-24 to the Judicial Department for computer programming costs to update the classification of offenses