

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 428

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H.P. 261

House of Representatives, February 2, 2023

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

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

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

ROBERT B. HUNT  
Clerk

Presented by Representative PLUECKER of Warren.  
Cosponsored by Senator BEEBE-CENTER of Knox and  
Representatives: NEWMAN of Belgrade, NUTTING of Oakland, SALISBURY of Westbrook,  
WARREN of Scarborough, Senator: BRAKEY of Androscoggin.

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

2 **PART A**

3 **Sec. A-1. 12 MRSA §10605, sub-§1**, as affected by PL 2003, c. 614, §9 and  
4 amended by c. 655, Pt. B, §64 and affected by §422, is further amended to read:

5 **1. Habitual violator defined.** For purposes of this section, "habitual violator" means  
6 a person whose record, as maintained by the department, shows that:

7 A. The person has been convicted of 3 or more criminal violations under this Part,  
8 adjudicated of 3 or more civil violations under this Part or convicted of at least one  
9 criminal violation under this Part and adjudicated of at least one civil violation under  
10 this Part for a combined total of 3 or more times within the previous 5-year period,  
11 except that, whenever more than one criminal violation is or more than one civil  
12 violation or multiple violations of which at least one is a criminal violation and at least  
13 one is a civil violation are committed at the same time, multiple convictions or  
14 adjudications are deemed to be one offense; ~~or.~~

15 ~~B. The person has been adjudicated as having committed 3 or more civil violations~~  
16 ~~under this Part and convicted of 2 or more Class E crimes as a result of such prior~~  
17 ~~adjudications within the previous 5-year period.~~

18 **Sec. A-2. 12 MRSA §11109, sub-§1**, as amended by PL 2015, c. 281, Pt. A, §4, is  
19 further amended to read:

20 **1. License required.** Except as otherwise authorized pursuant to this Part, a person  
21 may not engage in an activity for which a license may be issued under this section unless  
22 that person has a valid license issued under this section. An electronic license or permit  
23 fulfills the requirement under this subsection that a person must have a physical paper  
24 license or permit if the electronic license or permit can be displayed upon request to a game  
25 warden or other law enforcement officer, an employee of the department, a registered  
26 Maine guide or the owner of the land on which the licensed activity is taking place. ~~Each~~  
27 Except as otherwise provided in this section, each day a person violates this subsection that  
28 person commits a Class E crime for which ~~a minimum fine of \$50 and an amount equal to~~  
29 ~~twice the applicable license fee must be imposed~~ a fine may be imposed and a term of  
30 imprisonment may not be imposed.

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

33 A. A resident junior hunting license, for a person under 16 years of age, is \$8 and  
34 permits hunting of all legal species, subject to the permit requirements in subchapter 3.  
35 Notwithstanding the permit fees established in subchapter 3, a resident junior hunting  
36 license includes all permits, stamps and other permissions needed to hunt at no  
37 additional cost. A license holder under this paragraph who qualifies to hunt during the  
38 special season on deer under section 11153 and who meets the eligibility requirements  
39 of section 11106 must have included in that person's license one antlerless deer permit  
40 and one either-sex permit. A resident junior hunting license does not exempt the holder  
41 of the license from lottery-related application requirements under this Part. A resident  
42 under 16 years of age who hunts without a resident junior hunting license commits a  
43 civil violation.

1           **Sec. A-4. 12 MRSA §11109, sub-§3, ¶F**, as amended by PL 2019, c. 501, §8, is  
2 further amended to read:

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

14           **Sec. A-5. 12 MRSA §11159, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and  
15 affected by c. 614, §9, is amended to read:

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

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

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

- 29           (1) Military organizations authorized by law to bear arms or to the National Guard  
30 in the performance of its duty;

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

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

36           **Sec. A-8. 12 MRSA §11214, sub-§1, ¶J**, as enacted by PL 2003, c. 414, Pt. A, §2  
37 and affected by c. 614, §9, is amended to read:

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

42           **Sec. A-9. 12 MRSA §11214, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §146  
43 and affected by §422, is amended to read:

1           **2. Penalty.** ~~A~~ Except as provided in subsection 1, paragraphs F, I and J, a person who  
2 violates subsection 1 commits a Class E crime for which a fine may be imposed and a term  
3 of imprisonment may not be imposed.

4           **Sec. A-10. 12 MRSA §11301**, as amended by PL 2021, c. 100, §6 and affected by  
5 §13, is further amended to read:

6           **§11301. Placing of bear bait**

7           **1. Bear baiting; penalty.** A person may not place bait to entice, hunt or trap black  
8 bear, unless:

9           A. The bait is placed at least 50 yards from a travel way that is accessible by a  
10 conventional 2-wheel-drive or 4-wheel-drive vehicle;

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

13           C. The bait is placed more than 500 yards from a site permitted or licensed for the  
14 disposal of solid waste or a campground;

15           D. The bait is placed more than 500 yards from an occupied dwelling, unless written  
16 permission is granted by the owner or lessee;

17           E. The bait is placed not more than 30 days before the opening day of the season, and  
18 not more than 30 days before the first Monday preceding September 1st and not after  
19 October 31st;

20           F. The bait areas will be cleaned up by November 10th, as defined by the state litter  
21 laws; and

22           G. The person hunting from a stand or blind of another person has permission of the  
23 owner of that stand or blind.

24 A person may not use bait to hunt or trap black bear without the oral or written permission  
25 of the landowner.

26 A person who violates this subsection commits a civil violation.

27           **1-A. ~~Prohibition~~ Prohibitions; penalty.** During the open season on hunting bear, a  
28 person may not within 50 yards of a bait site established by another person in accordance  
29 with section 11227 without the written permission of the person who established the bait  
30 site:

31           A. Hunt, trap, molest or harass bear or release a dog or dogs for the purpose of hunting  
32 bear or training dogs to hunt bear; ~~or~~.

33           A person who violates this paragraph commits a Class E crime for which a fine may  
34 be imposed and a term of imprisonment may not be imposed; or

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

38           A person who violates this paragraph commits a Class E crime for which a fine may  
39 be imposed and a term of imprisonment may not be imposed.

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

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

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

4           **Sec. A-12. 12 MRSA §12051, sub-§1**, as repealed and replaced by PL 2013, c.  
5 588, Pt. A, §16, is amended by amending the 2nd blocked paragraph to read:

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

7           **Sec. A-13. 12 MRSA §12054, sub-§2**, as enacted by PL 2003, c. 414, Pt. A, §2  
8 and affected by c. 614, §9, is amended to read:

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

12           **Sec. A-14. 12 MRSA §12055, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2  
13 and affected by c. 614, §9, is amended to read:

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

19           **Sec. A-15. 12 MRSA §12101, sub-§1-A**, as enacted by PL 2003, c. 655, Pt. B,  
20 §199 and affected by §422, is amended to read:

21           **1-A. License required.** A person may not charge others for the opportunity to hunt  
22 mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in an area or  
23 establish a commercial shooting area for such purposes unless that person has a valid  
24 license issued under this section. Each day a person violates this subsection that person  
25 commits a ~~Class E crime for which a minimum fine of \$50 and an amount equal to twice~~  
26 ~~the applicable license fee must be imposed~~ civil violation.

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

32           **Sec. A-16. 12 MRSA §12508, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2  
33 and affected by c. 614, §9, is amended by amending the first blocked paragraph to read:

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

37           **Sec. A-17. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c. 655, Pt.  
38 B, §259 and affected by §422, is amended by amending subparagraph (2) to read:

39           (2) Shall present a receipted invoice, bill of lading, bill of sale or other satisfactory  
40 evidence of the lawful possession of live baitfish or smelts for retail sale to any

1 agent of the commissioner upon request. A person who violates this subparagraph  
2 commits a civil violation; or

3 **Sec. A-18. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c. 655, Pt.  
4 B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

5 ~~Each~~ Except for a violation of subparagraph (2), each day a person violates this  
6 paragraph that person commits a ~~class~~ Class E crime for which a fine may be imposed  
7 and a term of imprisonment may not be imposed.

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

10 (1) When engaged in taking, or assisting in taking, live baitfish for resale from  
11 inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the  
12 commissioner upon request. A person who violates this subparagraph commits a  
13 civil violation;

14 **Sec. A-20. 12 MRSA §12551-A, sub-§6, ¶B**, as enacted by PL 2003, c. 655, Pt.  
15 B, §259 and affected by §422, is amended by amending the first blocked paragraph to read:

16 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this  
17 paragraph that person commits a ~~class~~ Class E crime for which a fine may be imposed  
18 and a term of imprisonment may not be imposed.

19 **Sec. A-21. 12 MRSA §12551-A, sub-§7, ¶B**, as amended by PL 2005, c. 237, §3,  
20 is further amended by amending subparagraph (1) to read:

21 (1) When engaged in taking, or assisting in taking, live smelts for resale from  
22 inland waters, fail to exhibit the license to any agent of the commissioner upon  
23 request. A person who violates this subparagraph commits a civil violation;

24 **Sec. A-22. 12 MRSA §12551-A, sub-§7, ¶B**, as amended by PL 2005, c. 237, §3,  
25 is further amended by amending the first blocked paragraph to read:

26 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this  
27 paragraph that person commits a Class E crime for which a fine may be imposed and a  
28 term of imprisonment may not be imposed.

## 29 PART B

30 **Sec. B-1. 17-A MRSA §4-B, sub-§4**, as enacted by PL 1985, c. 282, §3, is amended  
31 to read:

32 **4.** Evidence obtained pursuant to an unlawful search and seizure ~~shall~~ is not be  
33 admissible in a civil violation proceeding arising under Title 22, section 2383.

34 **Sec. B-2. 17-A MRSA §4-B, sub-§5** is enacted to read:

35 **5.** A law enforcement officer who has probable cause to believe that a violation of law  
36 has taken place or is taking place may make application for a search warrant in accordance  
37 with the applicable Maine Rules of Civil Procedure or Maine Rules of Unified Criminal  
38 Procedure.

## 39 PART C

40 **Sec. C-1. Effective date.** Parts A and B of this Act take effect January 1, 2024.

1 **SUMMARY**

2 Part A amends certain laws regarding inland fisheries and wildlife in the Maine Revised  
3 Statutes, Title 12, Part 13, limiting the sentences for certain crimes to fines and changing  
4 some crimes to civil violations. Crimes reduced to civil violations include junior hunting  
5 without a license, unlawful practice of falconry, unlawful hunting of migratory birds with  
6 a shotgun, allowing duck decoys or a stationary blind to remain in the water in  
7 Merrymeeting Bay beyond the legal hours and unlawful hunting of bear with dogs or with  
8 bait; certain violations of field trials, training dogs and opportunity to hunt laws; and certain  
9 violations of live smelt and baitfish laws.

10 Part B amends the Maine Criminal Code provision governing civil violations to  
11 explicitly provide that evidence obtained pursuant to an unlawful search and seizure is not  
12 admissible in any civil violation proceeding, not just those arising from cannabis possession  
13 by a person under 21 years of age or possession of butyl nitrite or isobutyl nitrite, and to  
14 permit a law enforcement officer who has probable cause to believe that a violation of the  
15 law has taken place or is taking place to make application for a search warrant.

16 Part C establishes an effective date of January 1, 2024 for Parts A and B.