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Report Back Provided to the Joint Standing Committee on Inland Fisheries & Wildlife



Combined Report Back On:

RESOLVE CHAPTER 77 - (LD 770) Resolve, To Direct the Department of Inland Fisheries and Wildlife To Examine Issues Related to Hunting Dogs and Civil Trespass

Provided By: The Department of Inland Fisheries & Wildlife

Date: 10 January 2022

Good morning Senator Dill, Representative Landry and honorable members of the Inland Fisheries and Wildlife Committee. I am Dan Scott Colonel of the Maine Warden Service. I am here to update you on Resolve Chapter 77 which directed MDIFW to examine issues related to Hunting Dogs and Civil Trespass and to form a stakeholder group comprised of interested parties including impacted landowners, persons who use dogs for hunting and the Landowner and Sportsmen Relations Advisory Board. I have included the specific directive below.

RESOLVE CHAPTER 77 - (LD 770) **Resolve, To Direct the Department of Inland Fisheries and Wildlife To Examine Issues Related to Hunting Dogs and Civil Trespass**

(Effective: October 18, 2021)

Sec. 1. Examination. Resolved: That IFW shall establish a stakeholder group to examine issues related to hunting dogs and civil trespass. The department shall ensure that the stakeholder group is as broadly representative of interested parties and groups as possible and shall invite participation from at least the following: representatives of affected landowners and persons who use dogs in hunting and others with interest in or expertise on the subject matter of the examination. The department may include or involve the Landowners and Sportsmen Relations Advisory Board under the Maine Revised Statutes, Title 12, section 10157 in the work of the stakeholder group.

Sec. 2. Report. Resolved: That IFW shall report the findings and recommendations resulting from the examination under section 1 to the Joint Standing Committee on IFW by January 3, 2022. The committee may report out a bill related to the subject matter of the report to the 130th Legislature.

REPORT BACK: January 10, 2022

PRESENTER: Colonel Dan Scott

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The stakeholder group was comprised of the following members:

Wayne Buck – Milton Township Landowner
Corporal Dave Chabot – Landowner Relations Specialist Maine Warden Service
Tom Doak – Executive Director Maine Woodland Owners
Mark Dufresne - Experienced hound hunter, Registered Maine Guide
Tim Farrar – Experienced hound hunter, Registered Maine Guide
Kara Hodgkin – President - Maine Sporting Dogs Association
Don Kleiner – Chair - Landowner Sportsmen’s Relations Advisory Board, RMG
Bob Parker – Maine Prof. Guides Assoc., Bear Hunting Outfitter, Stony Brook Outfitters
Claire Perry – Landowner – Liberty, Maine
Debbie Runnells –Landowner – Unity, Maine; Experience Registered Maine Guide
Tim Theriault – Legislative Representative – Inland Fisheries and Wildlife Committee
David Trahan – Executive Director Sportsmen’s Alliance of Maine

Overview of the challenge:

Private landowners occasionally encounter hunting dogs on their land. In some cases, the landowners do not want hunting dogs on their property. Under current law, Criminal Trespass and Title 12 Civil Trespass laws apply only to people, and “Dog at Large” laws do not apply to dogs engaged in hunting. When a law enforcement officer responds to a report of a hunting dog on posted land there is no consequence for the hunter if he/she themselves did not trespass and often law enforcement has no means to address the complaint of the landowner. Additionally, if a hunter has been advised or requested by a landowner to keep their hunting dog off the landowner’s property, and the hunting dog enters the property, there is again no consequence for the hunter because trespass laws do not apply to hunting dogs. Most of the applicable incidents involve hunters who are engaged with hound-type dogs in pursuit of coyotes and bears and sometimes bobcats or raccoons. Many of the issues occur in the summer and early fall when the bear training season and bear hunting season overlap with the coyote hunting season. However, the issue is a year-round concern in that hunting coyotes with dogs is lawful all months of the year.

In general, representatives from the landowner “side” of the issue, are seeking to be able to restrict hunting dogs from entering their property, and to develop a legal consequence for the dog owners if they fail to comply. Other than the crossing of private land to access and enter a great pond, running hunting dogs is the only activity which a landowner has no avenue to prohibit from occurring on their property. Landowner representatives feel it should

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be the responsibility of the hunter to comply with the requests of private landowners and ensure their hunting dogs do not enter property upon which they are not wanted.

In general, representatives from the hunting with dogs' "side" of the issue, stress that they are unable to control where the game animals run and therefore are unable to control where their dogs run. They emphasize that the number of incidents are low when compared to the number of people hunting with dogs on the landscape, and in many situations the hounds run across a property and depending on the size, may be on the property for only a brief period of time. The hunting of some of these animals with dogs is deeply entrenched in Maine's hunting heritage and traditions. Many of the hunter's livelihoods and fate of their businesses rely on hunting with dogs and being subject to legal action when their dogs cross private land could potentially threaten their businesses and way of life.

* Although this report references "sides" of the issue, it is important to note that there are both landowners and hunters who support additional restrictions on people who hunt with dogs, and there are both landowners and hunters who support no additional restrictions on hunting with dogs.

* Additionally – in some places this report references people involved in hunting and in other places hunting/training. It should be noted the concerns include dogs engaged in chases with bear, coyote, bobcat, fox and raccoon during both hunting scenarios and training scenarios, hence the recommendations should apply to both hunting and training seasons as applicable.

Stakeholder Group Meeting Summary

The stakeholder group convened for five meetings via Zoom from August 2021 – December 2021. During these meetings members would raise their concerns and make proposals regarding possible legislative changes to the activity of using dogs to train on and hunt bear, coyote, bobcat, fox and raccoon. The group acknowledged that there are other species of game which are typically hunted in Maine with the use of dogs, but the vast majority of complaints and landowner conflicts are created by hunters who are using dogs to pursue primarily bear and coyote and sometimes bobcats, fox and raccoon. The types of dogs used to hunt these species are typically more similar to hound type breeds which are bred to chase larger game animals longer distances and typically do not stay in close proximity to the handler. Whereas upland bird dogs or waterfowl dogs typically do not range too far from the handler or are used merely as a tool to locate and retrieve dead or wounded birds. The stakeholder group felt it was not necessary to recommend any regulation changes for dogs which are engaged in hunting upland game or waterfowl.

The stakeholder group devoted a considerable amount of time contemplating language within the 26 April 2021 Representative Theriault amendment to the original LD 770. The amendment addresses two scenarios potentially

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encountered between persons hunting/training with dogs and landowners. The first situation involves a hunter or person training a dog releasing that dog directly onto posted land or directly onto land which the hunter has been previously notified that dogs are not welcome. The stakeholder group agreed that releasing a dog directly onto land which you know the landowner does not want the hunting dog on is an intentional act in direct conflict with the wishes of a landowner and that activity should be prohibited.

The second scenario addresses the less straightforward scenario between landowners and dog owners around the dog hunting/training issue. This scenario is the more challenging to address considering private landowner rights vs hunting/training with dogs for bear, coyotes, bobcat, fox and raccoon. This scenario occurs when a hunting dog is released onto the track of an animal in a location where the hunter and dog are otherwise welcomed by the landowner. The dog takes to chasing a game animal as it is trained to do, and the animal runs onto property where the landowner does not want hunting dogs. In some cases, the property may be in close proximity to where the dog was released, for example, within a mile or so. Depending on a number of factors such as weather, terrain, historical knowledge of past hunts, the size and proximity of the property, there may be some predictability of whether the chase will end up on the prohibited property. In other cases, the hunt may continue for many miles and the game animal could lead the dog onto a property many miles and several hours after the hunt began. In these cases, there is limited predictability as to where a particular game animal will run once the chase begins. The quandary is that a landowner who does not want hunting dogs on their land, does not often care how far away a chase began. They merely do not want the dog on their property. Likewise, the dog hunters/trainers do not want to end up on a property where they are not welcome, but the unpredictability of a long chase sometimes results in dogs running on property where they are not wanted. Dog hunters/trainers often use GPS collars to track the progress of their dogs and often can head them off before they go to a property where they are not wanted, but that is not always possible.

The stakeholder group agreed the majority of people who are hunting with dogs are law abiding, responsible hunters who try to avoid conflict with private landowners. When they do find themselves in a predicament with a landowner, they are respectful and seek to cooperate and communicate with the landowner to resolve the issue. Similarly, the group also recognized that many of the complaints from landowners regarding people hunting with dogs involved repeat offenders including some hunters who confront and are belligerent toward landowners. In a number of cases the hunters were aware there is little a landowner could do about their dogs on the landowner's property and the hunters would go as far as telling the landowner there was no recourse for the landowner or law enforcement and the hunters would likely be back again. These types of interactions are what has resulted in this issue coming before the legislature and thus the stakeholder group being established. The stakeholder group agreed there is a need for a statutory solution for law enforcement to address the issue of repeat offenders.

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The group focused its attention on a warning based system, similar to criminal trespass language, that would cause a violation to be applicable to repeat offenders on a private landowner. As indicated in the recommendation below, they suggested the first time a dog is released onto the track of an animal and it ends up running across land whose owner does not want hunting dogs on their property, a law enforcement officer may issue the hunter/dog trainer a warning. That warning would stand for 365 days during which time a subsequent incident in which the person's dog again entered the landowner's property, would be a violation of civil trespass by a hunting dog. It is noteworthy that the entire stakeholder group did not agree that this was the best approach. A small number of landowner representatives felt there should be no requirement for the dog to be on the landowner's property prior to a warning being issued. There was some discussion that a hunter could be told in advance of ever being on someone's property that their dogs were not welcome there, and if the dogs were later found to be on the property, the hunter would be in violation. However, the warning approach seemed to be more middle-ground between the two sides of the discussion and was supported by more members of the stakeholder group.

The stakeholder group suggested that since this issue is specific to a particular type of training and hunting, (i.e. with dogs in pursuit of bear, coyote, bobcat, fox and raccoon), that the state should consider requiring a dog training and hunting permit to engage in this activity. Said permit could then be revoked, suspended or denied if a hunter violated the civil trespass by hunting dog law. The group suggested the permit require a moderate fee to cover administrative costs and any additional revenue go into a dedicated account which supports the Landowner Relations Program. The group also suggested anyone who has employed a Registered Maine Guide, and said guide is in the presence of the hunter, the hunter should not be required to purchase a dog training and hunting permit.

As well, the stakeholder group felt education around landowner respect and communication for this cohort of hunters/dog trainers is important and possibly in the future a person would be required to participate in an online training class before being permitted to purchase the dog training and hunting permit.

Finally, the stakeholder group discussed the possibility of requiring anyone engaging in the activity of training or hunting with a dog in pursuit of bear, coyote, bobcat, fox or raccoon be required to affix to each dog a functioning GPS (Global Positioning System) tracking collar to allow the dog handler to know the dog's location at all times and potentially head-off anticipated conflict. Concerns around this suggestion were raised as to the high cost of such tracking collars and the hesitancy some traditional dog hunters may have to such technology. Additionally, it is worth noting that any tracking collar requirement was not suggested to be associated with any mandatory requirement to provide tracking dog information to law enforcement. Merely as a means to ensure the dog handler has at their disposal all available means to know the location of their dogs in order to head off a potential landowner conflict or protect the dog from dangers / hazards.

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Below is a bulleted list of discussion points brought in the stakeholder group which additionally summarizes several of their points.

Bulleted list of discussion topics:

- Landowners feel it is a basic property right to be able to control what activity takes place on their land.
- Some Landowners feel it is a 5th amendment property right to be able to restrict hunting dogs on their property.
- Not all landowners want the bear, coyote, bobcat, fox and raccoon on their land hunted and feel they should be able to restrict dogs from entering and chasing these species.
- Some landowners have a fear of dogs and feel the hunting dogs are intrusive and in some cases dangerous.
- Landowners feel the use of GPS tracking collars and correction function would serve to stop dogs from entering their property when the hunter noted the dogs were headed in that direction.
- Some hunters lease bear baiting rights for hunting purposes and do not feel they should be subject to dogs entering the land and running the bears they are trying to bait.
- More landowners exist with concerns, but they are hesitant to report due to concerns with retribution.
- There is a long tradition and heritage of hunting with dogs in Maine.
- Hunting with dogs is an important component of species management.
- Many small businesses rely on hunting with dogs as an important part of their annual income.
- Overall number of complaints / incidents is low compared to amount of dog hunts.
- Hunters concerned with consistent application of law by law enforcement.
- Hunters feel they are unable to control where the hunted animals run, hence cannot prevent their dogs from going on posted land or land where they are otherwise prohibited.
- Hunters feel GPS collars assist in the tracking of their dog's locations, allowing them to often head the dogs off and avoid conflict with landowners, but correction features on the collars do not necessarily correct specific behavior from a distance.
- GPS Tracking technology is expensive and not necessarily embraced by all dog handlers.
- The offenders are not representative of most of the dog hunting community.
- The failure to resolve the landowner / hunting with dogs debate could result in additional conflict in the future and potentially more restrictive regulations for people hunting with dogs.
- Continued conflict may lead to additional posted land / restricted access.
- The included proposal (appendix A & B) allows for numerous decision points when a hunter can be part of the solution as they interact with a landowner or a game warden.

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- Many of the offenders are repeat.
- State of VT currently dealing with same issue.
- A legislative review and sunset language could force the issue to be reviewed in the future.
- Landowners need to be educated of how to file a complaint regarding hunting dogs on their land.
- A permit system would allow DIFW to better understand the number of people pursuing bear, coyote, bobcat, fox and raccoon with dogs, making communication and education with them more efficient.
- A permit system would also provide an additional avenue to hold violators of the dog hunting laws accountable through the Commissioner's permit suspension authority.

Recommendations for statutory changes etc.

** Priority to identify some language to allow law enforcement to address the activity of repeat offenders of civil dog trespass, when using dogs to train on or hunt bear, coyote, bobcat, fox or raccoon.

1. Illegal to release a hunting dog onto land which the landowner or landowner's agent has personally communicated to the dog owner or dog handler that hunting dogs are prohibited on the property;
2. Illegal to release a hunting dog onto posted property unless the dog owner or handler of the hunting dog has permission from the landowner or landowner's agent; and
3. Illegal to release a hunting dog so that it enters property upon which, in the previous 365 days, a dog had been previously found, and the dog owner, a handler of the hunting dog or a person participating in the hunt has been personally communicated by law enforcement that hunting dogs are not permitted on the property.
4. Consider requiring a permit for any person who wishes to use a dog to train on or hunt coyote, bear, fox, bobcat or raccoon. The fee for the permit will cover administrative costs and any leftover revenue goes to the DIFW Landowner Relations Program. (Persons who possess a valid junior hunting license are exempt as are persons who employ and are hunting in the presence of a Registered Maine Guide).
5. The permit may be revoked, suspended or denied by the Commissioner for a conviction of paragraphs 1, 2 or 3 (above) or other dog hunting related violations. Appeal process applicable as per Administrative Procedures Act.
6. Require a functioning Global Positioning System (GPS) tracking collar be affixed to any dog which is engaged in training on or hunting bear, coyote, bobcat, fox, or raccoon.
7. Phase in an online course in the next three years required for anyone wishing to purchase a dog training and hunting permit.

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Appendix A

Potential Statutory Language

11163. Dog training and hunting permit

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not train on or hunt bear, coyote, bobcat, fox or raccoon with a dog without a valid permit issued under this section. This section does not apply to a junior hunter who holds a valid junior hunting license.

2. Eligibility. A person is eligible to obtain a permit from the commissioner to train on or hunt bear, coyote, bobcat, fox or raccoon with a dog.

3. Issuance. The commissioner shall issue a permit to train on or hunt bear, coyote, bobcat, fox or raccoon with a dog to eligible persons at a fee of \$XX.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

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

§11228. Hunting with dogs

1. Collar required. A person may not hunt with a dog in pursuit of bear, coyote, fox, raccoon or bobcat unless the dog is wearing a functioning GPS (Global Positioning System) collar, allowing the owner to track its location at all times, and has a collar that legibly provides the name, telephone number and address of the owner of that dog.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

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

2. Limit on number of dogs. A person or persons may not use more than 6 dogs at any one time to hunt coyotes, fox, raccoon or bobcats. A person who violates this subsection commits a Class E crime.

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Appendix A cont.

3. Night hunting with dogs. A person may not use a dog to hunt coyotes during the period from 30 minutes after sunset to 30 minutes before sunrise. A person who violates this subsection commits a Class E crime.

4. Permit to hunt with dogs. A person may not hunt with a dog in pursuit of bear, coyote, bobcat, fox or raccoon unless that person holds a valid permit in accordance with [12 MRS Section 11163](#).

§12051. Training

1. Open training season. Unless otherwise provided in this Part, a person may not train dogs on wild birds and wild animals except as follows.

A. A person may train dogs on foxes, snowshoe hare and raccoons from July 1st through the following March 31st, including Sundays. [PL 2013, c. 588, Pt. A, §16 (RPR).]

B. A person may train sporting dogs on wild birds at any time, including Sundays. [PL 2013, c. 588, Pt. A, §16 (RPR).]

C. A resident may train up to 6 dogs at any one time on bear from July 1st to the 4th day preceding the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9. [PL 2013, c. 588, Pt. A, §16 (RPR).]

D. [A person may not train a dog in pursuit of bear, fox, or raccoon unless the dog is wearing a functioning GPS \(Global Positioning System\) collar, allowing the owner to track its location at all times, and a collar that legibly provides the name, telephone number and address of the owner of that dog.](#)

E. [A person may not train a dog in pursuit of bear, fox or raccoon unless that person has a valid and current permit in accordance with \[12 MRS Section 11163\]\(#\).](#)

Except on Sundays, a person may not engage in activities authorized under this subsection unless that person possesses a valid hunting license issued under [section 11109](#). A person may train dogs on pen-raised birds at any time without a license. For the purpose of this subsection, "pen-raised birds" includes, but is not limited to, quail, pheasant, pigeons and Hungarian partridge.

A person who violates [subsection 1A, 1B, or 1C](#) commits a Class E crime.

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Appendix B

Additional Proposed Statutory Language from Stakeholder Group:

Definition – Handler of a Hunting Dog – any person transporting, loading, unloading, catching, restraining, releasing or tracking with a GPS/telemetry a dog engaged in the training on or hunting of bear, coyote, bobcat, fox or raccoon.

Sec 1. 12 MRSA §10657-A in enacted to read:

§10657-A. Civil trespass with a hunting dog.

1. Definition. For the purpose of this section, the term "turn a hunting dog loose" means to release a dog to pursue a wild animal for the purposes of hunting the wild animal or in order to train the dog in hunting wild animals and includes but is not limited to releasing a dog to join other dogs already in pursuit of the animal

2. Prohibition. While engaging in any activity regulated under this Part, a dog owner or a handler of a hunting dog may not turn a hunting dog loose in pursuit of a bear, coyote, bobcat, fox or raccoon:

A. Onto the property of another if the landowner or the landowner's agent of that property has personally communicated to the dog owner or handler of a hunting dog to not release a dog onto the property, or the property is posted in accordance with Title 17-A, section 402, subsection 4 or in a manner reasonably likely to come to the attention of a person, unless the dog owner or handler of the hunting dog has permission from the landowner or the landowner's agent to turn a hunting dog loose onto that property; or

B. Resulting in the hunting dog entering the property of another, if a hunting dog has been previously found on that property and the dog's owner, the handler of the hunting dog or a participant in the pursuit has been notified in writing by a law enforcement officer within the previous 365 days that the landowner does not permit hunting dogs on the property.

Civil penalties. The following penalties apply to violations of this section.

A person who violates this section commits a civil violation for which a fine of not less than \$250 and not more than \$500 may be adjudged.

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Appendix B cont.

A person who violates this section after having been convicted of violating this section in the prior 365 days commits a civil violation for which a fine of not less than \$500 and not more than \$1000 may be adjudged.

Sec. 2. 12 MRSA §10902, sub-§6 is amended to read:

6. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of:

- A. A closed season violation, in violation of section 11201 as it relates to bear, deer or moose;
- B. Hunting while under the influence of intoxicating liquor or drugs, in violation of section 10701;
- C. Night hunting, in violation of section 11206;
- D. Discharging a firearm within 100 yards of a residential dwelling without owner permission, in violation of section 11209;
- E. Buying or selling bear, hunting or trapping bear after having killed 2 or exceeding the bag limit on bear, in violation of section 11217, 11351 or 12260;
- F. Buying or selling deer, exceeding the bag limit on deer or hunting deer after having killed one, in violation of section 11217 or 11501 or unlawfully hunting or possessing an antlerless deer in a wildlife management district for which no antlerless deer permits have been issued in violation of section 11152, subsection 1-A;
- G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing moose, in violation of section 11154, 11217, 11601, 11651-A, 11652, 12302-A, 12304-A, 12305 or 12403;
- H. Buying or selling wild turkeys, unlawfully hunting wild turkeys, unlawfully possessing wild turkeys or using unlawful methods to hunt wild turkeys, in violation of section 11217, subsection 1; section 11751-A; section 11801; or section 12306, subsection 1;

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Appendix B cont.

I. Hunting bear over another person's bait without written permission of that person in violation of section 11301, subsection 1-A;

J. Hunting or any violation of section 10906 while that person's license is revoked 7 ; or

K. A second violation of civil trespass with a dog in violation of section 10657-A.

12 MRSA §10902, sub-§7 is amended to read:

7-D. §10657-A. Civil trespass with a hunting dog.

A Dog training and hunting permit of a person convicted of Civil trespass with a hunting dog in violation of section 10657-A must be revoked, and that person is ineligible to obtain a Dog training and hunting permit as follows:

A. For a first offense, for a period of one year from the date of adjudication; and

B. For a 2nd offense, for a period of 2 years from the date of adjudication.

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Appendix C

The chart below shows the number of warden service complaints by year and species reference trespass by hunting dogs.

	2017	2018	2019	2020	2021	5 year TOTAL
BEAR	2	2	3	7	19	33
COYOTE	1	2	2	7	6	18
DUCK	1	0	0	0	0	1
HARE	0	0	0	1	0	1
BOBCAT	0	0	0	0	1	1
OTHER /UNKNOWN	0	1	1	3	1	6
TOTAL	4	5	6	18	27	60