

MAINE STATE LEGISLATURE

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STATE OF MAINE
116TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
FISHERIES AND WILDLIFE

JULY 1993

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**ONE HUNDRED AND SIXTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

JULY 1993

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of enacted Resolve</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>CARRIED OVER</i>	<i>Bill carried over to Second Session</i>
<i>ONTP</i>	<i>Ought Not to Pass report accepted</i>
<i>ENACTMENT FAILED</i>	<i>Bill failed to get majority vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>FAILED EMERGENCY ENACTMENT</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference formed but unable to agree</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin.

If you have any suggestions or comments on these summaries, please let us know.

4693NRG

SPONSOR(S)
LUTHER

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
S-239
S-380 PEARSON

SUMMARY

This bill makes the following changes to the fish and wildlife laws.

1. It allows falconers to obtain a falconry permit for a period of up to 3 years, making it consistent with federal falconry laws.
2. It eliminates the taxidermy training permit and increases the taxidermy license fee, which was requested by the Maine Professional Taxidermy Association. The Department of Inland Fisheries and Wildlife has found the training permit to be ambiguous and unenforceable and the department has had only one application for this permit since it has been in existence. The fee increase will bring this license more in line with the department's other professional licenses, such as guides and hide dealers.
3. It deletes a paragraph of the whitewater rafting law that conflicts with a revision made to the law in 1989 concerning when allocations are required.
4. It requires that a person who takes a deer on that person's own land under the Maine Revised Statutes, Title 12, section 7377, subsection 1 must attach a tag bearing their name and address before transporting the deer to be registered.
5. It makes it clear that the penalty for guiding without a license is a Class D crime, for which a fine of \$1,000 and imprisonment of 3 days are imposed.

The bill also proposed to replace the requirement that a person who has legally registered a moose have the parts labeled with the registration seal number and the registrant's name and address. This change would have required that the parts be labeled with the name and address of the person who registered the moose as well as the name and address of the person to whom it is being given as a gift. The committee amendment (S-239) retains current law.

Committee amendment "A" (S-239) also makes the following additions to the bill:

1. It removes obsolete references to the Whitewater Advisory Committee, which was terminated by a sunset provision on June 30, 1990.
2. It allows muzzle-loading handguns to be used during the muzzle-loading deer season. It also eliminates the current prohibition on the use of telescope sights on muzzle-loading rifles.
3. It repeals the pheasant hunting permit program for Cumberland County and York County and replaces it with a modified program. It provides that only qualified rod and gun clubs and qualified hunting-oriented organizations may purchase and raise pheasants for release under the pheasant hunting program. It also allows the Department of Inland Fisheries and Wildlife to enter into agreements with qualified clubs and organizations to utilize department facilities for raising pheasants. It also establishes an account for revenues generated by the sale of pheasant hunting permits and allows the department to use those revenues to pay for the costs of administering the program and to help defray costs incurred by rod and gun clubs and hunting-oriented organizations under the pheasant hunting program.

4. It amends the law regarding the taking of smelts by a holder of a smelt wholesaler's license by prohibiting the use of seine nets.
5. It repeals the breeder's license program for wild birds and animals and enacts a new permit system regulating the possession, propagation and selling of wild birds and animals.
6. Under current law, a whitewater outfitter may not transfer allocations, through the Department of Inland Fisheries and Wildlife, to another outfitter unless the first outfitter surrenders that outfitter's license to the department. This stands in the way of an outfitter transferring a portion of the outfitter's business to another outfitter. The amendment removes this impediment. It preserves the requirement that if an outfitter sells the outfitter's entire business the outfitter must surrender the outfitter's license to the department.
7. Current law provides that the Commissioner of Inland Fisheries and Wildlife must establish an 800 commercial passenger limit for Sundays on the Kennebec River if the commissioner anticipates sufficient releases of water. The bill establishes an 800 commercial passenger limit for Sundays and removes the requirement that the commissioner establish the limit by rule.
8. It eliminates a requirement that the department, based on the demand for noncommercial public whitewater use of portions of the Kennebec River and portions of the West Branch Penobscot River, set aside 10% of the recreational use limit for noncommercial public use.
9. Under current law, the Commissioner of Inland Fisheries and Wildlife reviews an outfitter's whitewater experience in making decisions about granting commercial whitewater rafting allocations on the Penobscot River and the Kennebec River. There are 2 types of experience that are reviewed: experience on the river for which the allocation is sought and experience on rivers other than the those for which the allocation is sought. There has been some controversy about the proper interpretation of what the 2nd type of experience includes. The bill clarifies this provision.
10. It provides that commercial whitewater allocations on the Penobscot River are not required on Sundays for the period from June 8, 1994 to August 31, 1994. It authorizes the Commissioner of Inland Fisheries and Wildlife to establish by rule allocations, if the commissioner determines allocations are necessary. It also requires the commissioner to report by January 15, 1995 on commercial whitewater use of the Penobscot River during that period.
11. It allows suckers to be taken by snagging.
12. It allows beaver to be trapped by use of snares during the open beaver season. It replaces similar beaver trapping laws that expired April 1, 1993.
13. It repeals and replaces a section of law addressing illegal possession of a gift deer. Under this new section, a person is guilty of illegal possession of a gift deer unless each part is plainly labeled with the registration seal number and the name and address of the person who registered the deer. The purpose of this amendment is to bring uniformity to deer and moose laws concerning illegal possession of gift deer and gift moose.
14. It amends the laws pertaining to ice fishing for cusk at night by specifying that nighttime ice fishing for cusk may only take place where the commissioner has opened waters for nighttime ice fishing for cusk. Current law allows nighttime ice fishing for cusk in any waters opened to ice fishing.

15. It prohibits the taking of fish (other than suckers) by snagging.
16. It enacts a new section prohibiting an ATV operator from carrying a passenger under 18 years of age who is not wearing protective headgear.
17. It exempts ATVs with engine sizes of 90 cubic centimeters or less from a requirement that ATVs manufactured or sold in Maine be equipped with working headlights, taillights and brake lights. It also prohibits operation of these ATVs at night. The purpose of this exemption is to recognize a federal consent decree that provides that ATVs with engine sizes of 90 cubic centimeters or less must be manufactured without lighting to discourage their use at night. ATVs of this size are primarily used by children.
18. It allows the department and the Atlantic Sea Run Salmon Commission to convey any interest the State has in the Denil Fishway in the Milford Dam on the Penobscot River to the Bangor Hydro-Electric Company.
19. It corrects an error created by 2 public laws that amended a section of law addressing the commercial whitewater license fee.
20. It corrects a conflict in the statutes. The Maine Revised Statutes, Title 12, section 7365 requires fees from commercial whitewater licenses to be credited to the Whitewater Rafting Fund. However, Title 12, section 7370, which creates the Whitewater Rafting Fund, forbids fees from the commercial whitewater licenses from being credited to the Whitewater Rafting Fund. This amendment corrects the conflict by removing language from Title 12, section 7365 requiring fees from the commercial whitewater licenses be credited to the Whitewater Rafting Fund.
21. It removes cusk and hornpout from the species that may be fished or possessed by means of eel pots, traps, spears or nets in inland waters under permits issued by the commissioner.

It also adds a fiscal note to the bill.

The Senate amendment (S-380) replaces the fiscal note to correct an error.

LD 737 An Act to Increase the Number of Moose Permits ONTP

SPONSOR(S) CLARK	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

This bill proposed to increase the number of moose hunting permits that may be issued from 1,000 to 1,500. (See LD 1025)

LD 772 An Act to Provide for an Open Season on Most Inland Fisheries in the State PUBLIC 155

SPONSOR(S) GREENLAW	COMMITTEE REPORT OTP-AM MAJ ONTP MIN	AMENDMENTS ADOPTED H-199
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SUMMARY

This bill proposed to establish a continuous open season on the taking of most inland fish.