

# MAINE STATE LEGISLATURE

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**131st Maine State Legislature  
Committee Activity**

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Committee: Inland Fisheries and Wildlife

LD: 131

Title: An Act to Clarify and Correct Inland Fisheries and Wildlife Laws

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Public Hearing(s): 04/19/23 1:00 PM

Work Session(s): 04/26/23 10:00 AM

Reported Out: 06/07/2023

Committee Report(s): OTP-AM

Committee History: 4/26/2023 1:26:45 PM Work Session Held

4/26/2023 1:26:50 PM Voted

5/15/2023 3:05:58 PM Work Session Reconsidered

5/17/2023 3:06:02 PM Voted



# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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**Legislative Document**

**No. 131**

S.P. 70

In Senate, January 10, 2023

### **An Act to Clarify and Correct Inland Fisheries and Wildlife Laws**

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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2 **Sec. 1. 12 MRSA §10107-A**, as enacted by PL 2011, c. 381, §3, is repealed.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 ~~11~~ 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

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

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

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

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

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

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

**Sec. 17. 12 MRSA §13152, sub-§2**, as repealed and replaced by PL 2005, c. 397, Pt.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

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

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

## SUMMARY

This bill does the following.

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

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

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

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

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

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



STATE OF MAINE  
131ST LEGISLATURE

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LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON INLAND FISHERIES AND WILDLIFE

Sen. David LaFountain, Senate Chair

Rep. Scott Landry, House Chair

PUBLIC HEARING: Wednesday, April 19, 2023, 1:00 PM, Cross Building, Room 206

- (L.D. 491) Bill "Resolve, to Require the Department of Inland Fisheries and Wildlife to Develop a Plan for Communication Regarding Certain Municipal Regulation" (HP0308) (Presented by Representative WOOD, S. of Greene) (Cosponsored by Representative MASON, R. of Lisbon, Representative LANDRY, S. of Farmington)
- (L.D. 700) Bill "Resolve, to Direct the Department of Inland Fisheries and Wildlife to Examine the Northern Pike Population in Sabattus Pond" (HP0469) (Presented by Representative GREENWOOD, R. of Wales)
- (L.D. 977) Bill "Resolve, to Study the Gasoline Tax Allocations for Nonhighway Recreational Vehicles and Make Recommendations for Changes" (HP0624) (Presented by Representative LANDRY, S. of Farmington) (Cosponsored by Representative GREENWOOD, R. of Wales, Representative THORNE, J. of Carmel)
- (L.D. 1000) Bill "Resolve, to Convene a Firearm Range Safety Working Group Within the Department of Inland Fisheries and Wildlife" (HP0636) (Presented by Representative ROBERTS, T. of South Berwick) (Cosponsored by Representative MASTRACCIO, A. of Sanford, Representative DOUDERA, V. of Camden, Representative CLUCHEY, S. of Bowdoinham)
- (L.D. 131) Bill "An Act to Clarify and Correct Inland Fisheries and Wildlife Laws" (SP0070) (Presented by Senator BLACK, R. of Franklin) Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
- (L.D. 438) Bill "An Act to Clarify and Amend the Department of Inland Fisheries and Wildlife Licensing Laws" (HP0271) (Presented by Representative WOOD, S. of Greene) Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
- (L.D. 1127) Bill "Resolve, Directing the Commissioner of Inland Fisheries and Wildlife to Create a Process for Real-time Confirmation of Live Bait Retailer's Licenses by Electronic Means" (SP0464) (Presented by Senator RENY, C. of Lincoln)
- (L.D. 1186) Bill "Resolve, Directing the Department of Inland Fisheries and Wildlife to Develop a Hunting and Fishing Software Application" (SP0482) (Presented by Senator POULIOT, M. of Kennebec) (Cosponsored by Representative PERRY, J. of Bangor, Senator BLACK, R. of Franklin)

CONTACT PERSON:

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Linda LaCroix

100 State House Station

Augusta, ME 04333-0100

287-1338

WORK SESSION AGENDA  
INLAND FISHERIES AND WILDLIFE

4/26/2023

10:00 AM

Cross Building, Room 206

- (L.D. 491) Bill "Resolve, to Require the Department of Inland Fisheries and Wildlife to Develop a Plan for Communication Regarding Certain Municipal Regulation" (HP0308) (Presented by Representative WOOD, S. of Greene) (Cosponsored by Representative MASON, R. of Lisbon, Representative LANDRY, S. of Farmington)
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- (L.D. 1000) ~~Bill "Resolve, to Convene a Firearm Range Safety Working Group Within the Department of Inland Fisheries and Wildlife" (HP0636) (Presented by Representative ROBERTS, T. of South Berwick) (Cosponsored by Representative MASTRACCIO, A. of Sanford, Representative DOUDERA, V. of Camden, Representative CLUCHEY, S. of Bowdoinham)~~ **POSTPONED**
- (L.D. 131) Bill "An Act to Clarify and Correct Inland Fisheries and Wildlife Laws" (SP0070) (Presented by Senator BLACK, R. of Franklin) Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
- (L.D. 438) Bill "An Act to Clarify and Amend the Department of Inland Fisheries and Wildlife Licensing Laws" (HP0271) (Presented by Representative WOOD, S. of Greene) Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
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- (L.D. 1186) Bill "Resolve, Directing the Department of Inland Fisheries and Wildlife to Develop a Hunting and Fishing Software Application" (SP0482) (Presented by Senator POULIOT, M. of Kennebec) (Cosponsored by Representative PERRY, J. of Bangor, Senator BLACK, R. of Franklin)

CONTACT PERSON:

Linda LaCroix  
100 State House Station  
Augusta, ME 04333-0100  
287-1338

## IN-PERSON TESTIMONY SIGN IN SHEET

## INLAND FISHERIES AND WILDLIFE

Committee: \_\_\_\_\_

Date: 4/19/23

L.D. #131 - An Act to Clarify and Correct Inland Fisheries and Wildlife Laws

[illegible]

**TESTIMONY OF THE  
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE  
  
BEFORE THE JOINT STANDING COMMITTEE ON INLAND FISHERIES AND  
WILDLIFE**

**IN SUPPORT OF L.D. 131  
“An Act to Clarify and Correct Inland Fisheries and Wildlife Laws”**

**SPONSORED BY: Senator Black of Franklin**

**DATE OF HEARING: April 19, 2023**

Good afternoon Senator LaFountain, Representative Landry and members of the Inland Fisheries and Wildlife Committee. I am Tim Peabody, Deputy Commissioner of the Department of Inland Fisheries and Wildlife, speaking on behalf of the Department, in support of **L.D. 131**.

The proposals within this bill were brought forward by the agency and supported by the Governor. I am going to explain the changes to fish and wildlife laws in order by section within the bill.

Sec. 1. This section repeals an annual report to the Legislative Committee on deer management because this information is already provided within an extensive resource management report written annually by the department, which can be given to the committee each session.

Sec. 2. This section modifies the Black Bear Research Fund. Currently it can only be used to fund research on black bears, but it cannot be used to conduct bear management activities such as conflict response. Allowing this fund to be used for both research and management activities, will ensure the Department has adequate funding for all of its program needs and responsibilities related to black bear management while minimizing the need for general funds to manage bears.

Sec. 3. Clarifies when an officer informs a person of the consequences of refusing to comply with a chemical test, that it shall be, “after a person’s refusal to submit to a chemical test”. This change is reflective of the current training at the Maine Criminal Justice Academy.

Sec. 4. The change requested to add a reference to subsection 11-A is no longer necessary and will be further clarified in Section 6 of this bill. This original request is based on my testimony for Section 5. The Department during work session will request a strikethrough of a portion of line 38 and 39 of this bill.

Sec. 5. In response to State v. Weddle, 2020 ME 12, this bill repeals Maine Revised Statute, Title 12, section 10703, subsection 11, which was found to be unconstitutional in that it required blood to be taken without consent and without probable cause to believe a person was

impaired by alcohol or drugs at the time the person's blood was taken. This is specific to hunting, watercraft, snowmobile, and ATV incidents resulting in serious injury or death.

Sec. 6. We would respectfully ask that this section of the bill be removed this new language is covered within paragraphs 1-10 of the current statute (12 MRS §10703).

Sec. 7. A person who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs who presents certification from the respective reservation chief or governor or the Aroostook Micmac Council stating that the person is an enrolled member of a federally recognized nation, band or tribe listed in this paragraph is exempt from the taking the trapping course. IFW implemented a specific bear trapping course in 2022 and this proposal makes it clear that Members of the federally recognized "Indian" tribes are also exempt from this course. The term "Indian" was added to be consistent with other statutory references to the Maine Tribes.

Sec. 8. This language explains and provides clarity on how a super pack licensee applies for an antlerless deer permit. Since the new antlerless deer permit lottery system has been implemented this provides clear steps on how super pack license holders can apply for or purchase some type of antlerless deer permit. Previously superpack license holders were confused when they had to pay for a permit and when the permit was included in their license.

Sec. 9. Is connected to Section 8 (superpack) which I have just described it changes the paragraph title to "Deer harvest authorizations" and amends a reference to subsection 2-A. As a side note, LD 189 which was "An Act to Include an Expanded Archery Permit in the Super Pack License Issued by IFW" was voted out of committee earlier this session and impact the same section of law. This is a reminder to those working on the 2 bill drafts to make sure that the sections are implemented in a way that won't be in conflict.

Sec. 10. This section repeals an annual report to the Legislative Committee on moose management because this information is already provided within an extensive resource management report written annually by the department, which can be given to the committee each session.

Sec. 11. This provides clarity that members of federally recognized nations, bands or tribes in Maine are not required to complete the new bear trapping education course as previously presented in Section 7 of this bill.

Sec. 12 and 13. Corrects the cost of a resident combination hunting and fishing license and the resident combination archery hunting and fishing license because there is a conflict between two sections of Title 12 regarding the cost of a combination license. IFW charges \$43 for a combination hunt/fish license, that is the correct cost. Section 11109 provides that it costs \$43 while section 12501 has an incorrect cost of \$42.

Sections 14-16. Removes reference to specific types of personal flotation devices from boating safety statutes. The U.S. Coast Guard conducts a compliance check on all states and the removal of the reference to specific types of life jackets from statute is required for Maine to be in compliance with federal Coast Guard law. We have often referred to life jackets as either Type I, II, III, IV or V but they will now simply be referred to as personal flotation devices. Specific types will now be referenced in rule which essentially adopts the Coast Guard requirements for PFDs.

Sec. 17. This removes the provision requiring a person under 16 years of age to be accompanied by a parent or guardian in an ATV training program because many are offered online versus in person. It was not practical to require parental presence for online safety training. This will allow for a parent to make the decision rather than a prescription in law.

Sec. 18. This section creates a specific effective date of January 1, 2024 for section 8 of the bill as it relates to clarifying information on the steps a person takes to receive an antlerless deer permit with the super pack license.

I would be glad to answer any questions at this time or during the work session.

CLAC MEMORANDUM/TESTIMONY  
LD 131 (NFNA)

TO: Senator David LaFountain  
Representative Scott Landry  
Joint Standing Committee on Inland Fisheries and Wildlife

FR: Criminal Law Advisory Commission (CLAC)  
c/o [laura.yustak@maine.gov](mailto:laura.yustak@maine.gov)

RE: LD 131, An Act to Clarify and Correct Inland Fisheries and Wildlife Laws

DA: April 19, 2023

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The Criminal Law Advisory Commission (CLAC)\* respectfully submits the following testimony in neither for nor against LD 131. We write only to identify a potential constitutional issue with Section 6 of the bill.

Section 6 appears to authorize a warrantless, nonconsensual test to determine the presence of alcohol or other intoxicants in the blood if there is probable cause that a person involved in a “hunting incident” or vehicle crash is impaired and that “serious injury” or death has occurred or will occur. LD 131 does not take into consideration the existence or not of exigent circumstances. *See Mitchell v. Wisconsin*, 139 S.Ct. 2525 (2019); *People v Eubanks*, 160 N.E.3d 843 (IL 2019). The Legislature recently amended Title 29-A statutes and repealed former 29-A M.R.S. 2522 to respond to the Law Court’s decision in *State v Weddle*, 2020 ME 12, which addressed the constitutional implications of such an approach. P.L. 2021, c. 608, Part A; LD 1903 (130<sup>th</sup> Leg., Summary). The Maine Legislature’s response to *Weddle* in Chapter 608 allows the determination of exigent circumstances to rest on the facts of each case. CLAC recommends that a similar approach be taken here.

We also note the following terminology issues in Section 6: If “hunting incident” and “serious injury” are not defined terms in Title 12, these terms may not be sufficiently precise to provide guidance to law enforcement or the courts. The Criminal Code distinguishes between “bodily injury” and “serious bodily injury,” which are defined in 17-A M.R.S. § 2(5), (23). See, e.g., 29-A M.R.S. § 2411 (OUI statute referencing “serious bodily injury”).

\*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Our current members include current defense attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature’s Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court’s Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.



**Maine State Legislature**  
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 (207) 287-1670

**BILL ANALYSIS**

**TO:** Members, Joint Standing Committee on Inland Fisheries and Wildlife

**FROM:** Elias Murphy, Legislative Analyst

**DATE:** April 26, 2023

**RE:** LD 131, "An Act to Clarify and Correct Inland Fisheries and Wildlife Laws"  
 (Black)

**Summary**

This bill does the following.

1. It eliminates provisions relating to the annual reports to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on deer and moose management.
2. It replaces the provision that requires mandatory submission to complete chemical tests to determine a person's alcohol level or other chemical use by analysis of blood, breath or urine after that person has been involved in a hunting accident or operated a watercraft, snowmobile or ATV and it resulted in serious injury or death. It also removes the provision requiring a person under 16 years of age to be accompanied by a parent or guardian in an ATV training program.
3. It provides clarity on how a super pack licensee applies for an antlerless deer permit.
4. It resolves a conflict in the Maine Revised Statutes, Title 12 regarding the cost of combination licenses.
5. It removes references to specific types of personal flotation device.
6. It renames the Black Bear Research Fund the Black Bear Research and Management Fund and modifies its purpose to allow the fund to be used for both research and management activities.
7. It exempts members of certain federally recognized Indian nations, bands or tribes from the requirement to complete a bear trapping education course.

**Testimony**

<b>Proponents</b> Sponsor – Sen. Black Tim Peabody - DIFW	<b>Opponents</b> None
<b>Neither For Nor Against</b>	



### Potential Issues or Technical Problems:

A 2020 Maine Law Court case *State v. Weddle* held unconstitutional a statute in Title 29-A, the motor vehicle laws, which required a blood draw to be taken without consent and without probable cause from every driver involved in a fatal or likely fatal accident to determine if there were alcohol or drugs in the driver's system at the time of the accident. This bill repeals the Title 12 equivalent of that statute for an ATV, snowmobile or boating accident. The bill then replaces the repealed statute with section 6 in the bill, but has since indicated that the language in section 6 is not workable either and requests that that section be removed from the bill in an amendment.

In addition to striking section 6 from the bill, the Department is also requesting amendments to sections 3 and 4 to address this change. Those sections are as follows. Changes in ***bold and italics***.

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

**2. Prerequisites to tests.** ~~The~~ ***After Upon*** a person's refusal to submit to a chemical test, the law enforcement officer shall....

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

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

### Additional Information:

At public hearing a question was raised about the language used in section 7, namely the inclusion of the word "Indian". The term, "Indian" is used within Title 12 in various sections. The use of Indians is used in the formal title of the Houlton Band of Maliseet, as seen in the Tribal-State Collaboration Act. The intention of this section is to make the language contained in Title 12 match that of the rest of MRS.

At public hearing the department went section by section through this bill and will be available to answer any questions and explain more as needed.

### Fiscal Impact:

Not yet determined.

ROS

COPY

L.D. 131

Date:

(Filing No. S- )

## INLAND FISHERIES AND WILDLIFE

Reproduced and distributed under the direction of the Secretary of the Senate.

### STATE OF MAINE

### SENATE

### 131ST LEGISLATURE

### FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 70, L.D. 131, “An Act to Clarify and Correct Inland Fisheries and Wildlife Laws”

Amend the bill by inserting after section 1 the following:

**'Sec. 2. 12 MRSA §10206, sub-§11**, as enacted by PL 2015, c. 245, §1, is amended to read:

**11. Species Fish and Wildlife Management Education Fund**. The department shall deposit \$1 of every hunting license and trapping license fee collected pursuant to sections 11109, 11109-A and 12201 in a separate account within the department, to be known as the Species Fish and Wildlife Management Education Fund. The fund is nonlapsing. The department shall use money in the fund on an annual basis to educate the public on the management of game species of fish and wildlife and to communicate with the public about department programs. The department may contract with a private entity to provide this education. Education provided pursuant to this section ~~must~~ may include information about how hunting and fishing ~~helps~~ help to manage specific species. The department may continue its activities pursuant to this subsection during ballot initiative campaigns concerning fish and wildlife issues.'

Amend the bill by striking out all of section 3.

Amend the bill in section 4 in paragraph D in the 8th and 9th lines (page 1, lines 38 and 39 in L.D.) by striking out the following: ", except when a test was required pursuant to subsection 11-A" and inserting the following: '~~except when a test was required pursuant to subsection 11~~'

Amend the bill by striking out all of section 6.

Amend the bill by striking out all of section 9 and inserting the following:

**'Sec. 9. 12 MRSA §11109-A, sub-§3**, as amended by PL 2023, c. 49, §1 and affected by §3, is further amended to read:

**3. ~~Harvest of 6 deer~~ Deer harvest authorizations**. Notwithstanding section 11501, a super pack license authorizes the holder to take:

## COMMITTEE AMENDMENT

ROS

1 A. One deer during either the regular open firearm season or the regular archery season  
2 or the special muzzle-loading season in accordance with sections 11401, 11403 and  
3 11404, respectively; and

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

5 C. Three antlerless deer and one deer of either sex during the special archery season  
6 in accordance with section 11402, subsection 4.'

7 Amend the bill in section 18 in the last line (page 4, line 21 in L.D.) by striking out the  
8 following: "takes" and inserting the following: 'and that section of this Act that amends  
9 Title 12, section 11109-A, subsection 3 take'

10 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
11 number to read consecutively.

12 **SUMMARY**

13 This amendment removes the requirement that a person involved in a hunting incident  
14 or a watercraft, snowmobile or all-terrain vehicle crash submit to a mandatory chemical  
15 test and removes references to that requirement.

16 The amendment renames the Species Management Education Fund the Fish and  
17 Wildlife Management Education Fund and allows funding to be used for education on the  
18 management of fish and wildlife and to communicate with the public about department  
19 programs. The amendment also removes the requirement in current law that education  
20 provided under the fund must include information about how hunting and fishing help to  
21 manage specific species.

22 **FISCAL NOTE REQUIRED**

23 (See attached)



# 131st MAINE LEGISLATURE

LD 131

LR 98(02)

**An Act to Clarify and Correct Inland Fisheries and Wildlife Laws**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Inland Fisheries and Wildlife**

**Fiscal Note Required: Yes**

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## **Fiscal Note**

Minor cost increase - General Fund

### **Fiscal Detail and Notes**

Any additional costs to the Department of Inland Fisheries and Wildlife from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.

# COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 131

Committee: Inland Fisheries and Wildlife

Date: 4/26/23

Motion: OTPA

Motion by: Rep Hepler

Seconded by: Rep. Mason

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Steve Wood	<input checked="" type="checkbox"/>						
Rep. Cheryl Golek	<input checked="" type="checkbox"/>						
Rep. David Woodsome	<input checked="" type="checkbox"/> DW					<input checked="" type="checkbox"/>	
Sen. Chip Curry	<input checked="" type="checkbox"/>						
Sen. Russell Black	<input checked="" type="checkbox"/> RB					<input checked="" type="checkbox"/>	
Sen. David LaFountain – Chair	<input checked="" type="checkbox"/> LF					<input checked="" type="checkbox"/>	
Rep. Scott Landry – Chair	<input checked="" type="checkbox"/>						
Rep. Rick Mason	<input checked="" type="checkbox"/>						
Rep. James Dill	<input checked="" type="checkbox"/>						
Rep. Gary Drinkwater	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	
Rep. Sally Cluchey	<input checked="" type="checkbox"/>						
Rep. Jim Thorne	<input checked="" type="checkbox"/>						
Rep. Allison Hepler	<input checked="" type="checkbox"/>						

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 131

Committee: Inland Fisheries and Wildlife

Date: 04/26/2023

Motion: Ought To Pass As Amended

Motion by: Rep. Hepler

Seconded by: Rep. Mason

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

### Senators

Sen. LaFountain	X						
Sen. Black	X						
Sen. Curry	X						

### Representatives

Rep. Landry	X						
Rep. Cluchey	X						
Rep. Dill	X						
Rep. Drinkwater	X						
Rep. Golek	X						
Rep. Hepler	X						
Rep. Mason	X						
Rep. Thorne	X						
Rep. Wood	X						
Rep. Woodsome	X						

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 131

Committee: Inland Fisheries and Wildlife

Date: 3/15/23

Motion: Reconsider

Motion by: Rep. Wood

Seconded by: Rep. D: 11

Unknowns

Those  
Voting in  
Favor of the  
Motion

### Recommendation of those opposed to the Motion

Absent

## Abstain

Rep. Steve Wood	
Rep. Cheryl Golek	
Rep. David Woodsome	
Sen. Chip Curry	
Sen. Russell Black	
Sen. David LaFountain – Chair	
Rep. Scott Landry – Chair	
Rep. Rick Mason	
Rep. James Dill	
Rep. Gary Drinkwater	
Rep. Sally Cluchey	
Rep. Jim Thorne	
Rep. Allison Hepler	

[illegible][illegible]

# SENATE REPORT

## THE COMMITTEE ON Inland Fisheries and Wildlife

to which was referred the following:

An Act to Clarify and Correct Inland Fisheries and Wildlife Laws

S.P. 70

L.D. 131

has had the same under consideration, and asks leave to report that the same  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT " "



(Signature) SEN. LAFOUNTAIN

of Kennebec

For the Committee

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(Type)

Rep. of (Town) and/or Sen. of (County)

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(Signatures)

# SENATE REPORT

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# COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 131

Committee: Inland Fisheries and Wildlife

Date: 5/15/23

Motion: OTP A

Motion by: Rep. D: 11

Seconded by: Rep. Wood

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Steve Wood	✓						
Rep. Cheryl Golek	✓						
Rep. David Woodsome	✓ DW					✓	
Sen. Chip Curry	✓ CC					✓	
Sen. Russell Black	✓						
Sen. David LaFountain – Chair						✓	
Rep. Scott Landry – Chair	✓						
Rep. Rick Mason	✓						
Rep. James Dill	✓						
Rep. Gary Drinkwater	✓						
Rep. Sally Cluchey	✓						
Rep. Jim Thorne	✓						
Rep. Allison Hepler	✓ A					✓	

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 131

Committee: Inland Fisheries and Wildlife

Date: 05/17/2023

Motion: Ought To Pass As Amended

Motion by: Rep. Dill

Seconded by: Rep. Wood

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

### Senators

Sen. LaFountain						X	
Sen. Black	X						
Sen. Curry	X						

### Representatives

Rep. Landry	X						
Rep. Cluchey	X						
Rep. Dill	X						
Rep. Drinkwater	X						
Rep. Golek	X						
Rep. Hepler	X						
Rep. Mason	X						
Rep. Thorne	X						
Rep. Wood	X						
Rep. Woodsome	X						

# SENATE REPORT

## THE COMMITTEE ON Inland Fisheries and Wildlife

to which was referred the following:

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has had the same under consideration, and asks leave to report that the same  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT " "



(Signature) SEN. LAFOUNTAIN

of Kennebec

For the Committee

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(Type)

Rep. of (Town) and/or Sen. of (County)

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(Signatures)

# SENATE REPORT

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