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Legislative Document

No. 1582

S.P. 555

In Senate, May 4, 2017

An Act To Clarify and Enhance Maine's Fish and Wildlife Enforcement Laws

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 cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CYRWAY of Kennebec.

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

2 **Sec. 1. 12 MRSA §10001, sub-§1-A** is enacted to read:

3 **1-A. Airbow.** "Airbow" means a device for propelling an arrow or bolt by means of
4 compressed air, mounted on a stock and having a working safety device and a minimum
5 pressure of 2000 pounds per square inch.

6 **Sec. 2. 12 MRSA §10001, sub-§11-A** is enacted to read:

7 **11-A. Crossbow.** "Crossbow" means a device for propelling an arrow or bolt by
8 means of transverse limbs and a string.

9 **Sec. 3. 12 MRSA §10001, sub-§28-A** is enacted to read:

10 **28-A. Hand-held bow or bow.** "Hand-held bow" or "bow" means a device for
11 propelling an arrow by means of limbs and a string that is hand-held, hand-drawn and
12 held in a drawn position by hand or a hand-held mechanical release. "Hand-held bow" or
13 "bow" includes a compound bow, recurved bow and long bow.

14 **Sec. 4. 12 MRSA §10651, sub-§1, ¶E**, as affected by PL 2003, c. 614, §9 and
15 amended by c. 695, Pt. B, §6 and affected by Pt. C, §1, is further amended to read:

16 E. Attempt to elude a law enforcement officer by:

- 17 (1) Operating or attempting to operate an all-terrain vehicle, snowmobile or
18 watercraft past a clearly identifiable police roadblock; or
- 19 (2) After being requested or signaled to stop by a law enforcement officer in
20 uniform, operating or attempting to operate an all-terrain vehicle, snowmobile or
21 watercraft at a reckless rate of speed.

22 **Sec. 5. 12 MRSA §10651, sub-§2**, as affected by PL 2003, c. 614, §9 and
23 amended by c. 695, Pt. B, §7 and affected by Pt. C, §1, is further amended to read:

24 **2. Penalty.** ~~A person who violates subsection 1, paragraph A, B or C commits a~~
25 ~~Class E crime.~~ A person who violates subsection 1, paragraph ~~D or E~~ this section
26 commits a Class D crime, for which a minimum fine of not less than \$1,000 must be
27 adjudged.

28 **Sec. 6. 12 MRSA §10652**, as amended by PL 2011, c. 253, §7 and c. 682, §38, is
29 further amended to read:

30 **§10652. Abuse of another person's property**

31 **1. Prohibitions.** Prohibitions on the abuse of another person's property ~~while~~
32 ~~fishing, hunting or trapping~~ are as follows.

33 A. A person may not ~~while fishing~~:

- 34 (1) Tear down or destroy any fence or wall on another person's land;

- 1 (2) Leave open any gate or bars on another person's land; or
2 (3) Trample or destroy any crop on another person's land;
3 (4) Damage or destroy a tree on another person's land by inserting into that tree
4 any metallic or ceramic object to be used as, or as part of, a ladder or observation
5 stand unless the person has the permission of the landowner; or
6 (5) Except as provided in this paragraph, erect or use either a portable or
7 permanent ladder or observation stand on the land of another person unless:
8 (a) That person has obtained oral or written authorization to erect and use a
9 ladder or observation stand from the landowner or the landowner's
10 representative; and
11 (b) The ladder or observation stand is plainly labeled with a 2-inch by 4-inch
12 tag identifying the name and address of the person or persons authorized by
13 the landowner to use the stand or observation ladder.

14 This paragraph does not apply to a portable ladder or observation stand that is located
15 on land within the jurisdiction of the Maine Land Use Planning Commission and
16 attended by the person who owns the ladder or observation stand. For purposes of
17 this paragraph, "observation stand" does not include a portable blind used at ground
18 level that remains in the physical possession of the hunter.

19 ~~B. A person may not while hunting any wild animal or wild bird:~~

- 20 ~~(1) Damage or destroy a tree on another person's land by inserting into that tree~~
21 ~~any metallic or ceramic object to be used as, or as part of, a ladder or observation~~
22 ~~stand unless the person has the permission of the landowner;~~
23 ~~(2) Except as provided in this paragraph, erect or use either a portable or~~
24 ~~permanent ladder or observation stand on the land of another person unless:~~
25 ~~(a) That person has obtained oral or written authorization to erect and use a~~
26 ~~ladder or observation stand from the landowner or the landowner's~~
27 ~~representative; and~~
28 ~~(b) The ladder or observation stand is plainly labeled with a 2 inch by 4 inch~~
29 ~~tag identifying the name and address of the person or persons authorized by~~
30 ~~the landowner to use the stand or observation ladder.~~

31 ~~This subparagraph does not apply to a portable ladder or observation stand that is~~
32 ~~located on land within the jurisdiction of the Maine Land Use Planning~~
33 ~~Commission and attended by the person who owns the ladder or observation~~
34 ~~stand. For purposes of this subparagraph, "observation stand" does not include a~~
35 ~~portable blind utilized at ground level that remains in the physical possession of~~
36 ~~the hunter;~~

- 37 ~~(3) Tear down or destroy any fence or wall on another person's land;~~
38 ~~(4) Leave open any gate or bars on another person's land; or~~
39 ~~(5) Trample or destroy any crop on another person's land.~~

40 ~~C. A person may not while trapping a wild animal:~~

- 1 (1) ~~Tear down or destroy any fence or wall on another person's land;~~
- 2 (2) ~~Leave open any gate or bars on another person's land; or~~
- 3 (3) ~~Trample or destroy any crop on another person's land.~~

4 Except as otherwise provided, a person may not possess any wild animal or wild bird
5 taken by hunting or trapping in violation of this subsection.

6 **2. Penalty.** A person who violates this section commits a Class E crime and if found
7 guilty may be held responsible for restitution to the landowner for damages.

8 **Sec. 7. 12 MRSA §10757**, as amended by PL 2015, c. 281, Pt. A, §2, is further
9 amended to read:

10 **§10757. Fraudulently obtaining or possessing license, permit or registration**

11 A person may not obtain or possess a paper or electronic license ~~or~~ permit or
12 registration authorized in this Part through fraud, misstatement or misrepresentation. A
13 person who violates this section commits a Class E crime.

14 **Sec. 8. 12 MRSA §10902, sub-§6, ¶G**, as amended by PL 2013, c. 280, §3, is
15 further amended to read:

16 G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing
17 moose, in violation of section 11154, 11217, 11601, 11651-A, 11652, 12302-A,
18 ~~12304-A~~ 12304-B, 12305 or 12403;

19 **Sec. 9. 12 MRSA §10902, sub-§7-A**, as enacted by PL 2003, c. 592, §2 and
20 affected by §5 and affected by c. 655, Pt. C, §§5 and 6, is amended to read:

21 **7-A. Hunting with night vision or thermal imaging equipment.** A hunting license
22 of a person convicted of night hunting in violation of section 11206, subsection 1 and
23 found to have been in possession of night vision or thermal imaging equipment at the
24 time of the offense must be revoked, and that person is ineligible to obtain a hunting
25 license for a period of 5 years from the date of conviction.

26 **Sec. 10. 12 MRSA §10952**, as amended by PL 2015, c. 301, §7, is further
27 amended to read:

28 **§10952. Open seasons for hunting with bow and arrow, crossbow and airbow**

29 **1. Hunting with a bow and arrow, crossbow or airbow** A person may, except as
30 otherwise provided in this Part, hunt any wild bird or wild animal with a hand-held bow
31 and arrow during any open season on that bird or animal if the person holds a valid
32 archery hunting license and may, except as otherwise provided in this Part, hunt any wild
33 bird or wild animal with a crossbow during any open season on that bird or animal if the
34 person holds a valid archery license or hunting license and a valid crossbow hunting
35 license. Any season that permits hunting with a crossbow also permits hunting with an
36 airbow, if the hunter has complied with the crossbow licensing requirements.

37 **Sec. 11. 12 MRSA §10953, sub-§4** is enacted to read:

1 **4. Airbow requirements.** A person may not hunt with an airbow unless the airbow
2 meets the following requirements:

3 A. The airbow must have a shoulder-type stock. A hand-held pistol-type airbow
4 may not be used;

5 B. The airbow must be charged to a minimum pressure of 2,000 pounds per square
6 inch;

7 C. The arrowhead, including a mechanical broadhead when open, must be at least
8 7/8 inch in width;

9 D. An airbow arrow or bolt that has an explosive or poisonous tip may not be used;

10 E. The airbow must be equipped with a mechanical trigger safety device in working
11 condition; and

12 F. The airbow may be equipped with a scope or sight.

13 **Sec. 12. 12 MRSA §11103**, as affected by PL 2003, c. 614, §9 and amended by c.
14 655, Pt. B, §112 and affected by §422, is further amended to read:

15 **§11103. Convicted felon and prohibition for domestic violence**

16 A person who is prohibited from possessing a firearm under Title 15, section 393,
17 subsection 1, 1-A or 1-B is ineligible to obtain or possess any license or permit issued by
18 the department that authorizes a person to hunt with a firearm unless that person
19 possesses a valid permit in accordance with Title 15, section 393, subsection 2.

20 **Sec. 13. 12 MRSA §11108-B, sub-§1**, as amended by PL 2013, c. 538, §19, is
21 further amended to read:

22 **1. Apprentice supervisor required.** A holder of an apprentice hunter license may
23 not hunt other than in the presence of an ~~adult~~ apprentice supervisor.

24 A. The following penalties apply to violations of this subsection.

25 (1) A person who violates this subsection commits a civil violation for which a
26 fine of not less than \$500 and not more than \$1,000 may be adjudged.

27 (2) A person who violates this subsection after having been adjudicated as
28 having committed 3 or more civil violations under this Part within the previous
29 5-year period commits a Class E crime.

30 **Sec. 14. 12 MRSA §11108-B, sub-§1-A, ¶A**, as amended by PL 2015, c. 301,
31 §12, is further amended to read:

32 A. "~~Adult~~ Apprentice supervisor" means a person who is 18 years of age or older and
33 holds a valid adult hunting license under this subchapter.

34 **Sec. 15. 12 MRSA §11108-B, sub-§2**, as amended by PL 2013, c. 538, §19, is
35 further amended to read:

1 **2. Apprentice supervisor responsibility.** An ~~adult~~ apprentice supervisor must have
2 held a valid hunting license for the prior 3 consecutive years to be qualified to supervise a
3 holder of an apprentice hunter license. An ~~adult~~ apprentice supervisor shall ensure that
4 the holder of an apprentice hunter license follows safe and ethical hunting protocol and
5 adheres to the laws under this Part. An ~~adult~~ apprentice supervisor may not intentionally
6 permit a person hunting under an apprentice hunter license with that ~~adult~~ apprentice
7 supervisor to violate subsection 1.

8 A. The following penalties apply to violations of this subsection.

9 (1) A person who violates this subsection commits a civil violation for which a
10 fine of not less than \$500 must be adjudged.

11 (2) A person who violates this subsection after having been adjudicated as
12 having committed 3 or more civil violations under this Part within the previous
13 5-year period commits a Class E crime.

14 **Sec. 16. 12 MRSA §11301, sub-§1, ¶E**, as repealed and replaced by PL 2011, c.
15 691, Pt. A, §9, is amended to read:

16 E. The bait is placed not ~~more than 30 days before the opening day of the season~~
17 prior to August 1st and not after October 31st;

18 **Sec. 17. 12 MRSA §12255, sub-§1**, as amended by PL 2015, c. 301, §32, is
19 further amended to read:

20 **1. Failure to visit traps.** A person shall:

21 A. While trapping in an organized or incorporated place:

22 (1) Check each trap, except killer-type traps or drowning sets, at least once in
23 every calendar day; and

24 (2) Check each killer-type trap or drowning set at least once in every 3 calendar
25 days, except that a drowning set placed within 1/2 mile of a city, town or village
26 center must be checked at least once in every calendar day; and

27 B. While trapping in an unorganized place:

28 (1) Check each trap, except killer-type traps and drowning sets, at least once in
29 every calendar day; and

30 (2) Check each killer-type trap or drowning set at least once in every 5 calendar
31 days.

32 This subsection does not apply to under-ice drowning sets for beaver and muskrat. For
33 the purposes of this subsection, "check" means to visit or cause to be visited in a physical
34 manner or to monitor the trap with the aid and use of wireless, digital imaging
35 technology.

36 A person who violates this subsection commits a Class E crime.

37 **Sec. 18. 12 MRSA §12304-A**, as enacted by PL 2003, c. 655, Pt. B, §232 and
38 affected by §422, is repealed.

1 **Sec. 19. 12 MRSA §12304-B** is enacted to read:

2 **§12304-B. Condition of animal presented for registration**

3 **1. Wild turkey.** A person shall present a wild turkey for registration in its entirety,
4 except that the viscera may be removed in a manner that permits determination of the sex
5 of the animal.

6 **2. Bear, deer and moose.** A person shall present all edible meat and evidence of
7 gender of bear, deer and moose for registration. A bear, deer or moose may be
8 dismembered for ease of transportation.

9 **3. Biological samples.** Through rulemaking, the commissioner may require hunters
10 to submit biological samples from wild turkey, bear, deer or moose at the time of
11 registration.

12 **4. Disposal of parts not presented for registration.** A person may not dispose of
13 the parts of a deer, bear or moose not presented for registration where they are visible to a
14 person traveling on a public or private way.

15 **5. Penalty.** A person who violates this section commits a Class E crime.

16 **Sec. 20. 12 MRSA §12602, 2nd ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and
17 affected by c. 614, §9, is amended to read:

18 A person who violates this section commits a Class E crime. The court shall also
19 impose a fine of \$20 for each fish unlawfully possessed, none of which may be
20 suspended. In the case of smelt limits, a person who violates this section commits a Class
21 E crime; and the court shall impose a fine of \$20 for each quart of smelts over the limit.

22 **Sec. 21. 12 MRSA §13063**, as affected by PL 2003, c. 614, §9 and amended by c.
23 655, Pt. B, §373 and affected by §422, is further amended to read:

24 **§13063. Requirements for operators who carry passengers for hire with watercraft**

25 **1. Prohibition.** A person may not operate a motorboat carrying passengers for hire
26 without an operator's license to carry passengers for hire as required in this section having
27 successfully completed a boating safety course provided by a national association of
28 boating law administrators and approved by the commissioner. A person operating a
29 motor boat carrying passengers for hire shall provide proof of having successfully
30 completed a course under this subsection when requested by the commissioner or the
31 commissioner's agent. For purposes of this section, "carrying passengers for hire" means
32 receiving remuneration to carry passengers in a motorboat from one predetermined point
33 to another predetermined point on inland waters.

34 A. A person who violates this subsection commits a civil violation for which a fine
35 of not less than \$100 nor more than \$500 may be adjudged.

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

4 **2. Requirement.** Every operator of a motorboat, other than a licensed Maine guide
5 certified in watercraft safety, carrying passengers for hire, except those operators who
6 have been issued and have or are required to have in their possession a current valid
7 federal operator's license, shall ~~obtain an operator's license to carry passengers for hire~~
8 ~~from the commissioner as provided in this section before operating a motorboat carrying~~
9 ~~passengers for hire~~ show proof of having successfully completed an approved boating
10 safety course in accordance with subsection 1 upon request of the commissioner or the
11 commissioner's agent.

12 ~~A. The operator shall make written application for the license to carry passengers for~~
13 ~~hire on forms provided by the commissioner.~~

14 ~~B. The commissioner shall cause operators applying for a license to carry passengers~~
15 ~~for hire for the first time to be examined as to their qualifications.~~

16 ~~3. Issuance.~~ The commissioner shall issue the license to carry passengers for hire to
17 ~~applicants who have satisfactorily passed the examination.~~

18 ~~4. Fee.~~ The fee for an operator's license to carry passengers for hire is \$1.

19 ~~5. Renewal.~~ The commissioner may grant a renewal of license to carry passengers
20 ~~for hire upon written application and payment of the \$1 fee without examination.~~

21 ~~6. Expiration.~~ Every license to carry passengers for hire expires on December 31st
22 ~~of the year for which issued.~~

23 **Sec. 22. 12 MRSA §13104, sub-§13,** as affected by PL 2003, c. 614, §9 and
24 amended by c. 655, Pt. B, §390 and affected by §422, is repealed.

25 **Sec. 23. 15 MRSA §393, sub-§1-B,** as amended by PL 2015, c. 470, §3, is
26 further amended to read:

27 **1-B. Prohibition for domestic violence offenses.** A person may not own, possess
28 or have under that person's control a firearm, crossbow or muzzleloader or archery
29 equipment if that person:

30 A. Has been convicted of committing or found not criminally responsible by reason
31 of insanity of committing:

32 (1) A Class D crime in this State in violation of Title 17-A, section 207-A,
33 209-A, 210-B, 210-C or 211-A; or

34 (2) A crime under the laws of the United States or any other state that in
35 accordance with the laws of that jurisdiction is elementally substantially similar
36 to a crime in subparagraph (1).

37 Violation of this paragraph is a Class C crime; or

1 B. Has been adjudicated in this State or under the laws of the United States or any
2 other state to have engaged in conduct as a juvenile that, if committed by an adult,
3 would have been a disqualifying conviction under this subsection. Violation of this
4 paragraph is a Class C crime.

5 Except as provided in subsection 1-A, the prohibition created by this subsection for a
6 conviction or adjudication of an offense listed in paragraph A or B expires 5 years from
7 the date the person is finally discharged from the sentence imposed as a result of the
8 conviction or adjudication if that person has no subsequent criminal convictions during
9 that 5-year period. If a person is convicted of a subsequent crime within the 5-year
10 period, the 5-year period starts anew from the date of the subsequent conviction. In the
11 case of a deferred disposition, the 5-year period begins at the start of the deferred
12 disposition period. If, at the conclusion of the deferred disposition period, the court
13 grants the State's motion to allow a person to withdraw the plea and the State dismisses
14 the pending charging instrument with prejudice, the 5-year period terminates.

15 For the purposes of this subsection, a person is deemed to have been convicted or
16 adjudicated upon the acceptance of a plea of guilty or nolo contendere or a verdict or
17 finding of guilty, or of the equivalent in a juvenile case, by a court of competent
18 jurisdiction.

19 For the purposes of this subsection, a person is deemed to have been found not criminally
20 responsible by reason of insanity upon the acceptance of a plea of not criminally
21 responsible by reason of insanity or a verdict or finding of not criminally responsible by
22 reason of insanity, or of the equivalent in a juvenile case, by a court of competent
23 jurisdiction.

24 The provisions of this subsection apply only to a person convicted, adjudicated or placed
25 on deferred disposition on or after October 15, 2015.

26 **Sec. 24. 36 MRSA §2903-D, sub-§2, ¶A**, as amended by PL 2003, c. 414, Pt. B,
27 §66 and affected by c. 614, §9, is further amended to read:

28 A. The Commissioner of Inland Fisheries and Wildlife receives 14.93% of that
29 amount, to be used by the commissioner for the purposes set forth in Title 12, section
30 1893, subsection 3, section 10206, subsection 2, section 13104, subsections 2 to ~~13~~
31 12-A and section 13105, subsection 1; and

32 **SUMMARY**

33 This bill makes several changes to the State's fish and wildlife enforcement laws.
34 The bill:

- 35 1. Makes it legal for a person to use wireless, digital imaging technology as a means
36 to comply with a trap tending requirement;
- 37 2. Makes it clear that hunting with thermal imaging equipment is illegal;
- 38 3. Creates a \$20 penalty for each quart over the 2-quart limit on smelts;
- 39 4. Amends terminology in the law governing apprentice hunter license restrictions;

- 1 5. Makes it illegal to fraudulently obtain registrations in addition to licenses and
2 permits that are provided by the department;
- 3 6. Makes failing to stop for a law enforcement officer while operating a snowmobile
4 or watercraft a Class D crime consistent with the provision applying to all-terrain
5 vehicles;
- 6 7. Makes the airbow a legal hunting implement when used within certain parameters.
7 It defines "airbow," "crossbow" and "hand-held bow";
- 8 8. Specifies that, in addition to a firearm, a person convicted of a domestic violence
9 offense may not own, possess or have under that person's control a crossbow or
10 muzzleloader or archery equipment;
- 11 9. Requires all edible meat from bear, deer or moose to be presented for registration
12 along with evidence of gender. It allows these animals to be dismembered for ease of
13 transportation;
- 14 10. Strengthens language within the prohibition of abuse of another person's
15 property by removing reference to certain stated activities such as hunting, fishing or
16 trapping to allow the Department of Inland Fisheries and Wildlife to enforce the law
17 against persons who abuse another person's property but who may not be involved in an
18 activity such as hunting, fishing or trapping;
- 19 11. Sets August 1st as the beginning date for bear baiting season; and
- 20 12. It replaces the requirement that a boat operator have a license from the
21 department to carry passengers for hire with a requirement that the operator successfully
22 complete a boating safety course provided by a national association of boating law
23 administrators approved by the commissioner.