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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 261, L.D. 428, “An Act to Reclassify Certain Offenses Under the Inland Fisheries and Wildlife Laws and Increase the Efficiency of the Criminal Justice System”

Amend the bill by striking out the title and substituting the following:

'An Act to Reclassify Certain Offenses Under the Inland Fisheries and Wildlife Laws'

Amend the bill by striking out everything after the enacting clause and inserting the following:

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

1. License required. Except as otherwise authorized pursuant to this Part, a person may not engage in an activity for which a license may be issued under this section unless that person has a valid license issued under this section. An electronic license or permit fulfills the requirement under this subsection that a person must have a physical paper license or permit if the electronic license or permit can be displayed upon request to a game warden or other law enforcement officer, an employee of the department, a registered Maine guide or the owner of the land on which the licensed activity is taking place. Each Except as otherwise provided in this section, each day a person violates this subsection that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed the sentencing alternative may include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5.

Sec. 2. 12 MRSA §11109, sub-§3, ¶A, as amended by PL 2017, c. 164, §8, is further amended to read:

A. A resident junior hunting license, for a person under 16 years of age, is \$8 and permits hunting of all legal species, subject to the permit requirements in subchapter 3. Notwithstanding the permit fees established in subchapter 3, a resident junior hunting license includes all permits, stamps and other permissions needed to hunt at no

COMMITTEE AMENDMENT

1 additional cost. A license holder under this paragraph who qualifies to hunt during the
2 special season on deer under section 11153 and who meets the eligibility requirements
3 of section 11106 must have included in that person's license one antlerless deer permit
4 and one either-sex permit. A resident junior hunting license does not exempt the holder
5 of the license from lottery-related application requirements under this Part. A resident
6 under 16 years of age who hunts without a resident junior hunting license commits a
7 civil violation.

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

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

21 **Sec. 4. 12 MRSA §11159, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
22 affected by c. 614, §9, is amended to read:

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

28 **Sec. 5. 12 MRSA §11214, sub-§1, ¶F**, as enacted by PL 2003, c. 414, Pt. A, §2
29 and affected by c. 614, §9, is amended to read:

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

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

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

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

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

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

7 **Sec. 8. 12 MRSA §11214, sub-§2**, as enacted by PL 2003, c. 655, Pt. B, §146 and
8 affected by §422, is amended to read:

9 **2. Penalty.** A Except as provided in subsection 1, paragraphs F, I and J, a person who
10 violates subsection 1 commits a Class E crime for which the sentencing alternative may
11 include only the penalties provided in Title 17-A, section 1704, subsection 5 and Title
12 17-A, section 1705, subsection 5.

13 **Sec. 9. 12 MRSA §11302, sub-§3**, as enacted by PL 2003, c. 655, Pt. B, §158 and
14 affected by §422, is amended to read:

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

16 **Sec. 10. 12 MRSA §12051, sub-§1**, as repealed and replaced by PL 2013, c. 588,
17 Pt. A, §16, is amended by amending the 2nd blocked paragraph to read:

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

19 **Sec. 11. 12 MRSA §12054, sub-§2**, as enacted by PL 2003, c. 414, Pt. A, §2 and
20 affected by c. 614, §9, is amended to read:

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

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

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

31 **Sec. 13. 12 MRSA §12101, sub-§1-A**, as enacted by PL 2003, c. 655, Pt. B, §199
32 and affected by §422, is amended to read:

33 **1-A. License required.** A person may not charge others for the opportunity to hunt
34 mallard ducks, pheasants, quail, Chukar partridge and Hungarian partridge in an area or
35 establish a commercial shooting area for such purposes unless that person has a valid
36 license issued under this section. Each day a person violates this subsection that person
37 commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice
38 the applicable license fee must be imposed civil violation.

39 A. Nothing in this subsection prohibits the operator of a commercial shooting area
40 from authorizing a person to hunt other wild birds or wild animals in the commercial
41 shooting area during the regular open season on those species, in accordance with this

1 Part, as long as the person possesses a valid state hunting license that allows the hunting
2 of those wild birds and wild animals.

3 **Sec. 14. 12 MRSA §12508, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
4 affected by c. 614, §9, is amended by amending the first blocked paragraph to read:

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

8 **Sec. 15. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
9 §259 and affected by §422, is amended by amending subparagraph (2) to read:

10 (2) Shall present a receipted invoice, bill of lading, bill of sale or other satisfactory
11 evidence of the lawful possession of live baitfish or smelts for retail sale to any
12 agent of the commissioner upon request. A person who violates this subparagraph
13 commits a civil violation; or

14 **Sec. 16. 12 MRSA §12551-A, sub-§5, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
15 §259 and affected by §422, is amended by amending the first blocked paragraph to read:

16 ~~Each~~ Except for a violation of subparagraph (2), each day a person violates this
17 paragraph that person commits a ~~class~~ Class E crime for which the sentencing
18 alternative may include only the penalties provided in Title 17-A, section 1704,
19 subsection 5 and Title 17-A, section 1705, subsection 5.

20 **Sec. 17. 12 MRSA §12551-A, sub-§6, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
21 §259 and affected by §422, is amended by amending subparagraph (1) to read:

22 (1) When engaged in taking, or assisting in taking, live baitfish for resale from
23 inland waters, fail to exhibit a baitfish wholesaler's license to any agent of the
24 commissioner upon request. A person who violates this subparagraph commits a
25 Class E crime for which the sentencing alternative may include only the penalties
26 provided in Title 17-A, section 1704, subsection 5 and Title 17-A, section 1705,
27 subsection 5;

28 **Sec. 18. 12 MRSA §12551-A, sub-§6, ¶B**, as enacted by PL 2003, c. 655, Pt. B,
29 §259 and affected by §422, is amended by amending the first blocked paragraph to read:

30 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
31 paragraph that person commits a ~~class~~ Class E crime for which the sentencing
32 alternative may include only the penalties provided in Title 17-A, section 1704,
33 subsection 5 and Title 17-A, section 1705, subsection 5.

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

36 (1) When engaged in taking, or assisting in taking, live smelts for resale from
37 inland waters, fail to exhibit the license to any agent of the commissioner upon
38 request. A person who violates this subparagraph commits a Class E crime for
39 which the sentencing alternative may include only the penalties provided in Title
40 17-A, section 1704, subsection 5 and Title 17-A, section 1705, subsection 5;

41 **Sec. 20. 12 MRSA §12551-A, sub-§7, ¶B**, as amended by PL 2005, c. 237, §3, is
42 further amended by amending the first blocked paragraph to read:

1 ~~Each~~ Except for a violation of subparagraph (1), each day a person violates this
2 paragraph that person commits a Class E crime for which the sentencing alternative
3 may include only the penalties provided in Title 17-A, section 1704, subsection 5 and
4 Title 17-A, section 1705, subsection 5.

5 **Sec. 21. Appropriations and allocations.** The following appropriations and
6 allocations are made.

7 **JUDICIAL DEPARTMENT**

8 **Courts - Supreme, Superior and District 0063**

9 Initiative: Provides one-time funding for computer programming costs to update
10 classifications of offenses.

11 GENERAL FUND	2023-24	2024-25
12 All Other	\$3,400	\$0
13		
14 GENERAL FUND TOTAL	\$3,400	\$0

15 **Sec. 22. Effective date.** This Act takes effect January 1, 2024.'

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

18 **SUMMARY**

19 This amendment is a minority report of the committee. The amendment changes the
20 bill title and does the following.

21 1. It removes from the bill the provision that updates the definition of "habitual
22 violator" under the inland fisheries and wildlife laws.

23 2. It removes from the bill the provisions lowering the penalty for violating laws related
24 to bear hunting, bear trapping and interfering with another person's bear bait site during the
25 open season for hunting bears.

26 3. It changes the penalty for the following inland fisheries and wildlife crimes from a
27 Class E crime for which a fine may be imposed and a term of incarceration may not be
28 imposed to a Class E crime for which a sentencing alternative may include only the
29 penalties provided in the Maine Revised Statutes, Title 17-A relating to maximum fines for
30 Class E crimes:

31 A. Hunting without a license;

32 B. When a live bait retailer possesses any species of fish that cannot be sold as bait at
33 that retailer's place of business;

34 C. When the holder of a baitfish wholesaler's license takes baitfish other than by use of
35 a seine, a baitfish trap, a dip net, a drop net, a lift net or a bag net, or by hook and line;
36 attempts to take live bait for resale from the inland waters of the State by fishing
37 through the ice using drop nets unless the holder marks all holes made in the ice by the
38 holder for that purpose; takes eels; takes or sells suckers greater than 10 inches in length
39 between April 1st and September 30th of each year; or possesses at that person's place
40 of business any species of fish that may not legally be sold as bait; and

- 1 D. Several violations pertaining to holders of a smelt wholesale dealer's license.
- 2 4. It changes the penalty for the following offenses from a Class E crime to a Class E
- 3 crime for which a sentencing alternative may include only the penalties provided in Title
- 4 17-A relating to maximum fines for Class E crimes:
- 5 A. When the holder of a baitfish wholesaler's license, when engaged in taking, or
- 6 assisting in taking, live baitfish for resale from inland waters, fails to exhibit a baitfish
- 7 wholesaler's license to any agent of the Commissioner of Inland Fisheries and Wildlife
- 8 upon request; and
- 9 B. When the holder of a smelt wholesale dealer's license, when engaged in taking, or
- 10 assisting in taking, live smelts for resale from inland waters, fails to exhibit the license
- 11 to any agent of the commissioner upon request.
- 12 5. It eliminates from the bill provisions that expand the law that evidence obtained
- 13 pursuant to an unlawful search and seizure is not admissible in a civil violation and permit
- 14 a law enforcement officer who has probable cause that a violation of law has taken place
- 15 or is taking place to make application for a search warrant.
- 16 6. It adds an appropriations and allocations section.

17 **FISCAL NOTE REQUIRED**

18 **(See attached)**