

126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 545

H.P. 364

House of Representatives, February 19, 2013

An Act To Enhance the Protection of Native Fish Species

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Millient M. Macfarland MILLICENT M. MacFARLAND Clerk

Presented by Representative JONES of Freedom.

Cosponsored by Representatives: BOLDUC of Auburn, BROOKS of Winterport, SHORT of Pittsfield, STANLEY of Medway.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 12 MRSA §10902, sub-§8, ¶A, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §101 and affected by §422, is further amended to read:
4 5 6	A. Introducing fish into inland waters Taking or transporting fish taken in the State for breeding or advertising purposes without a permit in violation of section 12509, subsection 2; and sections 12510, 12511 and 12512;
7	Sec. 2. 12 MRSA §10902, sub-§8-A is enacted to read:
8 9 10 11 12	8-A. Mandatory revocation of all fishing and hunting licenses. If a person is convicted or adjudicated of any of the following, the commissioner shall revoke all fishing and hunting licenses held by that person, and that person is ineligible to obtain a fishing or hunting license for a period of at least 10 years from the date of conviction or adjudication:
13 14	A. Introducing fish into inland waters without a permit in violation of section 12509, subsection 1 or section 12510 or 12511; or
15 16	B. Introducing, importing or transporting any live fish or gametes into the State without a permit in violation of section 12509, subsection 1.
17 18	Sec. 3. 12 MRSA §12509, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §256 and affected by §422, is further amended to read:
19 20 21 22	1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not introduce, import or transport any live fish or gametes into the State or receive or have in that person's possession fish or gametes so introduced, imported or transported without a valid permit issued under this section.
23 24 25 26	A person who violates this subsection commits a Class \not C crime, except that, notwithstanding Title 17-A, section 1301, the fine may not be less than \$1,000 nor more than \$10,000. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
27 28	Sec. 4. 12 MRSA §12510, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is amended to read:
29	§12510. Permit to stock inland waters; violation
30 31 32 33 34	1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not introduce fish of any kind into any inland waters without a valid permit issued under this section. A person who violates this subsection commits a Class E crime, except that, notwithstanding Title 17 A, section 1301, the fine may not be less than \$1,000 or more than \$10,000.

A. Introduce fish of any kind into any inland waters. Violation of this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A; or

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1 2 3	B. Possess or transport fish for the purpose of introducing them into any inland waters. Proof of possession or transportation of live fish without a permit issued under this section or other authorization pursuant to this Part gives rise to a
4 5 6	permissible inference under the Maine Rules of Evidence, Rule 303 that the person possessing or transporting the live fish did so for the purpose of introducing the fish into inland waters.
7	A person who violates paragraph A or paragraph B commits a Class C crime.
8 9 10	2. Issuance. The commissioner may issue a written permit allowing a person to introduce fish of any kind into any inland waters by means of live fish or otherwise <u>and to possess and transport fish for this purpose</u> .
11 12	Sec. 5. 12 MRSA §12511, sub-§1, as enacted by PL 2003, c. 655, Pt. B, §257 and affected by §422, is amended to read:
13 14 15 16 17	1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not introduce fish or fish spawn into a private pond without a valid permit issued under this section. A person who violates this subsection commits a Class E C crime, except that, notwithstanding Title 17 A, section 1301, the fine may not be less than \$1,000 nor more than \$10,000. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
19 20	Sec. 6. 12 MRSA §12655, as repealed and replaced by PL 2003, c. 655, Pt B, §278 and affected by §422, is amended to read:
21	§12655. Unlawful use of bait
22 23	1. Prohibition. During times when fishing is limited by rule to the use of artificial lures only, a person may not use:
24	A. Live bait;
25	B. Dead bait; or
26	C. Chemically preserved natural or organic bait.
27 28	<u>Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.</u>
29	2. Penalty. A person who violates this section commits a Class E crime.:
30	A. Violates subsection 1, paragraph B or C commits a Class E crime; and
31	B. Violates subsection 1, paragraph A commits a Class C crime.
32	SUMMARY
33	This bill:
34 35	1. Changes the class of the crimes of illegal stocking of fish and illegal use of live bait from Class E to Class C;

2. Provides that, if a person is convicted of introducing, importing or transporting live fish without a permit, the Commissioner of Inland Fisheries and Wildlife is required to revoke all fishing and hunting licenses held by that person, and that person is ineligible to obtain a fishing or hunting license for a period of at least 10 years from the date of conviction; and

3. Provides that possession or transportation of live fish without authorization gives rise to a permissible inference that the person possessing or transporting the live fish does so for the purpose of illegally introducing the fish into inland waters.