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Legislative Document

No. 199

S.P. 88

In Senate, January 27, 2021

An Act To Amend Certain Fish and Wildlife Laws and Related Provisions

Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
Received by the Secretary of the Senate on January 25, 2021. Referred to the Committee on Inland Fisheries and Wildlife pursuant to Joint Rule 308.2 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 DILL of Penobscot.
Cosponsored by Representative: STEARNS of Guilford.

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

2 **Sec. 1. 12 MRSA §10001, sub-§67-B** is enacted to read:

3 **67-B. Upland game species.** "Upland game species" includes bobwhite quail, gray
4 squirrel, porcupine, ring-necked pheasant, ruffed grouse, snowshoe hare, spruce grouse and
5 woodchuck.

6 **Sec. 2. 12 MRSA §10652**, as amended by PL 2017, c. 50, §1, is further amended to
7 read:

8 **§10652. Abuse of another person's property ~~while fishing, hunting or trapping~~**

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

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

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

13 (2) Leave open any gate or bars on another person's land; ~~or~~

14 (3) Trample or destroy any crop on another person's land;

15 (4) Damage or destroy a tree on another person's land by inserting into that tree
16 any metallic or ceramic object to be used as, or as part of, a ladder or observation
17 stand unless the person has the permission of the landowner;

18 (5) Erect or use either a portable or permanent ladder or observation stand on the
19 land of another person unless:

20 (a) That person has obtained oral or written authorization to erect and use a
21 ladder or observation stand from the landowner or the landowner's
22 representative; and

23 (b) The ladder or observation stand is plainly labeled with a 2-inch by 4-inch
24 tag identifying the name and address of the person or persons authorized by
25 the landowner to use the ladder or observation stand.

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

32 (6) Destroy, tear down, deface or otherwise damage a property posting sign under
33 Title 17-A, section 402, subsection 4.

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

35 (1) ~~Damage or destroy a tree on another person's land by inserting into that tree~~
36 ~~any metallic or ceramic object to be used as, or as part of, a ladder or observation~~
37 ~~stand unless the person has the permission of the landowner;~~

38 (2) ~~Except as provided in this paragraph, erect or use either a portable or permanent~~
39 ~~ladder or observation stand on the land of another person unless:~~

1 (a) ~~That person has obtained oral or written authorization to erect and use a~~
2 ~~ladder or observation stand from the landowner or the landowner's~~
3 ~~representative; and~~

4 (b) ~~The ladder or observation stand is plainly labeled with a 2-inch by 4-inch~~
5 ~~tag identifying the name and address of the person or persons authorized by~~
6 ~~the landowner to use the stand or observation ladder.~~

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

12 ~~(3) Tear down or destroy any fence or wall on another person's land;~~

13 ~~(4) Leave open any gate or bars on another person's land;~~

14 ~~(5) Trample or destroy any crop on another person's land; or~~

15 ~~(6) Destroy, tear down, deface or otherwise damage a property posting sign under~~
16 ~~Title 17-A, section 402, subsection 4.~~

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

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

19 ~~(2) Leave open any gate or bars on another person's land; or~~

20 ~~(3) Trample or destroy any crop on another person's land.~~

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

23 **2. Penalty.** A person who violates this section commits a Class E crime and may be
24 ordered to pay restitution to the landowner for damages.

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

27 G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing
28 moose, in violation of section 11154, 11217, 11601, 11651-A, 11652, 12302-A,
29 ~~12304-A~~ 12304-B, 12305 or 12403;

30 **Sec. 4. 12 MRSA §10902, sub-§7-A,** as enacted by PL 2003, c. 592, §2 and
31 affected by §5 and c. 655, Pt. C, §§5 and 6, is amended to read:

32 **7-A. Hunting with night vision equipment or thermal imaging device.** A hunting
33 license of a person convicted of night hunting in violation of section 11206, subsection 1
34 and found to have been in possession of night vision equipment or a thermal imaging device
35 at the time of the offense must be revoked, and that person is ineligible to obtain a hunting
36 license for a period of 5 years from the date of conviction.

37 **Sec. 5. 12 MRSA §10902, sub-§7-B,** as enacted by PL 2017, c. 50, §2, is amended
38 to read:

39 **7-B. Destroying or defacing property posting signs.** ~~The hunting and fishing~~
40 ~~licenses of~~ A license, permit or registration issued by the department in effect at the time a

1 person is convicted of destroying, tearing down, defacing or otherwise damaging a property
2 posting sign in violation of section 10652, subsection 1, paragraph B A must be revoked,
3 and that person is ineligible to obtain a ~~hunting or fishing~~ any license, permit or registration
4 issued by the department for a period of one year from the date of conviction.

5 **Sec. 6. 12 MRSA §11103**, as affected by PL 2003, c. 614, §9 and amended by c.
6 655, Pt. B, §112 and affected by §422, is further amended to read:

7 **§11103. Convicted felon Prohibition for convicted felons, domestic violence offenders**
8 **and certain nonviolent juvenile offenders**

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

13 **Sec. 7. 12 MRSA §11217, sub-§2**, as repealed and replaced by PL 2013, c. 333,
14 §4, is amended to read:

15 **2. Exception.** This subsection provides for exceptions to the prohibitions against the
16 purchase, sale, offer for sale or barter of wild animals and wild birds under this section.

17 A. A person who has lawfully killed or trapped and registered a bear may sell, without
18 a hide dealer's license, only the hide, head, teeth, claws not attached to the paws, fat
19 not attached to the meat and ~~gall bladder~~ gallbladder of that animal.

20 B. A person who has lawfully killed and registered a deer may sell, without a hide
21 dealer's license, only the hide, head, antlers and feet of that animal.

22 C. A person may sell the head, hide, feet and antlers of a domesticated deer and the
23 meat of a domesticated deer for use as food only in accordance with Title 7, chapter
24 202.

25 D. A person who has lawfully killed and registered a moose may sell, without a hide
26 dealer's license, only the hide, head, bones, antlers and feet of that animal.

27 E. A person may buy or sell, without a hide dealer's license, naturally shed antlers
28 from deer or moose.

29 F. A person may buy or sell, without a taxidermy license or a hide dealer's license,
30 legally obtained finished wildlife products, excluding federally protected wild animals
31 and wild birds except in accordance with federal law.

32 G. A person may buy, without a hide dealer's license, for that person's personal use
33 and not for resale, only the teeth, claws not attached to paws, fat not attached to the
34 meat, skull or head and hide of a bear; only the bones, feet and hide of a moose; the
35 skull or head of a deer or moose, excluding antlers; and all other parts of wild animals
36 and wild birds not prohibited from being bought, sold, offered for sale or bartered under
37 subsections 1 and 3.

38 H. A person who possesses a valid hide dealer's license may lawfully buy, sell, barter
39 and trade for profit the parts of wild animals under paragraphs A, B and D, lawfully
40 obtained raw, untanned animal hides and any parts of wild animals and wild birds not
41 prohibited from being bought, sold, offered for sale or bartered under subsections 1 and
42 3.

1 Parts permitted to be bought or sold under this subsection may not be attached to any other
2 parts of the wild animals or wild birds that are prohibited from being bought, sold, offered
3 for sale or bartered under subsections 1 and 3. Bear ~~gall bladders~~ gallbladders and raw,
4 unfinished deer and moose antlers must be tagged or accompanied with documentation
5 containing the name and address of the person who lawfully killed the animal.

6 As used in this subsection, "hide dealer's license" means a license issued pursuant to section
7 12954.

8 **Sec. 8. 12 MRSA §11857**, as amended by PL 2013, c. 538, §29, is repealed.

9 **Sec. 9. 12 MRSA c. 915, sub-c. 9-A** is enacted to read:

10 **SUBCHAPTER 9-A**

11 **UPLAND GAME SPECIES HUNTING**

12 **§11871. Unlawful possession of upland game species**

13 **1. Daily bag limit.** On any given day, a person may not take more than the daily bag
14 limit of an upland game species as established by the commissioner.

15 **2. Possession limit.** A person may not possess more than the possession limit of an
16 upland game species as established by the commissioner.

17 **3. Penalty.** A person who violates this section commits a Class E crime for which a
18 fine of not less than \$200 plus \$50 for each upland game species taken in violation may be
19 adjudged.

20 **Sec. 10. 12 MRSA §12159, sub-§1**, as amended by PL 2011, c. 253, §23, is further
21 amended to read:

22 **1. Prohibition; penalties.** Except as provided in this section, a person may not take
23 ~~and~~ or possess reptiles or amphibians from the wild for export, sale or commercial
24 purposes.

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

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

30 **Sec. 11. 12 MRSA §12303-A, sub-§1**, as enacted by PL 2003, c. 655, Pt. B, §230
31 and affected by §422, is amended to read:

32 **1. Time limits.** Except as provided in subsection 1-A, a person may not keep any of
33 the following unregistered wild animals ~~at home or any place of storage~~ for more than 18
34 hours after the animal was harvested:

35 A. Bear;

36 B. Deer;

37 C. Moose; or

1 D. Wild turkey.

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

4 **Sec. 13. 12 MRSA §12304-B** is enacted to read:

5 **§12304-B. Condition of animal presented for registration**

6 **1. Wild turkey.** A person must present a wild turkey in its entirety for registration,
7 except that the viscera may be removed in a manner that permits determination of the sex
8 of the animal.

9 **2. Bear, deer and moose.** A person must present a bear, deer or moose for registration
10 as follows.

11 **A.** A person shall present a bear, deer or moose in its entirety, including, but not limited
12 to, all edible meat and the head for registration, except that the viscera, hide, lower legs
13 and rib cage, including the ribs, spine and pelvis, are not required to be presented for
14 registration.

15 **B.** A bear, deer or moose may be dismembered for ease of transportation.

16 **C.** A person shall present evidence of the sex of a bear, deer or moose for registration.

17 **3. Biological samples.** The commissioner may require hunters to submit biological
18 samples from wild turkey, bear, deer or moose at the time of registration. The
19 commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to
20 this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

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

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

25 **Sec. 14. 12 MRSA §12954, sub-§2, ¶A**, as repealed and replaced by PL 2013, c.
26 333, §6, is amended to read:

27 A. Buy, sell, barter or trade any lawfully obtained bear ~~gall bladders~~ gallbladders, raw
28 unfinished moose antlers or raw unfinished deer antlers;

29 **Sec. 15. 12 MRSA §12954, sub-§4-A, ¶A**, as amended by PL 2017, c. 288, Pt. A,
30 §15, is further amended by amending subparagraph (1) to read:

31 (1) Keep a true and complete record, in such form as is required by the
32 commissioner, to include the names and addresses of persons buying or selling
33 heads, hides, ~~bear fat~~ and bear ~~gall bladders~~ gallbladders; and

34 **Sec. 16. 12 MRSA §12954, sub-§6-A, ¶C**, as enacted by PL 2013, c. 333, §9, is
35 amended to read:

36 C. A person who has lawfully killed or trapped and registered a bear may sell, without
37 a hide dealer's license, only the hide, head, teeth, claws not attached to the paws, fat
38 not attached to the meat and gallbladder of that animal.

39 **Sec. 17. 12 MRSA §12954, sub-§6-A, ¶G**, as enacted by PL 2013, c. 333, §9, is
40 amended to read:

1 G. A person may buy, without a hide dealer's license, for that person's own personal
2 use and not for resale, only the teeth, claws not attached to paws, fat not attached to the
3 meat, skull or head and hide of a bear; only the bones, feet and hide of a moose; the
4 skull or head of a deer or moose, excluding antlers; and all other parts of wild animals
5 and wild birds not prohibited from being bought, sold, offered for sale or bartered under
6 section 11217, subsections 1 and 3.

7 **Sec. 18. 12 MRSA §12955, sub-§2**, as enacted by PL 2003, c. 414, Pt. A, §2 and
8 affected by c. 614, §9, is amended to read:

9 **2. Issuance.** The commissioner may issue a special hide dealer's license to any person
10 who maintains a place of business for the butchering of wild animals within this State. The
11 special hide dealer's license permits a holder ~~commercially~~ to commercially sell or barter
12 the heads or untanned hides of deer or, moose or bear that are butchered in the license
13 holder's place of business.

14 **Sec. 19. 12 MRSA §12955, sub-§3**, as amended by PL 2005, c. 477, §24, is further
15 amended to read:

16 **3. Expiration.** All licenses issued under this section are valid for a period of one year
17 commencing August January 1st and ending December 31st ~~of the year in which the license~~
18 ~~is issued.~~

19 **Sec. 20. 12 MRSA §13001, sub-§21**, as enacted by PL 2003, c. 414, Pt. A, §2 and
20 affected by c. 614, §9, is amended to read:

21 **21. Owner.** "Owner" means:

22 A. For the purpose of registration of a snowmobile, a person holding title to a
23 snowmobile or having ~~exclusive right to the use of a snowmobile for a period greater~~
24 ~~than 30 days~~ equitable interest in a snowmobile that entitles the person to possession
25 of the snowmobile;

26 B. ~~With respect to~~ For the purpose of registration of a watercraft, a person who claims
27 ~~lawful possession of the~~ holding title to a watercraft by virtue of legal title or having
28 ~~equitable interest therein~~ in a watercraft that entitles the person to possession of the
29 watercraft; or

30 C. For the purposes of registration of an ATV, a person holding title to an ATV or
31 having equitable interest in an ATV that entitles the person to possession of the ATV.

32 SUMMARY

33 This bill defines "upland game species." It provides for the Commissioner of Inland
34 Fisheries and Wildlife to set a daily bag limit and possession limit for upland game species
35 and makes violating these limits a Class E crime for which a fine of not less than \$200 plus
36 \$50 for each animal taken in violation may be adjudged.

37 It allows the department to enforce the law prohibiting the abuse of another person's
38 property against persons who abuse another person's property but who may not be involved
39 in an activity such as hunting, fishing or trapping, as in current law. It allows a person
40 found to have violated that law to be ordered to pay restitution to the landowner for
41 damages.

1 It provides for the revocation of a hunting license of a person convicted of night hunting
2 and found to have been in the possession of a thermal imaging device at the time of the
3 offense.

4 It provides for the revocation of any license, permit or registration issued by the
5 department, not just hunting and fishing licenses, of a person who is convicted of
6 destroying, tearing down, defacing or otherwise damaging a property posting sign.

7 It prohibits domestic violence offenders and certain nonviolent juvenile offenders from
8 obtaining or possessing any license or permit issued by the department that authorizes a
9 person to hunt with a firearm.

10 It allows a person who has lawfully killed or trapped and registered a bear to sell,
11 without a hide dealer's license, the fat not attached to the meat of that animal. It clarifies
12 that a person may not take or possess reptiles or amphibians from the wild for export, sale
13 or commercial purposes.

14 It specifies that a person may not keep bear, deer, moose or wild turkey without
15 registering the animal for more than 18 hours after the animal was harvested.

16 It requires all the edible meat of a bear, deer or moose to be presented for registration
17 along with evidence of the animal's sex. It also allows those animals to be dismembered
18 for ease of transportation and allows the hunter to leave parts that are not of use away from
19 public view.

20 It requires a hide dealer to keep a true and complete record of those buying and selling
21 bear fat.

22 It allows a special hide dealer's license holder to commercially sell or barter the heads
23 and untanned hides of bear that are butchered in the license holder's place of business.

24 It makes a special hide dealer's license valid for a full year, commencing January 1st,
25 rather than a partial year, commencing August 1st.

26 It amends the definition of "owner," for the purpose of registration of a snowmobile,
27 watercraft or ATV, to include a person having equitable interest in the snowmobile,
28 watercraft or ATV, which entitles the person to possession of the vehicle.