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Public Law
124th Legislature
First Regular Session

Chapter 340
S.P. 319 - L.D. 811

An Act To Amend Certain Provisions of Fish and Wildlife Laws

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

Sec. 1. 12 MRSA §10051, 2nd ¶, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides, the Junior Maine Guides and Trip Leaders' Curriculum Board and whatever state agencies that are designated. The department is under the control and supervision of the commissioner.

Sec. 2. 12 MRSA §10052, amended by PL 2003, c. 655, Pt. B, §13 and affected by §422, is further amended to read:

§ 10052. Division of Licensing, Registration and Engineering

The ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering is established within the Department of Inland Fisheries and Wildlife. The ~~bureau~~ division is equal in organizational level and status with other major organizational units within the department or its successors. The ~~bureau~~ division is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility for administering all the powers and duties of the ~~bureau~~ division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the ~~bureau~~ division include, but are not limited to:

1. Financial accounting. ~~The financial accounting of all department revenues and expenditures, including long-range financial planning and the preparation of annual and biennial budgets;~~

2. Personnel activities. ~~The administration of all personnel activities;~~

3. Licensing and registration. The administration and issuance of department licenses, stamps and permits and the registration of snowmobiles, watercraft and all-terrain vehicles; and

4. Engineering. The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document; .

5. Land acquisition. ~~The acquisition and development of land for the protection, preservation and enhancement of inland fisheries and wildlife resources; and~~

6. Equipment inventory. ~~The maintenance of a current inventory of all department-owned or department-managed property.~~

Sec. 3. 12 MRSA §10053, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

8. Animal damage control. The coordination of animal damage control functions throughout the State, including supplemental assistance for the control of coyotes and other nuisance wildlife that exceeds normal funding and staffing levels within the department; and

Sec. 4. 12 MRSA §10053, sub-§9, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

9. Rules. The development of rules governing the effective management of the inland fisheries and wildlife resources of the State; and

Sec. 5. 12 MRSA §10053, sub-§10 is enacted to read:

10. Land acquisition. The acquisition and development of land for the protection, preservation and enhancement of inland fisheries and wildlife resources.

Sec. 6. 12 MRSA §10105, sub-§1-A, as enacted by PL 2007, c. 73, §1, is amended to read:

1-A. Authorize taking and destruction of fish. Notwithstanding sections 12454, 12456 and 12457 and chapter 923, subchapters 4 and 5, whenever an illegal introduction of invasive fish species occurs and the commissioner determines it necessary for resource protection and management, the commissioner may authorize licensed anglers to assist the commissioner in the taking and destruction or sale of that invasive fish species.

Sec. 7. 12 MRSA §10201, sub-§5, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. The design of the permit and any art created in conjunction with it may be selected through an art contest. The commissioner may award a cash prize for the winning entry selected in a contest.

Sec. 8. 12 MRSA §10206, sub-§3, ¶C, as amended by PL 2007, c. 44, §1, is further amended to read:

C. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, including fines, fees and other available money deposited with the Treasurer of State, must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing and , Registration and Engineering. Three dollars of each motorized watercraft registration is dedicated to the Department of Inland Fisheries and Wildlife and is not subject to the split with another agency as required under this paragraph. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must

also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Administrative and Financial Services, Bureau of the Budget.

The fees outlined in section 13056, subsection 8, paragraphs A and B for watercraft operating on inland waters of the State each include a \$10 fee for invasive species prevention and control. This fee is disposed of as follows:

(1) Sixty percent of the fee must be credited to the Invasive Aquatic Plant and Nuisance Species Fund established within the Department of Environmental Protection under Title 38, section 1863; and

(2) Forty percent of the fee must be credited to the Lake and River Protection Fund established within the department under section 10257.

Sec. 9. 12 MRSA §10502, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Unless reasonable doubt exists as to ownership, property having a value less than ~~\$10~~ \$100;

Sec. 10. 12 MRSA §10502, sub-§2, ¶B, as amended by PL 2003, c. 592, §1 and affected by §5; c. 614, §9; and c. 655, Pt. C, §§5 and 6, is further amended to read:

B. A firearm or archery equipment, including crossbows, seized in connection with a violation of:

(1) Section 11206;

(2) Section 10902, subsection 6; or

(3) Section 10752, subsection 6, paragraph B and section 10902, subsection 4, paragraphs A and B;

Sec. 11. 12 MRSA §10906, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §105 and affected by §422, is further amended to read:

§ 10906. Violation of suspended or revoked license, permit or registration

While a person's license ~~or~~ , permit or recreational vehicle registration is under suspension or revocation under this Part, that person may not engage in the particular activity permitted by the license ~~or~~ , permit or recreational vehicle registration that has been suspended or revoked.

A person who violates this section commits a Class D crime.

Sec. 12. 12 MRSA §10907, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §106 and affected by §422, is further amended to read:

§ 10907. Obtaining suspended or revoked license, permit or registration

A person may not obtain or attempt to obtain any license ~~or~~ , permit or recreational vehicle registration that has been suspended or revoked by the commissioner under this Part.

A person who violates this section commits a Class D crime.

Sec. 13. 12 MRSA §11108-B, sub-§3, as enacted by PL 2007, c. 203, §6, is amended to read:

3. Eligibility. A person who is 16 years of age or older ~~and not a holder of who has never held~~ a valid hunting license or junior hunting license may hold an apprenticeship hunter license. A person may not be issued an apprenticeship hunter license after having held an apprenticeship hunter license under section 11109. A person selected to receive a moose permit may not then purchase an apprenticeship hunter license to meet the licensing requirements for that permit.

Sec. 14. 12 MRSA §11209, sub-§1, as amended by PL 2005, c. 477, §8, is further amended to read:

1. Prohibition. A person may not:

A. Unless a relevant municipal ordinance provides otherwise and except as provided in sections 12401 and 12402, discharge a firearm, including muzzle-loading firearms, or crossbow within 100 yards of a building or residential dwelling or a farm building used for sheltering livestock, machines or harvested crops without the permission of the owner or, in the owner's absence, of an adult occupant of that building or dwelling authorized to act on behalf of the owner; or

B. Possess a wild animal or wild bird taken in violation of this subsection, except as otherwise provided in this Part.

This subsection may not be construed to prohibit a person from killing or taking a wild animal in accordance with sections 12401 and 12402.

For purposes of this subsection, "building" means any residential, commercial, retail, educational, religious or farm structure that is designed to be occupied by people or domesticated animals or is being used to shelter machines or harvested crops.

Sec. 15. 12 MRSA §12255, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §217 and affected by §422, is further amended to read:

3. Carrying a firearm while trapping. Notwithstanding section 11205, subsection 1, paragraph A and section 11206-A, subsection 1, paragraph A, a person who holds a valid trapping license may carry a firearm at any time during the open trapping season for the sole purpose of dispatching trapped animals unless that person is prohibited from possessing a firearm under Title 15, section 393, subsection 1 and has not obtained a valid permit in accordance with Title 15, section 393, subsection 2.

Sec. 16. 12 MRSA §12551-A, sub-§7, ¶A, as amended by PL 2005, c. 237, §3, is further amended to read:

A. The holder of a smelt wholesale dealer's license may:

(1) Take live smelts for resale from inland waters or private ponds. The taking of live smelts from inland waters must be in accordance with general rules adopted by the commissioner in regard to the taking of smelts. Except as provided in paragraph B, the holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers and is subject to the same penalties for violations of those limits and restrictions. This subparagraph does not apply to a holder of a fish cultivator license as provided under section 12507;

(2) ~~From ice-in to ice-out, use~~ Use a drop net, a lift net or hook and line to take up to 8 quarts of smelts through man-made openings in the ice while fishing on the ice from specific inland waters designated by the commissioner. A dip net may be used in conjunction with the above methods to assist with the handling and transporting of smelts. A licensee may keep the daily bag limit alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day;

(2-A) In waters naturally free of ice, take smelts from noon to 2:00 a.m. by the use of a dip net in the usual and ordinary way. The commissioner may establish the daily bag limit by rule and a licensee may keep the daily bag limit of smelts alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day. The commissioner may shorten the noon to 2:00 a.m. smelt fishing timeframe by rule for enforcement or conservation purposes;

(3) Use artificial light for the purpose of luring smelts to a drop net or a lift net;

(4) Transport or possess at the holder's business facility more than the daily bag limit of smelts provided that the smelts were taken by the license holder in accordance with this section or acquired from a person licensed under this section to deal in live smelts;

(5) Designate others to assist in selling live smelts at the holder's business facility; and

(6) Transport or designate others to transport on the license holder's behalf live smelts in accordance with this subsection.

Sec. 17. 12 MRSA §12913, sub-§2, ¶A, as enacted by PL 2003, c. 655, Pt. B, §337 and affected by §422, is amended to read:

A. Except as provided in this paragraph, a person may not operate a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls without an allocation or in excess of an allocation on any day for which allocations are established under this subsection or by the department by rule.

(1) Allocations are not established and are not required for other rivers or for other stretches of the Kennebec River or the West Branch Penobscot River.

(2) Allocations are required for Saturdays on the Kennebec River between Harris Station and West Forks for the period of July 1st to August 31st. Allocations are required for Saturdays on the West Branch Penobscot River between McKay Station and Pockwockamus Falls for the period of ~~June 8th~~ July 1st to August 31st. The commissioner may adopt rules establishing allocations for Sundays for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached on other days, the department shall provide by rule for allocations. Rules adopted under this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(3) Under high-water or low-water conditions on the West Branch Penobscot River, an emergency swap of an allocation may be made to the Kennebec River, as long as sufficient water is available there. Under no circumstances is a transfer of an allocation allowed from the Kennebec River to the West Branch Penobscot River.

(4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to accommodate problems in booking, as long as the average of the number of passengers carried on an outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed the outfitter's allocation for that river and day. Abuse by an outfitter of the privilege to carry additional passengers results in the loss of the privilege for a period to be determined by the commissioner.

(5) On the several days in the months of April and May when special water releases are scheduled to be made from the Flagstaff Dam to permit whitewater rafting on the Dead River, commercial whitewater rafting trips may be transferred from the Dead River to the Kennebec River whenever high-water or low-water conditions render use of the Dead River unsafe or inappropriate for commercial whitewater rafting trips.

(6) The following penalties apply to violations of this paragraph.

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

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

Sec. 18. 12 MRSA §13001, sub-§9, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

9. Division. "Division" means the Department of Inland Fisheries and Wildlife, Division of Licensing and , Registration and Engineering.

Sec. 19. 12 MRSA §13060, as amended by PL 2003, c. 655, Pt. B, §§367 and 368 and affected by §422, is repealed and the following enacted in its place:

§ 13060. Temporary registration certificate

The commissioner may issue temporary registration certificates to a registered dealer who may, upon the sale or exchange of a boat, issue a temporary registration certificate to a new owner in order to allow the new owner to operate the boat for a period of 20 consecutive days after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is \$1.

Sec. 20. 12 MRSA §13106-A, sub-§14, ¶A, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

A. Except as provided in section 13112, a person may not:

(1) Operate a snowmobile that exceeds the noise limits for that snowmobile established in paragraph B; or

(2) ~~Modify~~ Operate a snowmobile ~~with an exhaust system that has been modified in a manner that amplifies or otherwise increases total noise emission above that of the snowmobile as originally constructed, regardless of the date of manufacture.~~

Sec. 21. 12 MRSA §13106-D is enacted to read:

§ 13106-D. Accidents involving property damage

1. Notification to property owner. The operator of a snowmobile involved in an accident that results in property damage shall take reasonable steps to notify the owner of that property of the accident.

2. Provide information to property owner. The operator of a snowmobile involved in an accident under subsection 1 shall, if the property owner is notified pursuant to subsection 1, provide to the property owner:

A. The operator's name and address;

B. The registration number of the operator's snowmobile; and

C. An opportunity to examine the registration certificate if the owner so requests and the certificate is available.

3. Penalties. A person who violates this section commits a Class E crime.

Sec. 22. 12 MRSA §13155, sub-§8-A, as enacted by PL 2003, c. 655, Pt. B, §410 and affected by §422, is amended to read:

8-A. Registration inspection. An owner or operator of an ATV shall present a registration certificate or an online registration receipt for inspection by any law enforcement officer on demand.

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

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

Sec. 23. 12 MRSA §13155, sub-§9, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §411 and affected by §422, is further amended to read:

9. Display of registration numbers. Each new ATV sold in the State must have 3 1/2 inch by 6 inch spaces provided on the front and rear of the machine, as high above the tires as possible, for the vertical display of the registration numbers. A person may not operate an ATV that is required to be registered under this section unless registration numbers are displayed in these spaces or as otherwise required by the department. A person may operate an ATV registered online without displaying a registration number until that person receives the registration certificate from the department or for 30 days after registering the ATV online, whichever occurs first.

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

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

Sec. 24. 12 MRSA §13157-A, sub-§25, ¶A, as enacted by PL 2005, c. 397, Pt. E, §26, is amended to read:

A. Except as provided in section 13159, a person may not:

(1) Operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust;

(2) ~~Modify the~~ Operate an ATV with an exhaust system ~~of an ATV that has been modified~~ in any manner that will increase the noise emitted above the following emission standard:

(a) Each ATV must meet noise emission standards of the United States Environmental Protection Agency and in no case exceed 96 decibels of sound pressure when measured from a distance of 20 inches using test procedures established by the commissioner; or

(3) Operate an ATV without a working spark arrester.

Sec. 25. 12 MRSA §13160, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Temporary registration certificate. The commissioner may issue temporary registration plates and certificates to a registered dealer who may, upon the sale or exchange of an ATV, issue a temporary registration plate and certificate to a new owner, in order to allow the new owner to operate the ATV for a period of 20 consecutive days, after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration is \$1.

Sec. 26. 17 MRSA §2267-A, as amended by PL 2001, c. 536, §3, is further amended to read:

§ 2267-A. Submerged motor vehicles, snowmobile and watercraft in waters of the State

The following provisions apply when a motor vehicle is submerged or partially submerged in waters of the State or when a snowmobile or ~~motorboat~~ watercraft is submerged in the inland waters of the State.

1. Definition. When used in this section the term "motor vehicle" means any self-propelled vehicle designed to carry persons or property or used to transport persons, except snowmobiles and ~~motorboats~~ watercraft. The term "watercraft," when used in this section, means any type of craft placed on the inland waters of the State, whether used as a means of transportation or for other purposes.

2. Notice of submerged vehicle, snowmobile or watercraft to be given to department. The owner of any motor vehicle that becomes submerged or partially submerged in the waters of the State shall immediately, by the fastest means of communication, notify the Commissioner of Inland Fisheries and Wildlife of the event and the location of the vehicle. The owner of a snowmobile or ~~motorboat~~ watercraft that becomes submerged in the inland waters of the State for more than 24 hours shall notify the commissioner as provided in this subsection.

The commissioner shall, upon receiving notice of a submerged or partially submerged vehicle in the waters of the State or a submerged snowmobile or ~~motorboat~~ watercraft in the inland waters of the State, notify the Chief of the State Police, the Commissioner of Environmental Protection and any municipality or public utility that regulates the uses of the waters as a source of public water supply pursuant to Title 22, sections 2641 to 2648.

3. Owner legally liable to remove vehicle, snowmobile or watercraft. The owner of the vehicle is legally liable to remove any motor vehicle submerged or partially submerged in the waters of the State and pay any damages resulting from the submersion or removal. The vehicle must be removed within 30 days of the submersion or partial submersion or within 30 days of "ice out" in the body of water unless the commissioner determines that the vehicle creates a health or safety hazard. If the commissioner determines that the vehicle creates a health or safety hazard the commissioner shall order the owner to remove the vehicle immediately. If the owner fails to remove the vehicle upon order of the commissioner, the commissioner shall, in writing, request the court to direct the owner to remove the vehicle immediately. The owner of a snowmobile or ~~motorboat~~ watercraft that is submerged in the inland waters of this State for longer than 24 hours shall remove the snowmobile or ~~motorboat~~ watercraft in accordance with this subsection.

4. Financial responsibility. A conviction or adjudication of any person for a violation of this section constitutes a violation of state law relative to motor vehicles to which Title 29-A, chapter 13 applies.

5. Penalties. A violation of this section is a civil violation for which a forfeiture of \$200 may be adjudged. In addition to a forfeiture, or instead of a forfeiture, the judge may direct the person convicted to remove the vehicle, snowmobile or ~~motorboat~~ watercraft.

6. Rules. The commissioner may, in accordance with the provisions of the ~~Maine Administrative Procedure Act~~, Title 5, chapter 375, ~~promulgate~~ adopt any rules necessary to carry out the purposes of this chapter.

Sec. 27. 36 MRSA §191, sub-§2, ¶GG, as amended by PL 2005, c. 683, Pt. A, §63, is further amended to read:

GG. The disclosure to the Department of Inland Fisheries and Wildlife, ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft;

Sec. 28. 36 MRSA §1503, sub-§3, as amended by PL 1983, c. 819, Pt. A, §59, is further amended to read:

3. Director. "Director" means the Director of the Division of Licensing and , Registration and Engineering, Department of Inland Fisheries and Wildlife.

Effective September 12, 2009