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Legislative Document

No. 1474

H.P. 1055

House of Representatives, April 30, 2013

An Act To Amend the Laws Pertaining to the Hunting of Bear

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HARLOW of Portland.
Cosponsored by Representatives: BOLAND of Sanford, BOLDUC of Auburn, CHIPMAN of Portland, KAENRATH of South Portland, MORRISON of South Portland.

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

2 **Sec. 1. 12 MRSA §10260**, as enacted by PL 2007, c. 168, §1 and affected by §8,
3 is amended to read:

4 **§10260. Black Bear Research Fund**

5 The Black Bear Research Fund, referred to in this section as "the fund," is established
6 within the department as a nonlapsing fund to be used by the commissioner to fund or
7 assist in funding studies related to the management of black bears. Revenue from the
8 nonresident late season bear hunting permit under section 11151-A ~~and the bear trapping~~
9 ~~permit under 12260-A~~ must be deposited in the fund. The commissioner may accept and
10 deposit into the fund monetary gifts, donations or other contributions from public or
11 private sources for the purposes specified in this section. The fund must be held separate
12 and apart from all other money, funds and accounts.

13 **Sec. 2. 12 MRSA §10902, sub-§6, ¶E**, as repealed and replaced by PL 2011, c.
14 691, Pt. A, §7, is amended to read:

15 E. Buying or selling bear, hunting or trapping bear after having killed ~~2~~ one or
16 exceeding the bag limit on bear, in violation of section 11217; or 11351 ~~or 12260~~;

17 **Sec. 3. 12 MRSA §11109, sub-§3, ¶N**, as amended by PL 2005, c. 12, Pt. III, §4,
18 is further amended to read:

19 N. A license to use leashed dogs to track wounded animals, which permits a person
20 to use one or more leashed dogs to track a lawfully wounded deer; or moose ~~or bear~~,
21 is \$27.

22 **Sec. 4. 12 MRSA §11111**, as enacted by PL 2003, c. 655, Pt. B, §117 and affected
23 by §422, is amended to read:

24 **§11111. Tracking wounded animals with leashed dogs; fee for services**

25 A person who holds a valid license issued under section 11109, subsection 3,
26 paragraph N to use leashed dogs to track wounded ~~bear~~, deer or moose may charge a fee
27 for dog tracking services. Notwithstanding section 10001, subsection 28, a person is not a
28 guide if the only services that person charges a fee for are dog tracking services pursuant
29 to this section.

30 **Sec. 5. 12 MRSA §11217, sub-§1**, as affected by PL 2003, c. 614, §9 and
31 amended by c. 655, Pt. B, §150 and affected by §422, is further amended to read:

32 **1. Prohibition against buying and selling bear, deer, moose or wild turkey.**
33 Except as provided in subsection 2, a person may not:

34 A. Buy, sell or offer for sale or barter a:

35 (1) Bear;

36 (2) Deer;

- 1 (3) Moose; or
- 2 (4) Wild turkey; or
- 3 B. Aid in buying, selling or offering for sale or bartering a:
- 4 (1) Bear;
- 5 (2) Deer;
- 6 (3) Moose; or
- 7 (4) Wild turkey; or

8 D. Buy, sell, offer for sale, barter or possess for purposes of sale or barter, any part
9 of a bear except the head, teeth and hide, including, but not limited to, the gall
10 bladder, paws and claws. Possession of a bear part, other than the head, teeth and
11 hide, without the corresponding bear carcass and a valid bear tag is prima facie
12 evidence of possession for purposes of sale or barter.

13 **Sec. 6. 12 MRSA §11217, sub-§2, ¶A,** as enacted by PL 2003, c. 414, Pt. A, §2
14 and affected by c. 614, §9, is amended to read:

- 15 A. The head, teeth, ~~gall bladder, claws~~ and hide of a bear;

16 **Sec. 7. 12 MRSA §11228, sub-§1,** as enacted by PL 2011, c. 432, §2, is amended
17 to read:

18 **1. Collar required.** A person may not hunt with a dog in pursuit of ~~bear~~, coyote or
19 bobcat unless the dog has a collar that legibly provides the name, telephone number and
20 address of the owner of that dog.

21 A. A person who violates this subsection commits a civil violation for which a fine
22 of not less than \$100 or more than \$500 may be adjudged.

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

26 **Sec. 8. 12 MRSA §11229** is enacted to read:

27 **§11229. Bear poaching by prior offender**

28 **1. Definition.** For purposes of this section, "bear poaching" means any violation of
29 section 11201, subsection 2, former section 11302, section 11302-A or 12259-A; or of
30 section 11204, 11206, 11215, 11224, 11351 or 12051 when the targeted species or
31 species involved in the violation is a bear.

32 **2. Penalty.** Notwithstanding any other provision of law, a person who commits bear
33 poaching after having been convicted of bear poaching on a separate occasion within the
34 past 15 years commits a Class C crime for which the court shall impose a sentencing
35 alternative involving a term of imprisonment of not less than 30 days, none of which may
36 be suspended; the court also shall impose a fine of not less than \$1,000, none of which
37 may be suspended.

1 **Sec. 9. 12 MRSA §11251, sub-§1**, as affected by PL 2003, c. 614, §9 and
2 amended by c. 655, Pt. B, §155 and affected by §422, is further amended to read:

3 **1. Open season on bear; commissioner's authority.** This subsection governs the
4 open and closed seasons on bear.

5 A. There is an open season on hunting bear from the first Monday preceding
6 September 1st to November 30th annually. ~~The commissioner may, pursuant to~~
7 ~~section 10104, subsection 1, adopt rules prohibiting the use of bait to hunt black bear~~
8 ~~during any portion of the open bear hunting season. Rules adopted pursuant to this~~
9 ~~paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-~~
10 ~~A.~~

11 ~~B. There is an open season on using a dog or dogs in conjunction with bear hunting~~
12 ~~from the first Monday preceding September 1st to the day preceding the open firearm~~
13 ~~season on deer provided in sections 11401 and 11402.~~

14 C. The commissioner may shorten the open ~~seasons~~ season on bear as established in
15 ~~paragraphs~~ paragraph A ~~and B~~ in any part of the State as long as:

16 (1) The demarcation of the areas with a shortened season follows recognizable
17 physical boundaries such as rivers and railroad rights-of-way; and

18 (2) The decision is made and published prior to February 1st of any year.

19 D. The commissioner may terminate the open season on bear as established in
20 ~~paragraphs~~ paragraph A ~~and B~~ at any time in any part of the State if, in the
21 commissioner's opinion, an immediate emergency action is necessary due to adverse
22 weather conditions or severe hunting ~~or trapping~~ pressure.

23 E. There is a closed season on hunting bear from January 1st until July 31st annually.

24 **Sec. 10. 12 MRSA §11301, sub-§1**, as repealed and replaced by PL 2011, c. 691,
25 Pt. A, §9, is amended to read:

26 **1. Bear baiting.** A person may not place bait to entice, hunt or ~~trap~~ attract black
27 bear, unless:

28 A. The bait is placed at least 50 yards from a travel way that is accessible by a
29 conventional 2-wheel-drive or 4-wheel-drive vehicle;

30 B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with
31 the name and address of the baiter;

32 C. The bait is placed more than 500 yards from a site permitted or licensed for the
33 disposal of solid waste or a campground;

34 D. The bait is placed more than 500 yards from an occupied dwelling, unless written
35 permission is granted by the owner or lessee;

36 E. The bait is placed not more than 30 days before the opening day of the season and
37 not after October 31st;

38 F. The bait areas will be cleaned up by November 10th, as defined by the state litter
39 laws; and

1 G. The person hunting from a stand or blind of another person has permission of the
2 owner of that stand or blind.

3 A person may not use bait to hunt ~~or trap~~ black bear without the oral or written
4 permission of the landowner.

5 **Sec. 11. 12 MRSA §11302**, as amended by PL 2009, c. 550, §4, is repealed.

6 **Sec. 12. 12 MRSA §11302-A** is enacted to read:

7 **§11302-A. Hunting bear with dogs**

8 **1. Hunting bear with dogs; prohibited.** A person may not use one or more dogs to
9 hunt or pursue bear, except as provided in subsection 2.

10 **2. Exceptions.** The use of one or more dogs to hunt or pursue bear is lawful when
11 the dog or dogs are used:

12 A. By a state or federal employee, acting in the state or federal employee's official
13 capacity, to pursue a specific offending bear for purposes of protecting and in
14 response to a bona fide threat to livestock, domestic animals, threatened or
15 endangered wildlife, public or private property or public safety; or

16 B. By the department, or pursuant to a permit granted by the department to an
17 accredited university, for scientific or research purposes, but not for the killing of
18 bear.

19 **Sec. 13. 12 MRSA §11303, sub-§2**, as affected by PL 2003, c. 614, §9 and
20 repealed and replaced by c. 655, Pt. B, §160 and affected by §422, is amended to read:

21 **2. Prohibition.** A person may not within the area described in subsection 1:

22 A. Hunt bear; or

23 ~~B. Trap bear;~~

24 C. Molest or harass a bear; ~~or,~~

25 ~~D. Release dogs for the purpose of hunting a bear.~~

26 The commissioner, or the commissioner's agent, is exempt from this prohibition for the
27 purpose of live-trapping nuisance bears.

28 **Sec. 14. 12 MRSA §11304**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected
29 by Pt. D, §7 and c. 614, §9 and amended by c. 655, Pt. B, §161 and affected by §422, is
30 repealed.

31 **Sec. 15. 12 MRSA §11351, sub-§1**, as amended by PL 2011, c. 309, §2, is
32 further amended to read:

33 **1. Hunting bear; one-bear limit.** A person may not hunt ~~or trap~~ bear after that
34 person has killed or registered one during an open season under section 11251 ~~and one~~
35 ~~during the open season on trapping bear under section 12260.~~

1 **Sec. 16. 12 MRSA §11351, sub-§2**, as amended by PL 2011, c. 309, §3, is
2 further amended to read:

3 **2. Exceeding bag limit on bears.** A person may not possess more than ~~2 bears~~ one
4 bear in any calendar year, except a person may keep more than one legally obtained bear
5 in that person's home or as otherwise provided in law.

6 **Sec. 17. 12 MRSA §12051, sub-§1, ¶C**, as amended by PL 2011, c. 309, §4, is
7 repealed.

8 **Sec. 18. 12 MRSA §12201, sub-§2, ¶C**, as amended by PL 2009, c. 69, §2, is
9 further amended to read:

10 C. A resident under 10 years of age may trap all legal species, ~~except bear~~, without a
11 license.

12 **Sec. 19. 12 MRSA §12201, sub-§7, ¶A**, as amended by PL 2009, c. 69, §3, is
13 further amended to read:

14 A. A person under 10 years of age may not trap unless that person is accompanied
15 at all times while trapping by a parent or guardian or by an adult at least 18 years of
16 age approved by a parent or guardian. ~~A person under 10 years of age may not trap~~
17 ~~bear.~~

18 **Sec. 20. 12 MRSA §12204, sub-§7**, as enacted by PL 2011, c. 51, §1, is repealed.

19 **Sec. 21. 12 MRSA §12259-A** is enacted to read:

20 **§12259-A. Trapping bear**

21 **1. Trapping bear; prohibited.** A person may not use or set a trap to hunt or capture
22 bear, except as provided in subsection 2.

23 **2. Exceptions.** The use of a trap to hunt or capture bear is lawful when the trap is
24 used:

25 A. By a state or federal employee, acting in the state or federal employee's official
26 capacity, to hunt or capture a specific offending bear for purposes of protecting and in
27 response to a bona fide threat to livestock, domestic animals, threatened or
28 endangered wildlife, public or private property or public safety; or

29 B. By the department, or pursuant to a permit granted by the department to an
30 accredited university, for scientific or research purposes, but not for the purpose of
31 killing bear.

32 **3. Violation.** A person who uses or sets a trap to hunt or capture bear in violation of
33 subsection 1 commits a Class E crime.

34 **Sec. 22. 12 MRSA §12260**, as amended by PL 2011, c. 309, §§5 and 6, is
35 repealed.

