

ORIG. BILL



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Legislative Document

No. 1118

S.P. 338

In Senate, March 7, 2019

**An Act To Give the Commissioner of Inland Fisheries and Wildlife
Rule-making Authority To Establish a Bear Season Framework and
Bag Limits**

Reference to the Committee on Inland Fisheries and Wildlife suggested 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 DAVIS of Piscataquis.
Cosponsored by Representative NADEAU of Winslow and
Senators: BLACK of Franklin, CYRWAY of Kennebec, DILL of Penobscot, GUERIN of
Penobscot, POULIOT of Kennebec, Representatives: HIGGINS of Dover-Foxcroft, STEARNS
of Guilford.

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

2 **Sec. 1. 12 MRSA §10902, sub-§6, ¶E**, as repealed and replaced by PL 2011, c.
3 691, Pt. A, §7, is amended to read:

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

6 **Sec. 2. 12 MRSA §11151, sub-§1**, as affected by PL 2003, c. 614, §9 and
7 amended by c. 655, Pt. B, §118 and affected by §422, is further amended to read:

8 **1. Permit required.** Except as otherwise authorized pursuant to this Part, a person
9 may not hunt for bear without a valid permit from the ~~first Monday preceding September~~
10 ~~1st~~ first day of the bear hunting season to the day preceding the open firearm season on
11 deer. This section does not apply to trapping for bear.

12 Each day a person violates this subsection that person commits a Class E crime for which
13 a minimum fine of \$50 and an amount equal to twice the applicable license fee must be
14 imposed.

15 **Sec. 3. 12 MRSA §11151, sub-§3**, as amended by PL 2009, c. 213, Pt. OO, §6, is
16 further amended to read:

17 **3. Issuance; permit fee.** The commissioner, through the commissioner's authorized
18 agent, shall issue a bear hunting permit to an eligible person. The annual fee for each
19 permit issued is ~~\$27~~ \$10 for residents and \$74 for nonresidents.

20 **Sec. 4. 12 MRSA §11151-A, sub-§3**, as enacted by PL 2007, c. 168, §4 and
21 affected by §8, is amended to read:

22 **3. Issuance; permit fee.** The commissioner, through the commissioner's authorized
23 agent, shall issue a nonresident late season bear hunting permit or permits to an eligible
24 person. The annual fee for each permit issued is \$40.

25 **Sec. 5. 12 MRSA §11251, sub-§1, ¶A**, as amended by PL 2017, c. 357, §1, is
26 further amended to read:

27 A. ~~There is an open season on hunting bear from the first Monday preceding~~
28 ~~September 1st to November 30th annually.~~ The commissioner shall by rule establish
29 a bear hunting season beginning no earlier than August 1st and ending no later than
30 December 15th annually. The commissioner may, pursuant to section 10104,
31 subsection 1, adopt rules prohibiting the use of bait or dogs to hunt black bear during
32 any portion of the open bear hunting season.

33 **Sec. 6. 12 MRSA §11251, sub-§1, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2
34 and affected by c. 614, §9, is repealed.

35 **Sec. 7. 12 MRSA §11301, sub-§1, ¶E**, as repealed and replaced by PL 2011, c.
36 691, Pt. A, §9, is amended to read:

1 E. The bait is placed not more than 30 days before the opening day of the season as
2 established in rule and not after October 31st;

3 **Sec. 8. 12 MRSA §11351**, as amended by PL 2011, c. 309, §§2 and 3, is further
4 amended to read:

5 **§11351. Bear bag limit**

6 **1. Hunting bear; limit.** A person may not hunt or trap bear after that person has
7 killed or registered ~~one during an open season under section 11251 and one during the~~
8 ~~open season on trapping bear under section 12260~~ the maximum number of bear allowed
9 by rule during that season.

10 **2. Exceeding bag limit on bears.** A person may not possess more than ~~2 bears in~~
11 ~~any calendar year, except a person may keep more than one legally obtained bear in that~~
12 ~~person's home or as otherwise provided in law~~ the number of bear allowed by rule, except
13 a person may keep legally obtained bear in that person's home at any time or as otherwise
14 provided in law or rule.

15 **3. Penalty.** A person who violates ~~subsection 1 or 2~~ this section commits a Class D
16 crime for which the court shall impose a sentencing alternative ~~involving a term of~~
17 ~~imprisonment not to exceed 180 days; of not less than 3 days for the first offense, none~~
18 ~~of which may be suspended, and of not less than 10 days for each succeeding offense,~~
19 ~~none of which may be suspended;~~ the court also shall impose a fine of not less than
20 \$1,000, none of which may be suspended.

21 **Sec. 9. 12 MRSA §12260, 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. Open and closed season.** ~~There is an open~~ The commissioner shall by rule
24 establish a bear trapping season on trapping bear from September 1st to October 31st
25 beginning no earlier than August 1st and ending no later than December 15th annually.

26 A. The commissioner may shorten the open season on bear trapping in any part of
27 the State as long as:

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

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

31 B. The commissioner may terminate the open season on bear trapping at any time in
32 any part of the State if, in the commissioner's opinion, an immediate emergency
33 action is necessary due to adverse weather conditions or severe hunting or trapping
34 pressure.

35 **Sec. 10. 12 MRSA §12260, sub-§3, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2
36 and affected by c. 614, §9, is amended to read:

37 A. A person may ~~use a cable trap with a closing diameter of not less than 2 1/2~~
38 ~~inches to trap not set a bear in the State during the open season on bear trap other~~
39 than as authorized by the commissioner in rule.

1 permit and a resident bear trapping permit from \$27 to \$10, and it also repeals the 2-bear
2 limit in statute and instead refers to the bag limit set in rule.

Dept. IFW
March suggestions

Department of Inland Fisheries and Wildlife
Suggested amendment to LD 1118
3/12/2020

An Act to Give the Department of Inland Fisheries and Wildlife Rule-Making Authority to Establish a Bear Season Framework and Bag Limits

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

Sec. 1. 12 MRSA §10902, sub-§6, ¶E, as repealed and replaced by PL 2011, c. 691, Pt. A, §7, is amended to read:

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

Sec. 2. 12 MRSA §11151, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §118 and affected by §422, is further amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt for bear without a valid permit during the open season on hunting bear established pursuant to section 11251 from the first Monday preceding September 1st to the day preceding the open firearm season on deer. This section does not apply to trapping for bear.

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.

Sec. 3. 12 MRSA §11151, sub-§3, as amended by PL 2009, c. 213, Pt. OO, §6, is further amended to read:

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a bear hunting permit or permits to an eligible person. Where the bag limit for bear is more than one, a separate bear hunting permit must be purchased to authorize hunting for each bear. The annual fee for each permit issued is ~~\$27~~ \$10 for residents and \$74 for nonresidents.

Sec. 4. 12 MRSA §11151-A, sub-§3, as enacted by PL 2007, c. 168, §4 and affected by §8, is amended to read:

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a nonresident late season bear hunting permit or permits to an eligible person. Where the bag limit for bear is more than one, a separate bear hunting permit must be purchased to authorize hunting for each bear. The annual fee for each permit issued is \$40.

Sec 5. 12 MRSA §11251, sub §1, as amended by PL 2017, c. 357, §1, is further amended to read:

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

~~A. There is an open season on hunting bear from the first Monday preceding September 1st to November 30th annually. The commissioner shall by rule establish an open season on hunting bear beginning no earlier than the second Monday preceding September 1 and ending no later than November 30th annually. The commissioner may, pursuant to section 10104, subsection 1, adopt rules prohibiting the use of bait or dogs to hunt black bear during any portion of the open bear hunting season.~~

~~B. There is an open season on using a dog or dogs in conjunction with bear hunting during the open season on hunting bear as established by the commissioner in accordance with paragraph A. from the first Monday preceding September 1st to the day preceding the open firearm season on deer provided in sections 11401 and 11402.~~

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 12 MRSA §11301, sub-§1, ¶E, as repealed and replaced by PL 2011, c. 691, Pt. A, §9, is amended to read:

E. The bait is placed not more than 30 days before the opening day of the season, and no earlier than 30 days before the first Monday preceding September 1, and not after October 31st;

Sec. 7. 12 MSRA §11351, as amended by PL 2011, c. 309, §§2 and 3, is further amended to read:

§11351 Bear bag limit

The commissioner shall establish by rule limits on the number of bear a person may hunt, trap, and possess in a season, which may not exceed 2 bears in total and may not exceed 1 bear by trapping in a calendar year, except a person may keep more than two legally obtained bear in that person's home as otherwise provided in rule or law. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1. Hunting or trapping bear; 2-bear limit. ~~A person may not hunt or trap bear after that person has killed or registered, in one calendar year: one during an open season under section 11251 and one during the open season on trapping bear under section 12260.~~

A. Hunt bear after that person has killed or registered:

(1) two by means of hunting, or;

(2) one by means of hunting and one by means of trapping, or;

(3) the maximum number established by rule under this section, whichever is less.

B. Trap bear after that person has killed or registered one during the open season on trapping bear under section 12260.

The daily bag limit on bear taken by hunting is one bear.

2. Exceeding bag possession limit on bear. A person may not possess more than 2 bears in any calendar year, or the maximum number of bear established by rule under this section, whichever is less.

except a person may keep more than ~~one~~ two legally obtained bear in that person's home ~~or~~ as otherwise provided in rule or law.

3. Penalty. A person who violates this section commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment ~~not to exceed 180 days of not less than 3 days for the first offense and of not less than 10 days for each succeeding offense~~; the court also shall impose a fine of not less than \$1,000. ~~none of which may be suspended.~~

Sec. 8. 12 MRSA §12260, sub-§4, as amended by PL 2011, c. 309, §5, is repealed:

~~**4. Trapping bear after having killed one.** A person may not trap a bear after that person has killed or registered one trapped pursuant to this section. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended~~

Sec. 9. 12 MRSA §12260, sub-§5, as amended by PL 2011, c. 309, §6, is repealed:

~~**5. Exceeding bag limit on bears.** Except as otherwise provided in this Part, a person may not possess more than 2 bears in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.~~

Sec. 10. MRSA §12260-A, sub-§2, as enacted by PL 2007, c. 168, §7 and affected by §8, is amended to read:

2. Eligibility; trapping license required. A person who possesses a valid trapping license or license that authorizes the hunting of bear, deer, moose, bobcat and raccoon may obtain a permit to trap bear from the commissioner or the commissioner's authorized agent.

Sec. 11. MRSA §12260-A, sub-§3, as enacted by PL 2007, c. 168, §7 and affected by §8, is amended to read:

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a bear trapping permit to an eligible person. The annual fee for each permit issued is \$27 10 for residents and \$67 for nonresidents.

Sec. 12. MRSA §12260-A, sub-§4 is enacted to read:

4. Bear trapping education course requirements; proof of bear trapping permit.

Beginning January 1, 2021, a person who applies for a Maine bear trapping permit must submit proof of having successfully completed a bear trapping education course as provided by the department or satisfactory evidence of having previously held a valid Maine bear trapping permit in any year prior to 2021. When proof of competency cannot otherwise be provided, the applicant may substitute a signed affidavit that the applicant has successfully completed the required bear trapping education course or held a bear trapping permit prior to 2021.

A person trapping for bear who employs and is in the presence of a guide licensed under chapter 927 who has successfully completed a bear trapping education course is exempt from this requirement. For purposes of this subsection, "in the presence of" means in visual and voice contact without the use of visual or audio enhancement devices, including but not limited to binoculars, citizen band radios or electronic communication systems.

Sec. 13. This Act will be effective on January 1, 2021.

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

CURRENT LAW

§10902. Suspension or revocation of or refusal to issue license or permit

6. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of:

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

BEAR HUNTING

ARTICLE 1

BEAR SEASONS

§11251. Open and closed seasons

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

A. There is an open season on hunting bear from the first Monday preceding September 1st to November 30th annually. The commissioner may, pursuant to section 10104, subsection 1, adopt rules prohibiting the use of bait to hunt black bear during any portion of the open bear hunting season.

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

C.

D.

2. Youth bear hunting day.

3. Youth bear hunting day. The commissioner may establish by rule a youth hunting day for hunting bear.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

ARTICLE 2

HUNTING METHODS SPECIFIC TO BEAR

§11301. Placing of bear bait

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

- A. The bait is placed at least 50 yards from a travel way that is accessible by a conventional 2-wheel-drive or 4-wheel-drive vehicle;
- B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the name and address of the baiter;
- C. The bait is placed more than 500 yards from a site permitted or licensed for the disposal of solid waste or a campground;
- D. The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or lessee;
- E. The bait is placed not more than 30 days before the opening day of the season and not after October 31st;
- F. The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and
- G. The person hunting from a stand or blind of another person has permission of the owner of that stand or blind.

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

1-A. Prohibition. During the open season on hunting bear, a person may not within 50 yards of a bait site established by another person in accordance with section 11227 without the written permission of the person who established the bait site:

- A. Hunt, trap, molest or harass bear or release a dog or dogs for the purpose of hunting bear or training dogs to hunt bear; or
- B. Disturb the bait site through the use of chemicals or take other action intended to interfere with the hunting of bear at the bait site by the person who established the bait site.

2. Penalty. A person who violates this section commits a Class E crime.

§11302. Hunting bear with dogs

1. Limit on number of dogs. A person may not, while either hunting alone or hunting with other persons, use more than 6 dogs at any one time to hunt bear.

2. Nonresidents hunting with dogs. A nonresident may not hunt bear with the use of a dog or dogs unless that nonresident employs and hunts in the presence of a resident Maine guide. For purposes of this subsection, "in the presence of" means in visual and voice contact without the use of visual or audio enhancement devices, including but not limited to binoculars, citizen band radios or electronic communication systems.

- A. The total number of clients with a resident Maine guide may not be more than 5 in order to satisfy the requirements of this subsection.

This subsection does not apply to nonresidents who hold a valid Maine guide license.

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

§11303. Hunting bear near dumps

1. Dump demarcation. The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 500 yards from sites permitted or licensed for the disposal of solid waste.

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

- A. Hunt bear;
- B. Trap bear;
- C. Molest or harass a bear; or
- D. Release dogs for the purpose of hunting a bear.

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

3. Penalties. The following penalties apply to violations of this section.

A. A person who violates subsection 2 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 subsection 2 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.

§11304. Permission to harvest another person's bear

A person may not, without the permission of the person conducting the hunt, kill or wound a bear that is treed or held at bay by another person's dog or dogs.

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

§11305. Unlawful firearms for hunting bear

1. Prohibition. A person may not use a .17 or .22 caliber rimfire firearm or a shotgun using shot loads to hunt bear.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

ARTICLE 3

POSSESSION OF BEAR

§11351. Bear bag limit

1. Hunting or trapping bear; 2-bear limit. A person may not hunt or trap bear after that person has killed or registered one during an open season under section 11251 and one during the open season on trapping bear under section 12260.

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

3. Penalty. A person who violates subsection 1 or 2 commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

§11352. Bear tags and tagging bear

1. Bear tags. The commissioner shall prescribe the form and content of and produce a bear tag.

2. Tagging. Prior to presenting a bear for registration, a person may not possess or leave in the field or forest a bear killed by that person unless the bear has securely attached to it a plainly visible tag that conforms to the requirements established under this section.

3. Penalties. The following penalties apply to violations of this section.

A. A person who violates subsection 2 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 subsection 2 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.

§11353. Leaving harvested bear

(REPEALED)

(REPEALED)

§11354. Possessing gift bear

A person may not possess any part or parts of a bear given to that person unless that gift bear is plainly labeled with the name of the person who registered it and the year the bear was registered by that person.

1. Person who registered.

2. Recipient.

3. Transporter.

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

§12260. Trapping bear

1. Open and closed season. There is an open season on trapping bear from September 1st to October 31st annually.

A. The commissioner may shorten the open season on bear in any part of the State as long as:

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

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

B. The commissioner may terminate the open season on bear at any time in any part of the State if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or severe hunting or trapping pressure.

2. Unlawful trapping of bear. A person may not catch a bear in a trap and cause or allow another person to kill or register that bear. A person who violates this subsection commits a Class E crime.

3. Setting bear traps. Setting traps for bear is governed by this subsection.

A. A person may use a cable trap with a closing diameter of not less than 2 1/2 inches to trap bear in the State during the open season on bear.

B. A person may not set a bear trap other than a cable trap or a cage-type trap as authorized by the commissioner.

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

4. Trapping bear after having killed one. A person may not trap a bear after that person has killed or registered one trapped pursuant to this section. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

5. Exceeding bag limit on bears. Except as otherwise provided in this Part, a person may not possess more than 2 bears in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than \$1,000, none of which may be suspended.

6. Trapping bear near dumps. Trapping bear near dumps is governed by this subsection.

A. The commissioner, or the commissioner's agent, shall establish a line of demarcation at least 500 yards from sites permitted or licensed for the disposal of solid waste.

B. A person may not trap within the demarcation area established under paragraph A. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live trapping of nuisance bears.

(1) 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.

(2) A person who violates subparagraph 1 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.

§12260-A. Bear trapping permit

1. Permit required. Except as otherwise authorized pursuant to this Part a person may not trap for bear without a valid bear trapping permit during the open bear trapping season under section 12260, subsection 1.

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.

2. Eligibility; trapping license required. A person who possesses a valid trapping license may obtain a permit to trap bear from the commissioner or the commissioner's authorized agent.

3. Issuance; permit fee. The commissioner, through the commissioner's authorized agent, shall issue a bear trapping permit to an eligible person. The annual fee for each permit issued is \$27 for residents and \$67 for nonresidents.