

LEGISLATIVE LANGUAGE FOR STATEWIDE CITIZEN INITIATIVE

Note: underlining indicates language proposed to be added to statute.
~~Strikeouts~~ indicate language proposed to be deleted from statute.

TITLE: An Act Prohibiting Certain Bear Hunting Practices

QUESTION: "Do you want to make it a crime to hunt bears with bait, traps or dogs, except to protect property, public safety or for research?"

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

PART A

Sec. A-1. 12 MRSA §7077, sub-§1-A, ¶F, as enacted by PL 1993, c. 136, §1, is amended to read:

F. Hunting ~~or trapping~~ bear after having killed one, exceeding the bag limit on bear or buying or selling bear in violation of section 7452, subsection 3, 4 or 9;

Sec. A-2. 12 MRSA §7077-A, sub-§6 is enacted to read:

6. Unsportsmanlike practices regarding hunting or trapping bear. A person convicted of a violation of section 7451, subsection 3-A; section 7452, subsection 1; or section 7452, subsection 2-A is not eligible to obtain any license issued by the department for 5 years from the date of conviction in the case of a first offense and permanently from the date of conviction in the case of a 2nd or subsequent offense. Any license in effect at the time of conviction is revoked upon conviction and must be immediately surrendered to the commissioner.

Sec. A-3. 12 MRSA §7104-A, sub-§§1 and 2, as enacted by PL 1993, c. 216, §1, are amended to read:

1. Gate fees. Gate fees or other access fees that are unrelated to the taking of game; or

2. Guiding fees. Fees charged by licensed guides or other fees that are unrelated to access to land; ~~or.~~

Sec. A-4. 12 MRSA §7104-A, sub-§3, as enacted by PL 1993, c. 216, §1, is repealed.

Sec. A-5. 12 MRSA §7110, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §34, is amended to read:

1. Permit required. A permit is required to hunt for bear from the first Monday preceding September 1st to the day preceding the open firearm season on deer November 30th. ~~This section does not apply to trapping for bear.~~

Sec. A-6. 12 MRSA §7451, sub-§1, ¶A, as amended by PL 1993, c. 167, §1, is further amended to read:

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 7035, subsection 1, adopt rules prohibiting the use of bait to hunt black bear during any portion of the open bear hunting season.~~

Sec. A-7. 12 MRSA §7451, sub-§1, ¶B, as repealed and replaced by PL 1981, c. 224, §1, is repealed.

Sec. A-8. 12 MRSA §7451, sub-§1, ¶C, as amended by PL 1989, c. 493, §29, is repealed.

Sec. A-9. 12 MRSA §7451, sub-§1, ¶D, as amended by PL 1989, c. 913, Pt. A, §7, is further amended to read:

D. The commissioner may shorten the open ~~seasons~~ season on bear as established in ~~paragraphs~~ paragraph A, B and C in any part of the State provided that:

- (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.

Sec. A-10. 12 MRSA §7451, sub-§1, ¶E, as enacted by PL 1981, c. 224, §1, is amended to read:

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

Sec. A-11. 12 MRSA §7451, sub-§3, as amended by PL 2003, c. 333, §11, is repealed.

Sec. A-12. 12 MRSA §7451, sub-§3-A is enacted to read:

3-A. Placing of bear bait prohibited. Bait, including, but not limited to, doughnuts and other pastries, grease, meat, fruits, vegetables, honey and any other food known to be attractive to bear, may not be used to hunt or attract bear. Such use of bait is unlawful unless:

A. The bait is used by state or federal employees, acting in their official capacity, to attract a specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety;

B. The bait is used in conjunction with the operation of a feeding station for bear in order to prevent damage to commercial timberland, as long as the bait is used by owners or operators of that land, or their employees, pursuant to a permit granted by the department, but in no event for the purpose of killing bear; or

C. The bait is used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

Sec. A-13. 12 MRSA §7452, sub-§1, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

1. Unlawfully hunting or pursuing bear with dogs; hounding. The following provisions govern hunting or pursuing bear with dogs, also known as hounding.

A. It is unlawful to use a dog or dogs to hunt or pursue bear, except as provided in paragraph B.

B. The use of a dog or dogs to hunt or pursue bear is lawful in the following circumstances:

(1) The dog or dogs are used by state or federal employees to pursue a specific offending animal when the employees, or their designees, are acting in their official capacity for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety; or

(2) The dog or dogs are used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

Sec. A-14. 12 MRSA §7452, sub-§1-A, as amended by PL 1989, c. 493, §30, is repealed.

Sec. A-15. 12 MRSA §7452, sub-§1-B, as enacted by PL 1987, c. 696, §10, is amended to read:

1-B. Illegal harvest of bear. A person is guilty of illegally harvesting bear if may not, without the permission of the person conducting the hunt, ~~that person kills~~ kill or ~~wounds~~ wound a bear that is treed or held at bay by another ~~person's dog or dogs~~ person.

Sec. A-16. 12 MRSA §7452, sub-§1-C, as enacted by PL 1989, c. 493, §31, is amended to read:

1-C. Illegal baiting of bear. A person is guilty of illegally baiting bear if that person places bear bait in any manner ~~which~~ that does not conform to section 7451, subsection ~~3~~ 3-A.

Sec. A-17. 12 MRSA §7452, sub-§1-D, as enacted by PL 1989, c. 913, Part B, §7, is repealed.

Sec. A-18. 12 MRSA §7452, sub-§2, as amended by PL 1979, c. 543, §38, is repealed.

Sec. A-19. 12 MRSA §7452, sub-§2-A is enacted to read:

2-A. Unlawful hunting of bear with trap. The following provisions govern the hunting of bear with a trap.

A. It is unlawful to use or set a trap to hunt or capture bear, except as provided in paragraph B.

B. The use of a trap to hunt or capture bear is lawful in the following circumstances, provided any use of a trap pursuant to this paragraph is undertaken in the most humane manner practicable:

(1) The trap is used by state or federal employees, acting in their official capacity, to hunt or capture a specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety; or

(2) The trap is used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

Sec. A-20. 12 MRSA §7452, sub-§3, as enacted by PL 1979, c. 420, §1, is amended to read:

3. Hunting bear after having killed one. A person is guilty of hunting ~~or trapping~~ bear after having killed one if ~~he~~ that person hunts ~~or traps~~ bear after ~~he has~~ having killed or registered one during any open season.

Sec. A-21. 12 MRSA §7452, sub-§5, as amended by PL 2003, c. 333, §13, is further amended to read:

5. Hunting bear near dumps. 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. A person may not hunt, ~~trap~~, molest or harass a bear ~~or release dogs for the purpose of hunting bear~~ within this area. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live trapping nuisance bears pursuant to section 7452, subsection 2-A.

Sec. A-22. 12 MRSA §7452, sub-§15, ¶A, as amended by PL 2003, c. 331, §10, is repealed.

Sec. A-23. 12 MRSA §7458, sub-§15, ¶H, as enacted by PL 1993, c. 156, §2, is amended to read:

H. Subsection 9, paragraph B does not apply to hunting from an observation stand or blind overlooking:

(1) Standing crops;

(2) Foods that have been left as a result of normal agricultural operations or as a result of natural occurrence; or

(3) Bear bait that has been placed at a bear hunting stand or blind in accordance with section 7451, subsection 3-A.

Sec. A-24. 12 MRSA §7504, sub-§8, as amended by PL 1981, c. 563, §3, is amended to read:

8. Raccoons and bears.

A. The commissioner may suspend the game laws relating to raccoons and bears in such restricted localities and for such periods of time as he finds it advisable to relieve excessive damage being done by them to sweet corn or other crops. Nothing in this paragraph is intended to limit or create an exception to section 7451, subsection 3-A; section 7452, subsection 1; or section 7452, subsection 2-A.

B. The commissioner may suspend subsection 6 for the purpose only of allowing dogs to be used in hunting and killing raccoons ~~and bears~~, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable.

Sec. A-25. 12 MRSA §7861, sub-§1, ¶C, as enacted by PL 1989, c. 913, Pt. A, §18, is repealed.

Sec. A-26. 12 MRSA §7901-A, sub-§6, ¶C, as repealed and replaced by PL 2003, c. 331, §36 and c. 333, §24, is amended by repealing and replacing subparagraph (1) to read:

(1) Hunting bear near a site permitted or licensed for the disposal of solid waste as described in section 7452, subsection 5;

Sec. A-27. 12 MRSA §7901-A, sub-§7, ¶C, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

C. The following crimes are Class D crimes 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:

(1) Hunting a bear during the closed season or possessing a bear taken during the closed season as described in section 7406, subsection 1;

(2) Hunting ~~or trapping~~ a bear after having killed one, as described in section 7452, subsection 3; and

(3) Exceeding the bag limit on bears as described in section 7452, subsection 4.

Sec. A-28. 12 MRSA §7901-A, sub-§7, ¶¶F and G are enacted to read:

F. In the case of a first offense, the following are unsportsmanlike practices that are Class D crimes:

(1) Unlawfully hunting or attracting bear using bait as described in section 7451, subsection 3-A;

(2) Unlawfully hunting or pursuing bear with dogs, also known as hounding, as described in section 7452, subsection 1; and

(3) Unlawfully hunting or capturing bear with a trap as described in section 7452, subsection 2-A.

G. In the case of a 2nd or subsequent offense, the following are unsportsmanlike practices that are Class C crimes:

(1) Unlawfully hunting or attracting bear using bait as described in section 7451, subsection 3-A;

(2) Unlawfully hunting or pursuing bear with dogs, also known as hounding, as described in section 7452, subsection 1; and

(3) Unlawfully hunting or capturing bear with a trap as described in section 7452, subsection 2-A.

PART B

Sec. B-1. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

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

Sec. B-2. 12 MRSA §10902, sub-§9 is enacted to read:

9. Mandatory hunting license revocation for unsportsmanlike practices regarding bear. The commissioner shall suspend a person's hunting license for at least 5 years if that person is convicted of:

A. Bear baiting in violation of section 11301-A;

B. Hounding in violation of section 11302-A; or

C. Illegal bear trapping in violation of section 12260-A.

If a person is convicted of any of the violations in paragraphs A to C for a 2nd or subsequent time, the commissioner shall revoke such person's hunting license permanently.

Sec. B-3. 12 MRSA §11151, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part, a person may not hunt for bear without a permit from the first Monday preceding September 1st to ~~the day preceding the open firearm season on deer~~ November 30th. ~~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 of \$50 and an amount equal to twice the applicable license fee must be imposed.

Sec. B-4. 12 MRSA §11218, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

§11218. Game fees

A person may not charge any fee for access to land if the fee is contingent upon the taking of game on the land or directly related to the taking of game on the land unless the land is an authorized commercial shooting area licensed under section 12101. This section does not apply to:

- 1. Gate fees.** Gate fees or other access fees that are unrelated to the taking of game; or
- 2. Guiding fees.** Fees charged by licensed guides or other fees that are unrelated to access to land; ~~or~~
- 3. Fees for placing bear bait.** ~~Fees that are directly related to the placing of bear bait on land.~~

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

Sec. B-5. 12 MRSA §11251, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

§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. The commissioner may shorten the open seasons season on bear as established in ~~paragraphs~~ paragraph A ~~and B~~ 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.

D. The commissioner may terminate the open season on bear as established in ~~paragraphs~~ paragraph A ~~and B~~ 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.

Sec. B-6. 12 MRSA §§11301 and 11302, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, are repealed.

Sec. B-7. 12 MRSA §§11301-A and 11302-A are enacted to read:

§11301-A. Bear baiting

1. Prohibition. Bait, including, but not limited to, doughnuts and other pastries, grease, meat, fruits, vegetables, honey and any other food known to be attractive to bear, may not be used to hunt or attract bear, except as provided in subsection 2.

2. Exceptions. The use of bait to hunt or attract bear is lawful if:

A. The bait is used by state or federal employees, acting in their official capacity, to attract a specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety;

B. The bait is used in conjunction with the operation of a feeding station for bear in order to prevent damage to commercial timberland, as long as the bait is used by owners or operators of that land, or their employees, pursuant to a permit granted by the department, but in no event for the purpose of killing bear; or

C. The bait is used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of bear baiting, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

§11302-A. Unlawfully hunting or pursuing bear with dogs; hounding

1. Prohibition. It is unlawful to use a dog or dogs to hunt or pursue bear, also known as hounding, except as provided in subsection 2.

2. Exception. The use of a dog or dogs to hunt or pursue bear is lawful in the following circumstances:

A. The dog or dogs are used by state or federal employees to pursue a specific offending animal when the employees, or their designees, are acting in their official capacity for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety; or

B. The dog or dogs are used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of hounding, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

Sec. B-8. 12 MRSA §11303, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

2. Prohibition. A person may not hunt, trap, molest or harass a bear ~~or release dogs for the purpose of hunting bear~~ within the area described in subsection 1. The commissioner, or the commissioner's agent, is exempt from this prohibition for the purpose of live-trapping nuisance bears pursuant to section 12260-A.

Sec. B-9. 12 MRSA §11304, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

§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~~ person.

Sec. B-10. 12 MRSA §11351, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

1. Hunting bear after having killed one. A person may not hunt ~~or trap~~ bear after that person has killed or registered one during any open season. 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; the court also shall impose a fine of not less than \$1,000, none of which may be suspended.

Sec. B-11. 12 MRSA §12260, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

Sec. B-12. 12 MRSA §12260-A is enacted to read:

§12260-A. Illegal trapping of bear

1. Prohibition. It is unlawful to use or set a trap to hunt or capture bear, except as provided in subsection 2.

2. Exception. The use of a trap to hunt or capture bear is lawful in the following circumstances, provided any use of a trap pursuant to this subsection is undertaken in the most humane manner practicable:

A. The trap is used by state or federal employees, acting in their official capacity, to hunt or capture a specific offending animal for purposes of protecting livestock, domestic animals, threatened or endangered wildlife, public or private property or public safety; or

B. The trap is used by the department or pursuant to a permit granted by the department to an accredited university for scientific or research purposes, but in no event for the purpose of killing bear.

3. Penalty. A person who violates this section is guilty of the unsportsmanlike practice of illegal bear trapping, which is a Class D crime for the first offense. A 2nd or subsequent offense is a Class C crime.

Sec. B-13. 12 MRSA §12404, sub-§1, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

C. The commissioner may suspend the game laws relating to bears in such restricted localities and for such periods of time as the commissioner finds it advisable to relieve excessive damage being done by bears to sweet corn or other crops. Nothing in this paragraph is intended to limit or create an exception to sections 11301-A, 11302-A and 12260-A.

Sec. B-14. 12 MRSA §12404, sub-§1, ¶D, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

Sec. B-15. Contingent effective date. This Part takes effect only if the Maine Revised Statutes, Title 12, Part 13, as enacted by Public Law 2003, chapter 414, Part A, section 2, takes effect.

SUMMARY

This initiated bill prohibits the use of bait to hunt or attract bear, the use of a dog to hunt or pursue bear and the use or setting of a trap to hunt or capture bear except under certain circumstances. The use of bait, a dog or a trap is permitted for certain scientific purposes or if undertaken by state or federal employees to kill or capture a specific animal that threatens livestock, domestic animals, threatened or endangered wildlife, property or public safety. Baiting is also permitted if used in conjunction with the operation of a feeding station for bear by owners or operators of commercial timberland or their employees in order to prevent damage to commercial timberland.

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