

2012 Pickering Commission on Hunting Laws, Rules, and Publications - Recommendations
Final Draft – November 8, 2011 – Prepared by George Smith

The Commission approached this task mindful of the original concept of the Pickering Commission – to clarify and simply the laws, recognizing that they should serve two purposes: protection of the resource and safety of the participants and public. The Commission also looked for ways to make the laws consistent for all game animals, as much as possible.

This year the Commission expanded its focus to examine ways to make hunting easier and more enjoyable, in an attempt to address the decline in the number of hunters. And for the first time, the Commission kept the needs of private landowners who provide much of our hunting land in the forefront of our discussions.

Commission members also looked for laws that are commonly ignored, either because hunters don't respect them (they interfere with common hunting practices) or don't understand them.

No votes were taken on these recommendations. The recommendations were created by consensus. When that was not achieved on some much-discussed issues, I have so noted in this report.

Not all Commission members were able to attend the Commission's two meetings. All members received background papers, meeting reports, and recommendations, and had an opportunity to review the recommendations and offer comments or express concerns.

By The Book

We used Title 12 as our reference for these recommendations.

Section 10103. #8. Biennial revision of fish and wildlife laws.

The Title 12 law books that are sold by the department should be published biennially, with a supplement published in the off-years. The hunting/trapping law book that is provided free to sportsmen should be published and distributed annually.

Section 10105. #2. Commissioner's authority to terminate coyote season.

Section 11201. #1C. Open and Closed seasons for deer.

These should be consolidated in one section giving the Commissioner authority to terminate any season for any animal, using specific criteria including adverse weather, unlawful hunting, and over-harvesting. The authority should allow termination of seasons by region. For this and other purposes, IFW should establish a system for compiling animal registration data on a weekly basis.

The length and scheduling of all hunting seasons should be left to IFW, and not be in statute. The parameters for the deer season should be removed from statute.

Section 10108. Programs

The hunter safety courses drew spirited discussion with many diverse opinions. The consensus suggests the following. Break the courses into segments (firearms, bows, landowner relations, wilderness survival, hunter ethics, etc.). Offer some segments online and in print, so they can be taken prior to personally attending a course, and to shorten the time commitment for taking the course. This would also give students more time to devote to these segments at home.

Require students to demonstrate mastery of the online/print segments in person in a test taken when the remainder of the course is presented. This will allow more time to be spent on the important hands-on segments of the course, especially shooting safety. Allow hunters to add segments (for example, the bowhunting course after previously passing the gun course) without taking the entire course and all segments a second time. We noted that it is possible to hunt with a bow during the firearms seasons, without taking the bowhunting course. All bowhunters should pass the bowhunting segment of the course before hunting with a bow in any season.

It was noted that applicants for a license can sign an affidavit that they've had a license in the past, without producing any evidence. Some Commission members believe this should be eliminated as an option. Others recommend that these affidavits – or at least a sampling of them – be fact checked by IFW, and that penalties be established and publicized on the affidavit for false statements.

Section 10108. #4. Landowner Relations Program

This needs significant revision and we noted that Commissioner Chandler Woodcock, in partnership with the Small Woodland Owners Association of Maine, is working on this. IFW has also established a new landowner relations position in the Commissioner's office, making revision of this statute very timely. A comprehensive statewide landowner relations program, led by IFW, is essential.

The Commission also noted that the statute that prohibits charging to hunt specific animals should be re-examined, with a better definition of what constitutes a benefit for the landowner.

Section 10401. Officials with full powers of game wardens.

Constables should be removed from the list of officials with full powers of game wardens. It is our understanding that they do not receive sufficient training to handle the duties of a game warden. Comprehensive reform that requires more sharing of responsibilities throughout the law enforcement community would be welcomed.

Sections 10751 – 10853. Eligibility for licenses and permits.

This entire section is confusing and needs a comprehensive overhaul. We recommend that a special working group be organized to tackle this. Special attention should be paid to Section 10853, complimentary licenses, especially the sections on qualifying disabilities.

Sections 10901 and 10902. Compliance.

This entire section governing the revocation of licenses – including the list of mandatory revocations and the appeal process – needs to be examined and refined. We were informed that IFW is working with Maine's Attorney General to achieve this goal. There is a possibility that a long list of violations by a single individual would qualify as a felony, thereby removing the violator's right to possess firearms. Clarifying language is also needed to assure that a guide's license can be pulled for any violation, not just violations while guiding.

Sections 11101 through 11108-B: Hunting License Requirements

This entire section should be simplified into a single comprehensive presentation of eligibility requirements by age, equipment, and supervision. We were informed that some people are able to buy hunting licenses (without taking a course) by claiming they have hunted squirrels on their own land (something that doesn't require a license). This needs to be cleaned up and clarified.

Section 11108-B. #1A. Junior Hunters

We noted that some supervisors of junior hunters need no hunting experience. We believe the supervisory requirements for apprentice hunters should be extended to junior hunters (see next recommendation).

Section 11108-B. Apprenticeship hunter license restrictions.

We noted that apprentice trapper supervisors are required to have been trapping for at least 3 years, while apprentice hunter supervisors are required to have hunted the last five consecutive years. We recommend that the supervisory requirement be consistent (including the one for junior hunters in Section 11108-A), and suggest that supervisors have 3 years of experience within the last ten years.

Tagging, Registration, Gifting

The Commission spent a lot of time discussing the game tagging and registration system. Agreement was reached on a recommendation that the registration fee should be eliminated (providing real savings to IFW in administrative costs), and the money recovered by a \$1 increase in the hunting license. The registration fee that goes to the agent could remain in place, because that fee stays with the agent.

Some Commission members argued for a simplified game registration system that captures the essential information that IFW needs for game management procedures and requirements without the complications of the current system. Options could include online and phone registration in addition to registration agents and stations.

Some thought that only deer, bear, and moose should require registration, ending the registration requirement for turkeys – and manage them as we do other game birds. IFW could use hunter surveys to collect information (as they do now), without the registration requirement.

The authorization to keep unregistered bear, deer, moose, or turkeys at home for 18 hours (Section 12303-A) would not be necessary if the recommendations above were implemented. It was noted that you must notify a game warden within 18 hours if you leave an unregistered animal in the woods, but not if you take the animal home.

The in-the-woods and transportation tagging requirements could also be eliminated. For example, hunters commonly transport deer to registration stations in a vehicle that doesn't include the hunter who shot the animal. That is currently a violation of the law.

Unfortunately, the Commission was unable to reach consensus on any of these issues or recommendations.

Lotteries

IFW reports that the any-deer permit lottery (Section 11152) has grown terribly complicated, requiring a lot of computer programming, and needs simplification. The Commission agrees and recommends that a working group tackle this recommendation to streamline the lottery.

We also believe the landowner permit system invites abuse by those who don't own land, and should be retooled to limit the number of applicants per woodlot (to one or two) to assure that permits are spread to owners of more woodlots (only 60 percent of landowner applicants received permits in 2011). The ability of S corporations and land trusts to apply for any-deer

permits also needs clarification. The Commission also recommended that the Supersport license become a license of convenience with no special lottery or other privileges.

Transfer of Permits

An any-deer lottery winner should be allowed to transfer his or her permit to any other hunter (currently permits can be transferred to junior and senior hunters). The transfer system also needs to be improved to allow transfers closer to the time of the hunt.

Stand Permission and Labeling

The requirements that any hunting stands left on private property require the permission of landowners and must be labeled needs much more publicizing, both by IFW and by sportsmen's groups and clubs. We also recommend making it illegal to sit in someone else's stand without permission.

Field trials and dog training.

IFW expressed concern about a new law that requires dog trainers to purchase Maine hunting licenses to train their dogs using wild birds. It's a real problem for nonresidents who come to Maine for field trials. This law should be repealed.

On-going Process

Commission members believe this process of review and revision of hunting laws should be ongoing. Wardens annually look at Title 12 and offer suggestions for clarifications, but this is an internal process that only looks at the laws in terms of enforcement issues and problems. A more public process should be established that regularly gathers suggestions from Maine hunters as well as the public.

Prima facia evidence.

The issue of prima facia evidence is confusing to sportsmen. A good example is the prohibition of firearms in the woods on Sunday. Prima facia violations put the burden on the hunter to show that he was not hunting on Sunday. If a hunter is cited based only on prima facia evidence, the hunter would have to prove to the judge that he was not hunting on Sunday. Prima facia violations should either be eliminated or clarified for sportsmen.

The Commission could not agree on a solution, but suggests that data be gathered on the number of cases brought by the warden service for violations of prima facia statutes, or violations that were proven by including prima facia evidence.

Hunting After Registering an Animal.

The Commission had an extensive discussion of the common practice of hunting after killing a deer or turkey. This opened up the definition of hunting, a definition that was revised at the recommendation of the 2002 Pickering Commission. Commission members could not agree on a remedy, although some favored changing the definition of hunting so that this common practice could continue, as long as the tagged-out hunter did not shoot another deer or turkey. The Commission does recommend that this be watched closely, and annual records kept of the number of citations issued for this violation.

Hunting Together – Driving Deer

Commission members had a spirited discussion about driving deer, with Warden Dan Scott insisting that it is illegal, even for two hunters, and others arguing that the exception in the statute clearly allows it for up to 3 hunters. This must be clarified. Some members supported extending the exception to four hunters, and to all species, but this was not the majority opinion. Most Commission members thought the exception should simply be repealed, leaving deer driving as an illegal activity, no matter how many participants.

Section 12402. Damage to crops or orchards.

This is an issue of great concern. The law should define “substantial damage,” and “agricultural uses” and tighter reporting requirements should be applied, at a minimum. The Commission recommends that IFW study this issue and present a report that includes real numbers of animals killed statewide, along with recommendations for tightening up this area of the law.

Section 11109. Licenses and Fees

IFW sells 240 licenses, permits, and registrations. Almost 1/3 of these are issued to hunters. This cries out for simplification.

Commission members did not have the time or information to create a definitive recommendation on this issue. But the Commission did discuss two specific proposals that members thought were worth pursuing, with the most interest being expressed for the proposal offered by Bill Swan, DIF&W’s Director of Licensing.

Proposal One, from Bill Swan. This creates a comprehensive hunting license that covers all hunting opportunities, and eliminates all other hunting licenses and permits.

The cost of a resident hunting license might be \$33 (currently \$25 for big game plus extra for other species and seasons). The cost of a nonresident hunting license might be \$120 (currently \$114 for big game plus extra for other species and seasons). This is designed to raise the same \$8 million that DIF&W currently raises from the sale of all hunting licenses and permits. Information would be collected on the license application to collect data on the specific species each hunter intends to hunt and the information required by the feds. .

The term alien would be eliminated. Those who reside outside our state and country would purchase the nonresident license.

Proposal Two. Eliminates all permits and provides only a single hunting license that would include all the choices a hunter wants. This would be a tiered system that would look like this.

The first selection would be “hunting license” with the required eligibility demonstrated. The second selection would be resident/nonresident (eliminating alien). The third selection would be weapons: firearm or bow (moves muzzleloader into firearm category and crossbow into bow category).

The fourth selection would be the desired species. Options would be: deer, bear, moose, and small game (all other species). This moves ducks, turkeys, and pheasants into the small game category. The fifth selection would be the age: youth, senior, adult, and apprentice. The sixth selection would be discounts (disabled veterans, etc.).

This proposal eliminates seasons as a choice, and would also collect required information for the feds in a survey question.

The price of this license would be determined on an a-la-carte basis, with prices attached to each species.