



# ***Report Back***

**On Resolve 2023 Chapter 26 to Require the  
Department of Inland Fisheries and Wildlife to Develop a Plan for  
Communication Regarding Certain Municipal Regulation**

**Report to the 2<sup>nd</sup> Session of the 131<sup>st</sup> Joint Standing  
Committee on Inland Fisheries & Wildlife**

**Provided by Inland Fisheries & Wildlife**

Prepared by: Christl Theriault, Assistant to the Commissioner

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## Directive to Inland Fisheries and Wildlife

This resolve was brought forth during the First Session of the 131<sup>st</sup> Joint Standing Committee on Inland Fisheries & Wildlife and required the Department of Inland Fisheries and Wildlife (the Department) to develop and report back by January 1, 2024, a plan to inform municipalities about the limits on local regulation of hunting, fishing, and trapping and the operation of watercraft, snowmobiles and all-terrain vehicles and a distribution scheme for the information.

### **RESOLVE 2023 CHAPTER 26 – (L.D. 491) Resolve, to Require the Department of Inland Fisheries and Wildlife to Develop a Plan for Communication Regarding Certain Municipal Regulation**

(Effective: October 25, 2023)

MDIFW shall develop a plan to inform municipalities about the limits on local regulation of hunting, fishing and trapping and the operation of watercraft, snowmobiles and all-terrain vehicles. The Department shall coordinate with a statewide organization representing municipalities to create a distribution scheme for the information. **The Department shall submit a report with the plan and distribution scheme, together with any necessary legislation, to the Joint Standing Committee on MDIFW no later than January 1, 2024.** The committee is authorized to report out a bill based on the report to the Second Regular Session of the 131st Legislature. MDIFW shall use a multimedia approach to this situation.

## Background

The Department testified in support of this resolve, citing that staff frequently receive questions from municipalities and the public regarding municipal ordinances that may encroach on regulation of outdoor activities that are within the jurisdiction of the Department such as hunting, boating, and fishing for examples.

The Department supported the resolve as we believe many municipalities are not aware of the scope of the limits on local regulation when it comes to public resources belonging to all Maine citizens. Maine law is based on the North American Model of Wildlife Conservation, where the oversight of fish and wildlife is entrusted to the state, and we follow the Public Trust Doctrine that also entrusts the state to protect our publicly owned great ponds for everyone to enjoy. Locally regulating these resources is complicated for the public and in many instances creates a burden to municipalities.

Municipalities are limited in their authority to regulate watercraft, hunting, trapping or fishing, ATVs and snowmobiles. Except as provided within Title 12 MRSA §13201 which states:

#### **§13201. Limits on local regulation**

*A municipality or political subdivision of the State may not enact any ordinance, law or rule regulating or charging a fee for the hunting, trapping or fishing for any species of fish or wildlife; the possession or use of any equipment expressly permitted for use in hunting under this Part; the operation, registration or numbering of all-terrain vehicles, watercraft or snowmobiles or any other subject matter relating to all-terrain vehicles, watercraft or snowmobiles regulated under chapter 935 or 937 or under any other provisions of this Part, except that a municipality may regulate the operation of all-terrain vehicles on municipal property and on rights-of-way and easements held by that municipality. For purposes of this section, except as provided in subsection 3, the regulation of fishing includes the regulation of ice fishing shacks. This section does not prohibit: [PL 2013, c. 199, §1 (AMD).]*

- 1. Firearm discharge.** *The enactment of any ordinance generally regulating the discharge of firearms in a municipality or any part of a municipality; [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]*
- 2. Certain rules.** *The adoption of rules as authorized in section 13051; or [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]*
- 3. Ice fishing shacks.** *The enactment of any ordinance regulating ice fishing shacks on:*
  - A. Sources of public water supply as provided under Title 22, section 2642 except that a municipality or political subdivision of the State may not impose a fee on ice fishing shacks on sources of public water supply; or [PL 2011, c. 519, §1 (AMD).]*
  - B. Coastal waters as defined in section 6001, subsection 6 except that a municipality or political subdivision of the State may not impose a fee on ice fishing shacks on coastal waters.*

## Examples of Outreach

As part of this Resolve the Department worked with with Maine Municipal Association on ways to better communicate with municipal officials around the state. The Department created a 15-page Frequently Asked Questions Guidance Document that focuses on the State’s authority over certain activities including hunting, fishing, trapping, recreational vehicles, public use on great ponds, moorings, navigational aids, the Public Trust Doctrine, shooting ranges, and nuisance wildlife. It provides some information on the different responsibilities the natural resource agencies each have, and those agencies’ contact information.

The Department also paid for a booth at the Annual Maine Municipal Association Convention on October 4<sup>th</sup> and 5<sup>th</sup>, 2023. MDIFW had staff from our Beginning with Habitat Program who focused on outreach to towns related to incorporating habitat conservation when towns renew their comprehensive plans. Maine Warden Service staff were there to discuss Landowner Relations efforts and ways towns can be assisted by the program. Information and Education and the Commissioner’s Office staff were there to relay information related to MDIFW’s authority over hunting, trapping, fishing and recreational vehicle use in the state. The Frequently Asked Questions Guidance Document was passed out to approximately 30 different towns’ representatives with discussion about the content.

The MDIFW Guidance Document is accessible on the Department’s website at the following link: <https://www.maine.gov/ifw/docs/FAQ%20on%20Towns%20Ordinance%20Authority%20over%20MDIFW%20matters.pdf>. This is also linked to Maine Municipal Association’s (MMA) website, it has been distributed via MMA’s E-newsletter for municipalities across the state (over 4,000 subscribers), it has been provided to Maine Harbor Master’s Association that has between 390-450 Harbor Master Assistants, Harbor Masters and deputies, and it has been provided to all MDIFW staff. The Department believes that it will help provide our staff the knowledge to give consistent messaging to towns and our constituents on these matters. We intend to further support this resolve by creating some “video guides” that can be accessed on DIFW’s website as well as MMA’s website.

## Conclusion

MDIFW will work to address concerns at a local level as they arise, but we do not have staffing to seek and address all potential issues related to this topic. The Department doesn’t believe legislation is necessary at this time.

MDIFW intends to continue this messaging and outreach to municipalities and provide a recorded question and answer session to offer on the MDIFW and MMA websites. We feel this outreach effort has created a starting point to give MDIFW staff, municipalities, and the public a better understanding of the regulatory lines between the state and municipal governments on fish and wildlife management and recreational vehicle operations. The Department intends to continue these efforts and keep the newly created guidance document updated annually.