

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2196

S. P. 765

In Senate, January 2, 1974

Referred to the Committee on Fisheries and Wildlife. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Anderson of Hancock.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Correct Errors and Inconsistencies in the Fish and Game Laws.

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

Sec. 1. R. S., T. 12, § 501-A, sub-§ 9, repealed. Subsection 9 of section 501-A of Title 12 of the Revised Statutes, as enacted by section 3 of Section D of chapter 91 of the private and special laws of 1971 and as repealed and replaced by section 61 of chapter 625 of the public laws of 1973, is repealed.

Sec. 2. R. S., T. 12, § 1978, sub-§ 6, amended. The 2nd paragraph of subsection 6 of section 1978 of Title 12 of the Revised Statutes, as enacted by section 11 of chapter 613 of the public laws of 1973, is repealed.

Sec. 3. R. S., T. 12, § 1980, amended. The next to the last sentence of section 1980 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 414 of the public laws of 1969, is repealed as follows:

~~The Commissioner of Inland Fisheries and Game, after determining that like privileges are granted by a state, district or country, shall have the authority to enter into a formal written agreement or make other arrangements with such state, district or country for the purpose of carrying out the purpose of this section.~~

Sec. 4. R. S., T. 12, § 2001, amended. The 3rd paragraph of section 2001 of Title 12 of the Revised Statutes, as repealed and replaced by section 23 of chapter 544 of the public laws of 1967 and as amended, is further amended to read as follows:

It shall be the duty of the inland fish and game wardens to enforce all laws relating to inland fisheries and game and all rules and regulations pertaining

thereto, Title 7, chapter 707 and ~~sections 3601~~ section 3602, Title 17, section 2794, Title 32, chapter 65; all regulations of the Federal Migratory Bird Treaty Act, Act of Congress approved July 3, 1918, as amended; all rules and regulations promulgated by the State Bureau of Parks and Recreation relating to hunting, fishing and trapping; all rules and regulations promulgated in accordance with Title 38, section 323 and all rules and regulations promulgated by authority of chapter 206; to arrest all violators thereof, and to prosecute all offenses against the same.

Sec. 4-A. R. S., T. 12, § 2154, amended. Section 2154 of Title 12 of the Revised Statutes, as amended, is further amended by adding at the end the following new paragraph:

Sebago Lake Basin Wildlife Management Area: All that portion of Sebago Lake commonly known as Sebago Lake Basin lying below the high water mark in the Towns of Standish and Windham.

Sec. 5. R. S., T. 12, § 2402, amended. The 12th paragraph of section 2402 of Title 12 of the Revised Statutes, as repealed and replaced by section 9 of chapter 231 and the 15th paragraph as enacted by section 24 of chapter 403, both of the public laws of 1971, are repealed.

Sec. 6. R. S., T. 12, § 2402, amended. Section 2402 of Title 12 of the Revised Statutes, as repealed and replaced by section 9 of chapter 231 of the public laws of 1971 and as amended, is further amended by adding at the end the following new paragraphs:

All beaver skins shall be presented for tagging and marking within 10 days from the closing of the so-called open season. All beaver which are not tagged and marked in accordance with this section shall be seized and confiscated by the wardens.

Whoever traps for any wild animal in violation of this section, or who ever has in his possession at any time any wild animal, or part thereof, taken in violation of any provisions of this section, or of section 1960-A or any regulation promulgated thereunder, shall be subject to the penalties provided in sections 3060 and 3060-A.

Sec. 7. R. S., T. 12, § 2552, sub-§ 7, amended. The first paragraph of subsection 7 of section 2552 of Title 12 of the Revised Statutes, as enacted by chapter 105 of the public laws of 1969 and as repealed and replaced by section 1 of chapter 297 of the public laws of 1973, is repealed and the following enacted in place thereof:

No person shall fish for or have in possession Atlantic sea run salmon in this State, except in accordance with this section and as otherwise provided in chapter 409.

Sec. 8. R. S., T. 12, § 2552, sub-§ 8, additional. Section 2552 of Title 12 of the Revised Statutes, as amended, is further amended by adding a new subsection 8 to read as follows:

8. Open season for Atlantic salmon. There shall be an open season for Atlantic sea run salmon as follows:

A. Denny's River — That portion of the Denny's River between tidewater and 2 red posts at The Narrows in the Town of Dennyville, Washington County, shall be open to fishing from April 1st until October 15th. From September 15th to October 15th there shall be a daily bag and possession limit of one salmon with fly fishing only permitted.

B. Machias River — That portion of the Machias River between tidewater and the Whitneyville Dam in the Town of Whitneyville, Washington County, shall be open to fishing from April 1st until October 15th. From September 15th until October 15th there shall be a daily bag and possession limit of one salmon with fly fishing only permitted.

C. Narraguagus River — That portion of the Narraguagus River between tidewater and the Cherryfield Ice Control Dam in the Town of Cherryfield, Washington County, shall be open to fishing from April 1st until October 15th. From September 15th until October 15th there shall be a daily bag and possession limit of one salmon with fly fishing only permitted.

D. Union River — That portion of the Union River from the power dam in Ellsworth downstream to the Route 1 bridge shall be fly fishing only. It shall be unlawful to fish with any fly equipped with more than a single-pointed hook. The open season on Atlantic sea run salmon in tidal waters of the Union River shall be from April 1st to October 30th. From September 15th to October 30th there shall be a daily bag and possession limit of one salmon. It shall be unlawful to fish at any time within 10 feet of the fishway and trap located at the power dam in Ellsworth.

Sec. 9. R. S., T. 12, §§ 3055-3059, amended. Sections 3055 to 3059 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows:

§ 3055. Recovery and disposition of fines, fees, forfeitures and penalties

The Commissioner of Inland Fisheries and Game shall have the same authority concerning fines, fees, forfeitures and penalties authorized by chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65 as is granted and vested in the Commissioner of Marine Resources under section 4508.

§ 3056. Proceedings against corporations

In case of violation of any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, by a corporation, the warrant may be served by an attested copy on the president, secretary, manager or any general agent thereof in the county where the action is pending, and upon return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation. This section shall not be deemed to exempt any agent or employee from prosecution.

§ 3057. Prosecution by county attorneys

Each county attorney shall prosecute all violations of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title

32, chapter 65, occurring within his county when such cases may come to his knowledge, or when he may be so requested by the commissioner or any officer charged with its enforcement.

§ 3058. Results reported to commissioner

Every judge or the clerk of the court, except the District Court before whom any prosecution under chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, is commenced or shall go on appeal, within 20 days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and disposition thereof, to the commissioner.

§ 3059. Jail costs

The costs for imprisonment in a county jail for the violation of any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or rules and regulations promulgated thereunder shall be paid by the commissioner to the county involved. Such costs shall not exceed the average amount paid for board of federal prisoners.

Sec. 10. R. S., T. 12, § 3060, amended. The first paragraph of section 3060 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

Whoever violates any of the provisions of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or rules and regulations promulgated thereunder, or rules and regulations heretofore promulgated and still in force and effect, excepting only those for the violation of which specific penalties have been provided, shall be punished by a fine of not less than \$20 nor more than \$500 and costs, or by imprisonment for not more than 90 days, or by both, except as hereafter noted:

Sec. 11. R. S., T. 12, § 3061, amended. The first sentence of section 3061 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

All fines, penalties, officers' costs and all other moneys recovered by the court under any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65 shall accrue to the Treasurer of State.

Sec. 12. R. S., T. 12, § 3101, amended. The first 2 sentences of section 3101 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows:

All birds, fish or animals, or parts thereof, hunted, bought, sold, carried, transported or found in possession of any person in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or equipment possessed in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, shall be contraband and shall be subject to seizure by the State. The officer who made such seizure may within reasonable time

file with a judge a libel against such birds, fish or animals, or parts thereof, or any equipment possessed in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, except that articles of less than \$10 in value shall not be libeled unless reasonable doubt exists as to the ownership thereof, setting forth their seizure by him, describing such birds, fish or animals, or parts thereof, or equipment and that they were hunted, taken, caught, killed or had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, and pray for a decree of forfeiture thereof.

Sec. 13. R. S., T. 12, § 3101, amended. The 2nd and 4th sentences of the 3rd paragraph of section 3101 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows :

If any person appears and claims such articles, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the judge such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it must declare that they were not had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, with his knowledge or consent, and state his business and place of residence, and shall sign and make oath to the same before said judge.

If the judge is, upon the hearing, satisfied that said birds, fish or animals, or parts thereof, or any equipment possessed were not had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody commanding him to deliver to said claimant the articles, or proceeds derived from the sale of the same, to which he is so found to be entitled, within 48 hours after demand.

Sec. 14. R. S., T. 12, § 3101, amended. That part of section 3101 of Title 12 of the Revised Statutes, which relates to Form of Libel, and as amended, is further amended to read as follows :

FORM OF LIBEL
STATE OF MAINE

County of, ss. To
Clerk:
Judge of the District Court:
Complaint Justice:

The libel of, of shows that he has seized certain birds, fish or animals, or parts thereof, or equipment possessed in violation of the provisions of the Revised Statutes, Title 12, chapters 301

co 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and~~ section 3602 and Title 32, chapter 65, as revised, described as follows:

.....
.....

because the same were hunted, taken, caught, killed or had in possession in violation of the provisions of said chapters **and sections**, as follows:

.....
.....

which said articles were possessed at in said County of Wherefore he prays for decree of forfeiture of said articles, according to the provisions of law in such case made and provided.

Dated at, in said county, this day of, in the year of our Lord nineteen hundred

(Signed)
Inland Fish and Game Warden

Sec. 15. R. S., T. 12, § 3102, amended. The last sentence of section 3102 of Title 12 of the Revised Statutes, as amended by section 40 of chapter 448 of the public laws of 1965, is further amended to read as follows:

The failure of any person or officer to perform any act, duty or obligation enjoined upon him by chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and~~ section 3602 and Title 32, chapter 65 shall be deemed a violation thereof.

Sec. 16. R. S., T. 12, § 3153, amended. Section 3153 of Title 12 of the Revised Statutes, as amended by section 41 of chapter 448 of the public laws of 1965, is further amended to read as follows:

§ 3153. Participant in violation compelled to testify
In any prosecution under chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and~~ section 3602 and Title 32, chapter 65, any participant in a violation thereof, when so requested by the county attorney, commissioner or other officer instituting the prosecution, may be compelled to testify as a witness against any other person charged with violating the same, but his evidence so given shall not be used against himself in any prosecution for such violation.

STATEMENT OF FACT

The purpose of this bill is reflected in the title.