

MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 274

House of Representatives, Feb. 27, 1919.

Referred to Committee on Inland Fisheries and Game and
500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Maher of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to Amend Sections Six and Seven of Chapter Two
Hundred Nineteen of the Public Laws of Nineteen Hundred
Seventeen, Relating to Providing Dams with Fishways.

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

Chapter two hundred nineteen of the public laws of nine-
2 teen hundred seventeen is hereby amended by striking out
3 sections six and seven of said chapter and by substituting
4 therefor the following:

'Sect. 6. If the commissioner of inland fisheries and game
2 deems it expedient that any dam or other artificial obstruc-
3 tion above tide water in any river or stream frequented by
4 salmon, landlocked salmon, shad, alewives or other migra-

5 tory fish shall be provided with a fishway, he shall give
6 notice in writing to the owner or occupant of said dam
7 or artificial obstruction to provide the same with a durable
8 and efficient fishway of such form and capacity and in
9 such location as may, after hearings of all parties interested
10 be determined. Said notice shall specify the proposed lo-
11 cation, form and capacity of said fishway and the time
12 within which it is desired that it shall be built, and shall
13 fix the time and place for said hearing. It shall be served
14 upon some owner or occupant of said dam or obstruction
15 fourteen days at least before the time of said hearing in
16 the same manner as civil processes are served and by any
17 officer authorized to serve civil process or by any fish and
18 game warden.

If, after said hearing, the commissioner finds the fishway
2 to be expedient, he may by an order in writing require said
3 owner or occupant to provide said dam or obstruction with
4 a durable and efficient fishway within such time and with
5 such specifications as to location, form and capacity as shall
6 be specified in said order. Certified copies of said order
7 shall be mailed to the owner of said dam or other artificial
8 obstruction.

An appeal may be taken by such owner or occupant from
2 any order of the commissioner to the county commissioners
3 of the county where the dam is located, within twenty
4 days after the mailing of the copy of said order by filing
5 in the office of said commissioner notice in writing of

6 such appeal, stating therein the reasons therefor; at the
7 request of the appellant or the commissioner of inland fish-
8 eries and game, the senior commissioners in office of any
9 two adjoining counties shall be associated with the com-
10 missioners of the county where the dam is located. They
11 shall appoint a time to view the premises and hear the
12 parties and give due notice thereof, and after such hearing
13 they shall decide all questions in relation thereto, and cause
14 record to be made thereof, and their decision shall be final.

If requirements of the commissioner of inland fisheries
2 and game are affirmed, the owner or occupant of any such
3 dam shall be liable for the costs of all proceedings arising
4 after the appeal, otherwise said costs shall be paid by the
5 state.

The expense of the construction of such fishway in any
2 dam or other artificial obstruction now existing shall be
3 borne as follows: Fifty per centum by the state and fifty
4 per centum by the owner or occupant of the dam.

The fishway thus required shall be completed in accord-
2 ance with the terms of said order or the findings of said
3 county commissioners. On the completion of a fishway
4 the commissioner of inland fisheries and game shall pre-
5 scribe in writing the time during which the same shall be
6 kept open and free from obstruction to the passage of fish
7 each year, and a copy of such writing shall be served on
8 the owner or occupant of the dam. The commissioner of
9 inland fisheries and game may change the time as he sees

10 fit. Unless otherwise provided, fishways shall be kept open
11 and unobstructed from the first day of May to the fifteenth
12 day of July. The penalty for neglecting to comply with
13 this section, or with any regulations made in accordance
14 herewith, is not less than twenty, nor more than one hun-
15 dred dollars for every day of such neglect.

‘Sect. 7. Whenever the commissioner of inland fisheries
2 and game finds a fishway out of repair or needing alter-
3 ations, he may, as in the case of new fishways, require the
4 owner or occupant to make such repairs or alterations; and
5 all proceedings in such cases and the penalty for neglect
6 shall be as provided in the preceding section. An appeal
7 in writing may be taken by the owner or occupant from
8 any requirement of the commissioner as to alterations, said
9 appeal to be heard and determined and costs and expense
10 apportioned as provided in the preceding section. If the
11 dam is owned and occupied by more than one person, each
12 is liable for the cost of erecting and maintaining such fish-
13 way in proportion to his interest in the dam, and if any
14 owner or occupant neglects or refuses to join with the
15 others in erecting or maintaining such fishway, the other
16 owners or occupants shall erect or repair the same, and
17 have an action on the case against such delinquent for his
18 share of the expenses. If the owner or occupant of such
19 dam resides out of the state, said penalties may be recov-
20 ered by a libel against the dam and land on which it stands,
21 filed in the supreme judicial court in the county where it

22 is located, in the name of the commissioner of inland fish-
23 eries and game or of any inland fish and game warden
24 who shall give to such owner or occupant, and all persons
25 interested therein, such notice as the court or any justice
26 thereof in vacation orders, and the court may render judg-
27 ment therein, against said dam and lands for said penalties
28 and costs, and order a sale thereof to satisfy such judg-
29 ment and cost of sale, subject, however, to all said require-
30 ments for the erection and maintenance or repair of said
31 fishway. The commissioner of inland fisheries and game
32 may delegate to any fish and game warden or other lawful
33 officer of inland fisheries and game any of the powers given
34 to said commissioner in relation to the construction of fish-
35 ways.’