

# MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

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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.

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STATE OF MAINE

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

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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.

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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.'