

MAINE STATE LEGISLATURE

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CHAPTER 335

ENFORCEMENT AND JURISDICTION

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SUBCHAPTER I

GENERAL PROVISIONS

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§ 3051. Vehicles must stop on signal

It shall be unlawful for the operator of any vehicle to immediately fail or refuse to stop any such vehicle or conveyance of any kind, upon request or signal of any officer whose duty it is to enforce the game laws when such officer is in uniform.

Whoever violates any provision of this section shall be punished by a fine of not less than \$100 nor more than \$400, or by imprisonment for not more than 90 days, or by both.

R.S.1954, c. 37, § 80; 1955, c. 290, § 18.

§ 3052. Arrest without process; jurisdiction; false personation

Any officer authorized to enforce the inland fish and game laws may, without process, arrest any violator of said laws and shall, with reasonable diligence, cause him to be taken before the

District Court in the division in which the offense is alleged to have been committed, for a warrant and trial; or if the District Court in an adjoining division is the nearest court to the place of violation, concurrent jurisdiction is given to such District Court to hear and try such case.

Any game warden may arrest with or without warrant any person who impersonates or represents himself as being a game warden.

R.S.1954, c. 37, § 130; 1957, c. 392, § 34; 1963, c. 402, § 77.

§ 3053. Jurisdiction

The District Court shall have original and concurrent jurisdiction with the Superior Court in all prosecutions under any provisions of chapters 301 to 335.

R.S.1954, c. 37, § 131; 1963, c. 402, § 78.

§ 3054. Reciprocity

Whenever a violation of the sea and shore fisheries laws or the inland fish and game laws of the State of New Hampshire or the State of Maine is committed or attempted to be committed by any person or persons fishing in any waters or portion thereof lying between the State of New Hampshire and the State of Maine, any warden or other person, who is authorized to make arrests for violations of the sea and shore fisheries laws and the inland fish and game laws of the State of New Hampshire, shall have power and authority to make arrests on any part of such waters between the State of New Hampshire and the State of Maine or the shores thereof and to take the person or persons so arrested for trial to the state in which the violation was committed and there to prosecute such person or persons according to the laws of such state.

R.S.1954, c. 37, § 23.

§ 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 as is granted and vested in the Commissioner of Sea and Shore Fisheries under section 4508.

R.S.1954, c. 37, § 133; 1959, c. 331, § 3; 1963, c. 279, § 33.

§ 3056. Proceedings against corporations

In case of violation of any provision of chapters 301 to 335 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.

R.S.1954, c. 37, § 134.

§ 3057. Prosecution by county attorneys

Each county attorney shall prosecute all violations of chapters 301 to 335 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. Such prosecution shall at all times be subject to the supervision and control of the commissioner.

R.S.1954, c. 37, § 135.

§ 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 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.

R.S.1954, c. 37, § 137; 1957, c. 334, § 5; 1963, c. 402, § 80.

§ 3059. Jail costs

The costs for imprisonment in a county jail for the violation of any provision of chapters 301 to 335 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.

R.S.1954, c. 37, § 138.

§ 3060. Penalties

Whoever violates any of the provisions of chapters 301 to 335 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 \$10 nor more than \$300 and costs, or by imprisonment for not more than 90 days, or by both, except as hereafter noted:

1. Beaver. Whoever violates any provision of chapters 301 to 335 relating to beaver, except setting any trap within 25 feet of any beaver house, or setting any trap within 10 feet of any beaver dam, shall be punished by a fine of not less than \$50 and costs and \$50 additional for each beaver or skin involved, or by imprisonment for not more than 90 days, or by both.

1957, c. 392, § 35; 1963, c. 279, § 34.

2. Violation of § 2451. Whoever violates any of the provisions of the first 2 paragraphs of section 2451 shall be punished by a fine of not less than \$200 nor more than \$300 and costs, or by imprisonment for not more than 90 days, or by both.

3. When specific fine cannot be suspended. Wherever any particular violation of any section of chapters 301 to 335 carries a specific fine which cannot be suspended, this section shall not apply.

R.S.1954, c. 37, § 139; 1957, c. 392, § 35; 1963, c. 279, § 34.

§ 3061. Collection and disposition of moneys

All fines, penalties, officers' costs and all other moneys recovered by the court under any provision of chapters 301 to 335 shall accrue to the Treasurer of State and shall be paid into the treasury of the county where the offense is prosecuted. All officers' fees taxed against a respondent, if any, under any provision of chapters 301 to 335, which are not paid or recovered from the respondent shall not be assumed or paid by the county where the offense was committed. All fees, fines and penalties recovered and money received or collected, and including moneys received from sale, lease or rental of department owned property, shall be paid to the Treasurer of State and credited to the department for the operation of fish hatcheries and feeding stations for fish, for the protection of fish, game and birds, information and education on conservation and for printing the report of said commissioner and other expenses incident to the administration of said department, and shall be expended by the said commissioner for the purposes for which said department is created.

All moneys credited to the Department of Inland Fisheries and Game shall be credited, apportioned and expended as provided by the Legislature.

If any of such fees, fines, penalties or other moneys are not expended during the year in which they are collected, the unexpended balance shall not lapse, but be carried as a continuing account and available for the purposes specified until expended.

Any officer or other person who shall receive any fine or penalty, or any part thereof, for the violation of any fish or game law, or rule or regulation, or any fees for licenses issued by authority of any inland fish and game law and shall neglect for more than 30 days to pay the same as provided, shall be punished by a fine of not less than \$50 nor more than \$100, and costs of prosecution for each offense.

R.S.1954, c. 37, § 129; 1959, c. 333, § 17; 1963, c. 27.

SUBCHAPTER II

SEARCH AND SEIZURE

Sec.

3101. Game and equipment.

3102. Report to commissioner.

3103. Need of warrant; notice to transportation companies.

§ 3101. Game and equipment

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, or equipment possessed in violation of chapters 301 to 335, shall be contraband and shall be forfeited to the State. In all cases where a warden may find birds, fish or animals, or parts thereof, or equipment possessed in violation of chapters 301 to 335, he may seize the same without a warrant and keep them for a reasonable time. 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, 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

pray for a decree of forfeiture thereof. Such judge shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed and show cause why said birds, fish or animals, or parts thereof, or equipment possessed should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in 2 conspicuous places in the town or place where such birds, fish or animals, or parts thereof, or equipment possessed were seized, or in such place or places as is ordered by the judge, 10 days at least before the day to which said libel is returnable. Copies shall be served on common carriers.

In case the judge finds that the birds, fish or animals, or any parts thereof, seized will be unsuitable for food, or other use, at the day to which said libel is returnable, he shall order the officer making the seizure to dispose of the same. The officer disposing of the same shall, in case of sale, hold the proceeds of said sale subject to order of the court for decision as to the right of the claimant, if any appear, to said birds, fish or animals, or parts thereof. If the judge finds the claimant, if any appear, is not entitled to said birds, fish or animals, or parts thereof, the officer making such seizure shall turn over to the judge the proceeds of such sale, and such judge shall forward the proceeds thereof to the commissioner in the same manner as is provided by section 3061.

If no claimant appears, such judge shall, on proof of notice, declare the same forfeited to the State. 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, 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 any person so makes claim, he shall be admitted as a party to the process; and the judge shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. 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 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. If the judge finds the claimant entitled to no part of said articles so seized, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such judge, and issue execution thereon, and shall declare said articles forfeited to the State. The claimant may appeal and shall recognize with sureties as on appeals in civil causes from a judge.

The forms set forth, with such changes as adapt them for use in municipalities, are sufficient in law for all cases arising under the foregoing provisions, to which they purport to be adapted. The costs to be taxed and allowed for libel shall be 50¢; for entering the same, 30¢; for trying the same, \$1; for a monition, 50¢; for posting notices and return, \$1; order to restore or deliver, 25¢; executing the order, 50¢; and 10¢ per mile for all necessary travel.

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 to 335, 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, 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

FORM OF MONITION AND NOTICE

STATE OF MAINE

L. S.

County of, ss.

To all persons interested in

The libel of hereunto annexed, this day filed with me, esquire, Judge of the District Court, shows that he has seized said articles because and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before said court, at in said county, on the day of A. D. 19.. at o'clock in the noon and then and there show cause why said articles should not be forfeited, and that notice hereof be given to all persons interested by causing a true and attested copy of this libel and monition to be posted in and two conspicuous places in the Town of at least ten days before the return day hereof.

Witness:, esquire on the day of 19..

..... Judge

A true copy. Attest:

..... Inland Fish and Game Warden

STATE OF MAINE

.....ss. A. D. 19..

I have this day made service of the within libel and monition, by posting up true and attested copies of the same, in two con-

spicuous places to wit: one and one in
Posting notice \$1.00

.....
Inland Fish and Game Warden

Travel miles
Total \$

STATE OF MAINE

(L. S.)

.....ss.

To one of the
..... of the

WHEREAS it appears that due notice was given to all parties interested in the birds, fish, game, wild or fur-bearing animals, or parts thereof, or equipment described in the within libel of to appear before, esquire, a Judge of the District Court at in on the day of A. D. 19.. at o'clock in the noon, and show cause why said should not be declared forfeited. And no person appearing to claim the same, said are declared forfeited.

And of did appear and claim said and after hearing all the evidence I order said returned to said claimant. The same are declared forfeited and you are hereby ordered to turn the same over to the Commissioner of Inland Fisheries and Game.

Witness,, esquire, Judge of the District Court this day of A.D. 19..

.....
Judge of District Court

..... ss. A. D.

Pursuant to the above order to me directed, I have turned over the within described to the Commissioner of Inland Fisheries and Game.

.....
Inland Fish and Game Warden

R.S.1954, c. 37, § 126; 1963, c. 402, §§ 75, 76.

§ 3102. Report to commissioner

In all cases, the officer making any seizure or sale of birds, fish, game or other wild animals, or parts thereof, shall within 10 days thereafter report all particulars thereof and an itemized statement of the proceeds, expenses and fees, and the disposition

thereof to the commissioner. The failure of any person or officer to perform any act, duty or obligation enjoined upon him by chapters 301 to 335 shall be deemed a violation thereof.

R.S.1954, c. 37, § 127.

§ 3103. Need of warrant; notice to transportation companies

The commissioner and wardens may arrest, with or without a warrant, any person whom he has reason to believe guilty of a violation of any provision of chapters 301 to 335 and, with or without a warrant, may open, enter and examine all buildings, camps, vessels, boats, wagons, cars, motor vehicles, airplanes, stages, tents and other receptacles and places, and examine all boxes, barrels and packages where he has reason to believe that birds, fish, game or other wild animals, or parts thereof, taken or held in violation of chapters 301 to 335, are to be found, and seize such birds, fish, game or other wild animals, or parts thereof, if any be found therein. No dwelling house shall be searched for the above purposes without a warrant, and then only in the daytime, and no sealed railroad car shall be entered for the above purposes without such warrant. Any judge may issue warrants to search within his jurisdiction any dwelling house or premises for the purpose above set forth. The commissioner shall, on or before the first day of October of each year, in writing, notify the superintendents of all transportation companies doing business within the State, of the names of the wardens by him designated to exercise the right of search of railroad cars, and no other except those so designated shall be authorized to exercise the powers mentioned as to search of railroad cars.

R.S.1954, c. 37, § 128.

SUBCHAPTER III

EVIDENCE

Sec.

3151. Possession without license prima facie violation; firearms.

3152. —Fishing tackle.

3153. Participant in violation compelled to testify.

§ 3151. Possession without license prima facie violation; firearms

The possession of any firearm in the fields, forests or on the waters or ice within the territorial limits of the State by any per-

son who does not possess the required hunting license duly issued to him, covering the period of time within which said firearm is found in his possession, shall be prima facie evidence of hunting in violation of law unless such person furnishes satisfactory evidence of the issuance of such license.

R.S.1954, c. 37, § 140; 1959, c. 333, § 18; 1963, c. 279, § 35.

§ 3152. —Fishing tackle

The possession of any fishing tackle in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required fishing license duly issued to him, covering the period of time within which such fishing tackle is found in his possession, shall be prima facie evidence of fishing in violation of law unless such person furnishes satisfactory evidence of the issuance of such license.

R.S.1954, c. 37, § 141.

§ 3153. Participant in violation compelled to testify

In any prosecution under chapters 301 to 335, 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.

R.S.1954, c. 37, § 136.