

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1478

H. P. 1022

House of Representatives, March 26, 1963

Reported by Mr. Benson from Committee on Inland Fisheries and Game and printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Clarifying the Inland Fish and Game Laws.

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

Sec. 1. R. S., c. 37, § 13-A, additional. Chapter 37 of the Revised Statutes, as revised, is amended by adding a new section 13-A, to read as follows :

'Sec. 13-A. Tampering, injuring or destroying fishways. Whoever without authority from the commissioner tampers with a fishway, closes a fishway to fish migration, introduces foreign objects into a fishway, or damages or destroys a fishway, shall be punished by a fine of not more than \$100.'

Sec. 2. R. S., c. 37, § 14-A, additional. Chapter 37 of the Revised Statutes, as revised, is amended by adding a new section 14-A, to read as follows :

'Sec. 14-A. Tampering, injuring or destroying dams. Whoever without authority from the commissioner tampers with any dam owned or operated by the Department of Inland Fisheries and Game, opens or closes gates or sluiceways, adds or removes flashboards, or otherwise damages or destroys such dams, shall be punished by a fine of not more than \$100.'

Sec. 3. R. S., c. 37, § 15, amended. The first paragraph of section 15 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows :

'The commissioner, after hearing pursuant to the provisions of section 9, may set apart for a term not exceeding 10 years any inland waters for the use of the State, or of the United States Commissioner of Fisheries in the prosecution of the work of fish culture and scientific research relative to fish. The order setting apart such waters shall be recorded in the registry of deeds in the county or registry district in which they are situated. In the waters so set apart, the com-

missioner ~~and the United States Commissioner of Fisheries~~ and persons acting under ~~their~~ **his** authority in their respective fish culture and scientific work may take fish at any time or in any manner, and erect and maintain any fixtures necessary for such purposes. ~~No other persons shall take or kill any fish, or use any implement for fishing, in such waters.'~~

Sec. 4. R. S., c. 37, § 15, amended. Section 15 of chapter 37 of the Revised Statutes, as revised, is amended by inserting after the first paragraph, a new paragraph to read as follows:

'The commissioner may establish such rules and regulations as he may deem necessary by publishing and filing in the same manner as rules and regulations are established as provided for in section 9.'

Sec. 5. R. S., c. 37, § 17, amended. The first and 3rd paragraphs of section 17 of chapter 37 of the Revised Statutes, as revised, are amended to read as follows:

'The commissioner is authorized to regulate hunting, fishing ~~and~~, trapping, boating, camping and other public use on game management areas and is authorized to close such areas to hunting, fishing ~~and~~, trapping, **boating, camping and other public use** or to permit the taking of any species which he shall designate for such periods, on such portions of the areas, and under such special regulations as are necessary to insure a desirable effect on game populations and provide for human safety. When game management areas are bordered by tidal flats such authority shall extend to the low-water mark on said flats.'

'On department-owned lands, the commissioner may harvest and sell natural products of the land, including hay, timber and Christmas trees, and fur-bearers may be removed from said game management areas by controlled trapping conducted under the direction of the commissioner ~~in which case the furs shall become the property of the State and the proceeds from their sale shall be used for maintenance of the game management areas.'~~

Sec. 6. R. S., c. 37, § 20, amended. Section 20 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Sec. 20. Federal fish culture recognized. The United States ~~Commissioner of Fisheries~~ **Fish and Wildlife Service** and ~~his~~ **its** duly authorized agents are accorded the right to conduct fish culture operations and scientific investigations in the waters of this State in such manner and at such times as may be considered necessary and proper by the said ~~commissioner~~ **service** and ~~his~~ **its** agents.'

Sec. 7. R. S., c. 37, § 26, amended. The 2nd sentence of section 26 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Fish and game wardens Wardens appointed under ~~the provisions of section 27~~ **authority of this chapter** shall hold no other state, county or town office from which they receive compensation.'

Sec. 8. R. S., c. 37, § 38, amended. Section 38 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Sec. 38. Definitions. Each word or term defined in this section has the meaning indicated in this section for the purposes of this chapter, unless a different meaning is plainly required by the context.

~~The words closed~~ **I. Closed season.** "Closed season" shall mean the time during which it is unlawful to hunt, pursue, shoot, wound, trap, destroy or possess any bird or animal, to fish for or catch any fish.

II. Fly. "Fly" means a hook dressed with feathers, hair, thread, tinsel or any similar material to which no additional weights, hook, spinner, spoon or similar device is added.

III. Fly fishing. "Fly fishing" means to cast upon water and retrieve in the usual and ordinary manner an unbaited, unweighted artificial fly attached to a line to which no extra weight has been added.

IV. Inland waters. "Inland waters" means all waters within the State above the rise and fall of the tide and wholly or partly within the territorial limits of the State and excepting private ponds as defined in section 62.

V. Jigging. "Jigging" shall mean the use of any fishing tackle or device used in an attempt to snag or snare fish.

VI. Landlocked salmon and salmon. "Landlocked salmon" and "salmon" shall be construed to mean the same species of fish.

VII. Open season. ~~The words open~~ "Open season" ~~mean~~ means the time during which it shall be lawful to take animals, birds and fish as specified and limited by law.

VIII. Tributary. ~~The word tributary~~ "Tributary" means a brook or stream flowing directly or indirectly into a lake, pond or another stream. A lake or great pond shall not be construed to mean "tributary." The tributary to a great pond shall not be considered a tributary to the outlet of that great pond.

IX. Water thoroughfare. A "water thoroughfare" means a waterway without flowage, as distinguished from a stream or river, connecting 2 bodies of water. All thoroughfares and bogs shall be covered by the same laws applicable to lakes and ponds except as ~~hereinafter~~ provided.

X. Wild bird. "Wild bird" means a species of bird wild by nature, whether or not bred or reared in captivity, as distinguished from common domestic birds.'

Sec. 9. R. S., c. 37, § 39, sub-§ V, amended. The 7th sentence of subsection V of section 39 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Any resident or nonresident of the State ~~who is a citizen of the United States~~ may procure a license good for 3 consecutive days as designated in the license upon the payment of \$3.75, 25c to be retained by the agent.'

Sec. 10. R. S., c. 37, § 55, amended. Section 55 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

Sec. 55. Taking of smelts. ~~It shall be unlawful to take smelts in any of the inland waters of the State above the tidewaters for the same period that such~~

waters are closed to all fishing, except as hereinafter provided or under the rules and regulations of the department. During the open season on such waters, smelts Smelts may be taken by the use of a dip-net in the usual and ordinary way. No person shall take, kill, catch or have in possession more than 4 quarts of smelts in any one day.'

Sec. 11. R. S., c. 37, § 58, amended. The 2nd paragraph of section 58 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Any person legally in possession of any fish may ship his daily limit of fish to his home by way of a common carrier, in accordance with the provisions of this chapter. Such privilege of shipment may be exercised once every 10 days by purchasing from the commissioner or his agent a transportation tag which shall cost \$+ \$1.25. Twenty-five cents shall be retained by the issuing agent.'

Sec. 12. R. S., c. 37, § 61, repealed. Section 61 of chapter 37 of the Revised Statutes, as revised, is repealed as follows:

'Sec. 61. ~~Planting of fish in inland waters. No person, firm, corporation, department head or employee of the State shall deposit or plant any fish or fish spawn obtained from or raised by the State of Maine or the Federal Government in any brook, stream or river of this State within a distance of 5 miles down stream of any sawmill, wood working plant or factory, which deposits in said inland waters, or on the banks thereof, in such manner that the same may fall or be washed into said waters, any slabs, edgings, sawdust, chips, bark, mill waste, shavings or fibrous materials created in the manufacture of lumber or other wood products, or so deposit any oil regardless of its source.'~~

Sec. 13. R. S., c. 37, § 65, repealed. Section 65 of chapter 37 of the Revised Statutes, as revised, is repealed as follows:

'Sec. 65. ~~Operation of boat upon great pond, river or inland body of water. Whoever operates any boat upon any great pond, or upon any river or any inland body of water to which the public has a right of access:~~

~~I. Recklessly;~~

~~II. At an excessive rate of speed; or~~

~~III. In a wanton manner causing injury to any person or property; shall be guilty of reckless operation of a boat and upon conviction shall be punished by a fine of not more than \$200, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.'~~

Sec. 14. R. S., c. 37, § 68, sub-§ II-A, additional. Section 68 of chapter 37 of the Revised Statutes, as revised, is amended by adding a new subsection II-A, to read as follows:

II-A. Firearm. "Firearm" as used in this chapter shall include all instruments used in the propulsion of shot, shell or bullets by the action of gunpowder exploded within it.'

Sec. 15. R. S., c. 37, § 68, sub-§ VI, ¶ A, amended. Paragraph A of subsec-

tion VI of section 68 of chapter 37 of the Revised Statutes as revised, is amended to read as follows:

'A. Regulation of hunting, fishing and trapping.'

Sec. 16. R. S., c. 37, § 70, amended. The 2nd sentence of section 70 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'No person shall trap **except for beaver** on or in any organized or incorporated place, or in any unorganized place on the cultivated or pasture area of land that is used for agricultural purposes, and on which land there is an occupied dwelling, or within 200 yards of any occupied dwelling, without first obtaining the written consent of the owner or occupant of the land on which said trap is to be set.'

Sec. 17. R. S., c. 37, § 73, sub-§ IV, repealed. Subsection IV of section 73 of chapter 37 of the Revised Statutes, as revised, is repealed as follows:

~~'IV. The Governor may issue complimentary fishing and hunting licenses to members of the Canadian Immigration and Customs Forces serving along the Maine border.'~~

Sec. 18. R. S., c. 37, § 73, sub-§ VIII, amended. Subsection VIII of section 73 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'VIII. Willful issuing of resident license to nonresident. ~~Any person obtaining a license through fraud, misstatement or misrepresentation shall be subject to the penalties set forth in section 139~~ It shall be unlawful for a town clerk to willfully issue ~~a resident hunting license~~ **any resident license** to a person not a resident of the municipality in which the license is issued.'

Sec. 19. R. S., c. 37, § 85, amended. The 3rd paragraph of section 85 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'During the open season, it shall be unlawful for any person to shoot, take, kill or have in possession more than 4 partridge and ~~not~~ more than 2 pheasants taken, shot or killed in any one day, ~~and not or to have~~ more than 8 partridge and ~~not~~ more than 4 pheasants in possession at any one time.'

Sec. 20. R. S., c. 37, § 88, amended. The first sentence of section 88 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'No person shall hunt, kill or have in his possession, living or dead, any wild bird ~~other than a game bird or a migratory game bird, except under a permit issued in accordance with the provisions of the Federal Migratory Bird Treaty Act (Act of Congress approved July 3, 1918)~~ **except as provided in section 85.'**

Sec. 21. R. S., c. 37, § 89, amended. The 3rd paragraph of section 89 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'No duck decoys shall be allowed to remain in waters of Merrymeeting Bay

at any time during the period from one hour after legal shooting time until one hour before legal shooting time.'

Sec. 22. R. S., c. 37, § 96-A, repealed and replaced. Section 96-A of chapter 37 of the Revised Statutes, as revised, is repealed and the following enacted in place thereof:

'Sec. 96-A. Dogs roaming-at-large. It shall be unlawful for any dog to roam-at-large in any area frequented by deer from February 1st to April 30th of each calendar year.

The owner or keeper of said dog found roaming-at-large shall be punished by a fine of not less than \$10 nor more than \$50.'

Sec. 23. R. S., c. 37, § 97-A, amended. Section 97-A of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Sec. 97-A. Use of artificial lights for lighting game. The use of artificial lights between $\frac{1}{2}$ hour after sunset and $\frac{1}{2}$ hour before sunrise to illuminate, jack, locate, attempt to locate or show up wild birds or animals shall be unlawful ~~during open season on deer from October 1st to November 30th~~, except as provided in section 94, and section 113, subsection IV.'

Sec. 24. R. S., c. 37, § 98, amended. The first paragraph of section 98 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'It is unlawful for any dog to hunt, chase, kill, wound or pursue any moose, caribou, deer or elk or any other wild animal in closed season and no person shall permit any dog owned or kept by him to hunt, chase, kill, wound or pursue any moose, caribou, deer or elk at any time or any other wild animal in closed season.'

Sec. 25. R. S., c. 37, § 98, amended. The last sentence of the 3rd paragraph of section 98 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'After the owner or keeper of the dog has received written notice that his dog has committed any act prohibited by this section, it shall be lawful for anyone to kill the dog when found committing any of the acts prohibited herein.'

Sec. 26. R. S., c. 37, § 113, sub-§ I, amended. The 3rd paragraph of subsection I of section 113 of chapter 37 of the Revised Statutes, as revised, is repealed as follows:

~~'Muskrats shall not be taken by the use of wire nets, box traps or any trap other than the ordinary steel trap'~~

Sec. 27. R. S., c. 37, § 113, sub-§ I, amended. The 6th paragraph of subsection I of section 113 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'There shall be an open season on fisher ~~from November 1st to November 30th, both days inclusive~~ during the months of November, December, January and February of each calendar year. The commissioner may lengthen, shorten or close such fisher season as he may deem necessary.'

Sec. 28. R. S., c. 37, § 113, sub-§ I, amended. Subsection I of section 113 of chapter 37 of the Revised Statutes, as revised, is amended by adding at the end a new paragraph to read as follows:

'Animals may be trapped with common ordinary steel traps and only size No. 1 killer-type traps. Killer-type traps larger than No. 1 may be used only under water. Killer-type traps shall include the so-called Conibear trap and all other traps of that type.'

Sec. 29. R. S., c. 37, § 113, sub-§ III, amended. Subsection III of section 113 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'III. Bear, hedgehog or bobcat. It shall be lawful to trap bear, hedgehogs or bobcats at any time anywhere in the State, and it shall be lawful to hunt bear, hedgehogs or bobcats at any time anywhere in the State except during Sundays and in the nighttime, except as otherwise provided. Any person who kills a black bear shall report the same within 7 days thereafter to the commissioner on forms provided by said commissioner.'

Sec. 30. R. S., c. 37, § 113, sub-§ IV, repealed and replaced. Subsection IV of section 113 of chapter 37 of the Revised Statutes, as revised, is repealed and the following enacted in place thereof:

'IV. Raccoon and skunk. There shall be an open season for the hunting of raccoons and skunks, at night, when accompanied by a dog, from August 15th to December 15th of each year. An electric flashlight of not more than 3 cells may be used while locating or taking a raccoon or skunk found by a dog. It shall be unlawful to use or have in possession any firearm while hunting as provided, except that it shall be permissible to use only a pistol capable of firing .22 caliber, rim fire long rifle ammunition.'

Sec. 31. R. S., c. 37, § 113, sub-§ IV-A, additional. Section 113 of chapter 37 of the Revised Statutes, as revised, is amended by adding a new subsection IV-A, to read as follows:

'IV-A. Skunk and raccoon in daytime. Notwithstanding subsection IV, it shall be unlawful for any person to hunt skunks and raccoons, except that skunks and raccoons may be hunted during the period from ½ hour before sunrise to ½ hour after sunset from August 15th to December 15th of each year.'

Sec. 32. R. S., c. 37, § 119, amended. The first paragraph of section 119 of chapter 37 of the Revised Statutes, as revised, is repealed and the following enacted in place thereof:

'There shall be an open season for the trapping of beaver during the months of January and February of each year. The commissioner may lengthen, shorten or close such beaver season as he may deem necessary.'

Sec. 33. R. S., c. 37, § 132, amended. The 2nd paragraph of section 132 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'If such person fails to appear in court on the day specified, either in person or

by counsel, the court shall order the recognizance and money deposited ~~as afore-~~
~~said~~ forfeited, and shall notify the commissioner of said default and forfeiture
~~who shall revoke any and all licenses or permits held by said respondent issued~~
~~under the provisions of this chapter.~~ **The default and forfeiture shall be con-**
sidered a conviction for purposes of revocation of licenses.'

Sec. 34. R. S., c. 37, § 133, amended. Section 133 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'Sec. 133. 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 this chapter** as is granted and vested in the Commissioner of Sea and Shore Fisheries under chapter 37-A, section 94.'

Sec. 35. R. S., c. 37, § 139, sub-§ I, amended. Subsection I of section 139 of chapter 37 of the Revised Statutes, as revised, is amended to read as follows:

'I. Beaver. Whoever violates any provision of this chapter 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.'

Sec. 36. R. S., c. 37, § 140, amended. The 2nd paragraph of section 140 of or by imprisonment for not more than 90 days, or by both.'

'"Firearm" as used in this chapter shall include all instruments used in the propulsion of shot, shell or bullets by the action of gunpowder exploded within it'

Sec. 37. R. S., c. 37, § 149, amended. The next to the last sentence of that part of section 149 of chapter 37 of the Revised Statutes, as revised, which relates to Rangeley Game Preserve, is repealed as follows:

'Except, it shall be lawful to hunt foxes, bobcat and Canada lynx from the end of the deer season each year until the closed season on foxes'

Sec. 38. P. L., 1963, c. 101, repealed; limitation. Chapter 101 of the public laws of 1963, heretofore passed by this Legislature, amending section 113 of chapter 37 of the Revised Statutes, is repealed and shall not be printed as part of the session laws of 1963.