

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 505**

H. P. 390

House of Representatives, February 2, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Porter of Lincoln.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Relating to Regulations for Upland Game and Fur-bearing Animals.**

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

**Sec. 1. R. S., T. 12, § 1901, sub-§ 14, amended.** Subsection 14 of section 1901 of Title 12 of the Revised Statutes is amended to read as follows:

14. **Open season.** "Open season" means the time during which it shall be lawful to take animals, birds and fish as specified and limited by law or lawful regulation.

**Sec. 2. R. S., T. 12, § 1960-A, additional.** Title 12 of the Revised Statutes is amended by adding a new section 1960-A to read as follows:

§ 1960-A. —upland game and fur-bearing animals

1. Upland game defined. For the purposes of this section, the following shall be considered upland game:

Cottontail Rabbit  
Gray Squirrel  
Red Squirrel  
Ring Necked Pheasant  
Ruffed Grouse  
Snowshoe Hare  
Spruce Grouse  
Wild Turkey  
Woodchuck

2. Fur-bearing animals defined. For the purposes of this section, the following shall be considered fur-bearing animals:

Beaver  
Bobcat  
Canada Lynx  
Coyote  
Fisher  
Fox  
Marten  
Mink  
Opossum  
Otter  
Raccoon  
Skunk  
Weasel  
Wolf

3. Public hearings; regulations establishing open seasons for hunting of upland game and fur-bearing animals. The commissioner, with the advice and approval of the advisory council, shall, by regulations, establish open seasons for the hunting in this State of upland game and fur-bearing animals, and make such other regulations, with regard to the same, as may be deemed advisable. He may, from time to time, with the advice and approval of the advisory council, change or close such open seasons with respect to any species of upland game or fur-bearing animals, and may change such existing regulations, or issue such new regulations, as may be deemed advisable.

Prior to the issuance of such regulations, or any changes thereto, the commissioner shall order a public hearing at a date and place to be designated by him. Such hearings shall be held before the commissioner, or such other officer of the department as he may designate in his stead.

Notice of the hearing to be held, the time and place thereof, together with the content of all proposed regulations, or changes thereto, shall be by publication once a week for 2 successive weeks prior to the hearing, in a newspaper having state-wide circulation.

After hearing, the commissioner, with the advice and approval of the advisory council, shall make such regulations as may be deemed necessary. Each such regulation shall specify the effective date thereof, and shall become effective on that date.

The commissioner shall cause the regulations to be reduced to writing and publish the same once a week for 2 successive weeks in a newspaper having state-wide circulation, the last publication being prior to the effective date of any regulation. He shall file a certified copy of said regulations with the Secretary of State and with the clerk of the Superior Court of each county.

If the commissioner deems that unusual conditions affect any of such upland game or fur-bearing animals, he may declare an emergency with respect to the same and order a hearing held, at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 days prior to the hearing in a newspaper having state-wide circulation. After the hearing, the commissioner may promulgate regulations with respect to the hunting,

trapping, or both, of same. He shall reduce the regulations to writing, and shall cause the same to be published in a newspaper having state-wide circulation, such regulations to take effect upon the day following the publication thereof unless in such regulation the commissioner shall establish a later date. A certified copy of the regulations shall be filed with the Secretary of State and with the clerk of the Superior Court of each county.

There shall be a closed season on each species of upland game and fur-bearing animals during that portion of any calendar year falling outside of the open season provided by law or regulations.

Whoever violates any provisions of this section or any regulation issued under chapters 301 to 335 shall be penalized under section 3060.

Sec. 3. R. S., T. 12, § 2302, amended. The first paragraph of section 2302 of Title 12 of the Revised Statutes, as repealed and replaced by section 1 of chapter 86 of the public laws of 1969, is amended to read as follows:

The commissioner shall revoke the hunting license of any person who is convicted of violating section 1960-A relating to upland game or sections 2352, 2353, 2451 to 2455, 2458, 2462, 2464, 2467 and 2801 for a period of one year from the date when he is notified of said conviction.

Sec. 4. R. S., T. 12, § 2352, amended. The first, 2nd and 3rd paragraphs of section 2352 of Title 12 of the Revised Statutes, as amended, are repealed.

Sec. 5. R. S., T. 12, § 2354, sub-§§ 6 - 9, additional. Section 2354 of Title 12 of the Revised Statutes, as amended by section 37 of chapter 425 of the public laws of 1969, is further amended by adding subsections 6 to 9, to read as follows:

6. Polluting water supplies. The commissioner may declare an open season on muskrats that are polluting water supplies or damaging property if the owner makes a written complaint thereof to the commissioner.

7. Destruction of property. Any person may lawfully kill any wild animal, excepting beaver, or any wild bird, except a bald eagle, found in the act of destroying that persons' property.

8. Suspension of game laws. The commissioner is empowered to suspend the game laws in respect to raccoons in such restricted localities and for such periods of time as he finds it advisable to relieve excessive damage being done by them to sweet corn or other crops. The commissioner is empowered to suspend Title 7, section 3602, for the purpose only of allowing dogs to be used in hunting and killing raccoons, providing the dogs are under the personal supervision of the owner or trainer at all times, for such periods of time as the commissioner finds is advisable.

9. Nuisance beaver. The commissioner may cause department personnel to take nuisance beaver at any time without the consent of the landowner.

Sec. 6. R. S., T. 12, §§ 2356-2357, repealed. Sections 2356, as amended, and 2357, as amended by chapter 62 of the public laws of 1969, both of Title 12 of the Revised Statutes, are repealed.

Sec. 7. R. S., T. 12, § 2358, repealed and replaced. Section 2358 of Title 12 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2358. Hunting and trapping season

Except as provided in chapters 301 to 335, there shall be a perpetual closed season on hunting or trapping any wild animal.

Sec. 8. R. S., T. 12, §§ 2359-2364, repealed. Sections 2359 to 2364 of Title 12 of the Revised Statutes, as amended, are repealed.

Sec. 9. R. S., T. 12, § 2402, repealed and replaced. Section 2402 of Title 12 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2402. Trapping; fees

Any resident who traps for any wild animal shall annually procure a license therefor from the commissioner, paying therefor \$10. The annual fee for such trapping within the limits of municipalities shall be \$5.

Whoever traps for beaver on any land open to beaver trapping by said commissioner shall pay therefor a fee of \$10 annually, and an additional fee of \$1 for the tagging and marking of each skin by a warden. The fee for a nonresident for a trapping license shall be \$200.

Any resident under 16 years of age may trap for any wild animal, except beaver, in the municipalities without a trapping license. In the unorganized townships a license is required.

Any resident or his immediate family may hunt or trap for wild animals, except beaver, without such trapping license on land to which he is legally entitled to possess and which is used by him and his family exclusively for agricultural purposes, and on which he is actually domiciled, within the limits of an organized township.

It shall be unlawful for any person to have in possession at any time any beaver or fisher, or part thereof, or to sell or transport the same, except as permitted in this section or section 2106.

It shall be unlawful for any person to sell, give away, buy, accept as a gift, offer for transportation or transport any beaver or fisher skins unless each skin is tagged and marked as directed by the commissioner.

All beaver and fisher skins must be presented to any warden, and if said warden is satisfied that the beaver or fisher presented were legally killed, he shall tag and mark the same. A fee of \$1 shall be paid by the trapper for each skin tagged and marked.

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

In case beaver or fisher skins are libeled under chapters 301 to 335, and the libel is, for any reason, quashed or ruling thereon is against the State, or in case any complaint or indictment involving said skins results in a verdict for the defendant, said skins shall on request and payment of the \$1 fee be immediately tagged, marked and delivered to the person entitled to the same.

Any beaver or fisher skins that come into this State in any manner from any other state, country or province thereof shall bear the official stamp, tag or seal of such other state, country or province. Any such skins that come into this state from any other state, country or province thereof, which does not require an official stamp, tag or seal, shall be tagged in accordance with this section by the person possessing such skins.

There shall be no open season on marten and Canada lynx.

Whoever traps for any wild animal in violation of this section, or whoever 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.

Any person who has been found guilty of breaking and entering, or of larceny, shall not be eligible thereafter to obtain a trapper's license.

Any person aiding, assisting or helping another in trapping or attending to traps shall be considered as a trapper and must procure a license therefor.

Sec. 10. R. S., T. 12, § 2451, amended. Section 2451 of Title 12 of the Revised Statutes, as amended, is further amended by adding a new paragraph before the last paragraph to read as follows:

No person shall set or use any snares or traps or use any other device in the hunting of wild hares or rabbits or hunt the same in any except the ordinary method of shooting with guns or long bow and arrow. It shall be lawful at any time for the commissioner to take and transport live hares or rabbits by purchasing them from local trappers who may take them by box traps for this purpose, whenever he may deem it necessary for the proper distribution and conservation of said animals.

Sec. 11. R. S., T. 12, § 2466, amended. Section 2466 of Title 12 of the Revised Statutes, as amended by chapter 76 of the public laws of 1965, is further amended by adding a new first paragraph, to read as follows:

No person shall hunt or have in his possession any eagle.

Sec. 12. R. S., T. 12, § 2801, amended. Section 2801 of Title 12 of the Revised Statutes is amended by adding a new paragraph at the end to read as follows:

It shall be unlawful for any person to buy, sell or offer for sale any wild hares or wild rabbits.

Sec. 13. R. S., T. 12, § 2802, amended. Section 2802 of Title 12 of the Revised Statutes is amended by adding before the last paragraph the following 2 new paragraphs:

It shall be unlawful for any person or corporation to transport or offer for transportation at any time any wild hares or rabbits destined beyond the limits of this State.

It shall be unlawful for any person to have in possession or transport at any time any wild hares or rabbits taken during the closed season or by any method or with any device prohibited by section 2451.

**Sec. 14. R. S., T. 12, § 2802, amended.** The last paragraph of section 2802 of Title 12 of the Revised Statutes is amended to read as follows:

The hunting license of any nonresident shall entitle him to have game, including wild hares and rabbits, which he has legally killed, transported to his home without further fee to the State.

**Sec. 15. R. S., T. 12, § 3060-A, additional.** Title 12 of the Revised Statutes is amended by adding a new section 3060-A to read as follows:

#### **§ 3060-A. Penalties**

Any person convicted of violating any of the provisions of section 1960-A or regulations promulgated thereunder, relating to upland game, shall be punished by a fine of not less than \$50 and in addition thereto by a fine of \$25 for each bird illegally killed, taken or possessed, and such fines shall not be suspended, or by imprisonment for not less than 30 nor more than 90 days, or by both such fine and imprisonment.

### STATEMENT OF FACT

The purpose of this legislation is to give the Commissioner of Inland Fisheries and Game the authority to regulate the seasons and bag limits on upland game and fur-bearing animals. Changes would be made only after an advertised public hearing and published notices of any changes made in present regulations.