

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1280

S. P. 445

In Senate, March 12, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Hoffses of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT to Correct Certain Errors and Inconsistencies in the
Fish and Game Laws.**

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

Sec. 1. R. S., T. 12, § 1904, amended. The last paragraph of section 1904 of Title 12 of the Revised Statutes is repealed as follows:

~~It shall be unlawful to keep a live bear in captivity at any time without a valid menagerie license.~~

Sec. 2. R. S., T. 12, § 1960, amended. The 2nd sentence of the 7th paragraph of section 1960 of Title 12 of the Revised Statutes is amended to read as follows:

After the hearing, the commissioner may promulgate regulations providing for the times, number, weight, **length** and manner in which fish may be taken from such waters.

Sec. 3. R. S., T. 12, § 1965, amended. Section 1965 of Title 12 of the Revised Statutes, as enacted by chapter 101 of the public laws of 1965, is amended to read as follows:

§ 1965. Sale of other publications

In the case of all other publications **and articles**, excepting publications of the laws in whatever form, pertaining to the Department of Inland Fisheries and Game that the commissioner deems advisable for the more effective dissemination of factual information, information of public interest or information tending to promote better public relations, he is authorized to fix the price, if any, at which such publications **and articles** may be sold and deliv-

ered. Such publications and articles are not to carry any commercial advertising.

Sec. 4. R. S., T. 12, § 2151, amended. The first sentence of section 2151 of Title 12 of the Revised Statutes is amended to read as follows:

The commissioner for the location, construction, maintenance and convenient operation of a ~~game~~ **wildlife** management area for game, fish hatchery or fish hatcheries and feeding stations for fish may acquire in the name of the State by gift, bequest or otherwise, real and personal property; or he may purchase, lease or take and hold, for and in behalf of the State as for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating ~~game~~ **wildlife** management areas, fish hatcheries or feeding stations.

Sec. 5. R. S., T. 12, § 2154, amended. The first paragraph of section 2154 of Title 12 of the Revised Statutes is amended to read as follows:

The following described territories shall be classified as ~~game~~ **wildlife** management areas, to be managed by the commissioner, in accordance with section 1901, subsection 7:

Sec. 6. R. S., T. 12, § 2155, amended. The first 3 paragraphs of section 2155 of Title 12 of the Revised Statutes are amended to read as follows:

The commissioner is authorized to regulate hunting, fishing, trapping, boating, camping and other public use on ~~game~~ **wildlife** management areas and is authorized to close such areas to hunting, fishing, 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~~ **wildlife** populations and provide for human safety. When ~~game~~ **wildlife** management areas are bordered by tidal flats such authority shall extend to a point 50 yards beyond the low-water mark on said flats.

This authority shall apply to lakes, ponds, marshes and sections of streams lying within the boundaries of any such ~~game~~ **wildlife** management area.

On department-owned lands, the commissioner may harvest and sell natural products of the land, including hay, timber and Christmas trees, and furbearers may be removed from said ~~game~~ **wildlife** management areas by controlled trapping conducted under the direction of the commissioner.

Sec. 7. R. S., T. 12 § 2351, amended. The first sentence of section 2351 of Title 12 of the Revised Statutes is amended to read as follows:

Any person trapping in any organized or incorporated place shall visit each trap or cause the same to be visited at least once in every calendar day including Sunday, except beaver sets, so called ~~and remove therefrom or cause to be removed any animal found caught therein.~~

Sec. 8. R. S., T. 12, § 2351, amended. Section 2351 of Title 12 of the Revised Statutes is amended by inserting after the first sentence the following new sentence:

It shall be unlawful to fail to remove or cause to be removed any animal found caught in any trap.

Sec. 9. R. S., T. 12, § 2353, amended. Section 2353 of Title 12 of the Revised Statutes, as amended, is further amended by adding a new paragraph before the 2nd paragraph from the end to read as follows:

No person shall have in possession at any time any parts of a deer which has not been legally registered as provided in section 2355, except in accordance with sections 2354 and 2951.

Sec. 10. R. S., T. 12, § 2355, sub-§ 2, ¶ C, amended. Paragraph C of subsection 2 of section 2355 of Title 12 of the Revised Statutes is amended to read as follows:

C. No person shall present a deer for registration or allow to be registered in his name any deer which he himself did not lawfully kill.

Sec. 11. R. S., T. 12, § 2355, sub-§ 4, repealed. Subsection 4 of section 2355 of Title 12 of the Revised Statutes is repealed.

Sec. 12. R. S., T. 12, § 2355-A, amended. Section 2355-A of Title 12 of the Revised Statutes, as enacted by chapter 274 of the public laws of 1965, and as amended, is further amended by adding at the end the following 4 new paragraphs:

It shall be unlawful to trap bear in the State from January 1st to June 1st of each calendar year.

The use of the so-called cable trap shall be lawful for use in trapping bear in the State during the open season on bear. The cable trap shall be exempt from the 3rd paragraph of section 2451 relating to bear. Cable traps shall have a closing diameter of not less than $2\frac{1}{2}$ inches.

No person shall set a bear trap unless the same is enclosed by at least 2 strands of wire, one 2 and one 4 feet from the ground, said wire to be securely held in position and to be not less than 5 yards or more than 10 yards at any point from the enclosed trap. Said enclosure shall be marked by substantial signs with the words "BEAR TRAP" and with letters not less than 3 inches in height, said signs to be spaced around each enclosure at intervals of not more than 20 feet and each sign securely fastened to the top strand of wire.

It shall be unlawful to keep a live bear in captivity at any time without a valid menagerie license.

Sec. 13. R. S., T. 12, § 2356, amended. The 2nd paragraph of section 2356 of Title 12 of the Revised Statutes, as repealed and replaced by section 17 of chapter 404 of the public laws of 1967, is amended to read as follows:

There shall be an open season on wild hares or rabbits from October 1st to the following March 31st in the Counties of Aroostook, Penobscot, Piscataquis, Somerset, Franklin, Oxford, Kennebec, Knox, Lincoln, Waldo, and Hancock and Washington.

Sec. 14. R. S., T. 12, § 2356, amended. The 3rd paragraph of section 2356 of Title 12 of the Revised Statutes, as repealed and replaced by section 13 of chapter 590 of the public laws of 1969, is amended to read as follows:

It shall be unlawful to hunt wild hares or rabbits in the Counties of Hancock, Knox, Lincoln, Sagadahoc, ~~and Waldo and Washington~~ with dogs during the open firearms season on deer.

Sec. 15. R. S., T. 12, § 2356, amended. The 5th paragraph of section 2356 of Title 12 of the Revised Statutes, as repealed and replaced by section 17 of chapter 404 of the public laws of 1967, is repealed as follows:

~~There shall be an open season on wild hares or rabbits from October 1st to the following March 31st in the County of Washington. It shall be unlawful to hunt wild hares or rabbits in the County of Washington with dogs from November 1st to November 30th~~

Sec. 16. R. S., T. 12, § 2358, sub-§ 1, amended. The last sentence of the 3rd paragraph of subsection 1 of section 2358 of Title 12 of the Revised Statutes, as repealed and replaced by chapter 251 of the public laws of 1969, is repealed as follows:

~~During the period from April 1st to May 15th of each year, it shall be unlawful to trap muskrats with any trap other than a killer type trap in that area of the State north of the CPRR tracks~~

Sec. 17. R. S., T. 12, § 2358, sub-§ 1, amended. The last sentence of the 4th paragraph of subsection 1 of section 2358 of Title 12 of the Revised Statutes, as repealed and replaced by chapter 251 of the public laws of 1969, is repealed as follows:

~~During the period from March 15th to April 30th of each year, it shall be unlawful to trap muskrats with any trap other than a killer type trap in that area of the State south of the CPRR tracks~~

Sec. 18. R. S., T. 12, § 2358, sub-§ 2, amended. Subsection 2 of section 2358 of Title 12 of the Revised Statutes, is amended to read as follows:

2. **Trap near muskrat den.** It shall be unlawful for any person to set, tend or place a trap within 25 feet of a muskrat den or house at any time, or to molest or destroy the muskrat house or den. No person shall make any advance preparation on the trapping grounds for the taking of beaver or muskrat previous to the open season on these animals.

Sec. 19. R. S., T. 12, § 2358, sub-§ 3, amended. Subsection 3 of section 2358 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

3. **Hedgehog, coyote, woodchuck or bobcat.** It shall be lawful to trap hedgehogs, ~~coyotes, woodchucks~~ or bobcats at any time anywhere in the State, and it shall be lawful to hunt hedgehogs, ~~coyotes, woodchucks~~ or bobcats at any time anywhere in the State except during Sundays and in the nighttime, except as otherwise provided. ~~It shall be unlawful to trap bear in the State from January 1st to June 1st of each calendar year~~

The use of the so-called cable trap shall be lawful for use in trapping bear in the State during the open season on bear. The cable trap shall be exempt from the provisions of the 3rd paragraph of section 2451 relating to bear. Cable traps shall have a closing diameter of not less than 2½ inches

Sec. 20. R. S., T. 12, § 2360, amended. The 2nd paragraph from the end of section 2360 of Title 12 of the Revised Statutes, as amended by chapter 146 of the public laws of 1965, is further amended to read as follows:

No person, except as otherwise provided, shall molest or destroy any beaver dam or set or tend any trap within 10 feet of a dam which is maintaining a live colony of beaver. No person shall molest or destroy any beaver house or. No person shall set or tend any trap within 25 feet of the same. No person shall set or tend any beaver trap within 4 feet of a beaver trap which has been set by another trapper.

Sec. 21. R. S., T. 12, § 2360, amended. The last paragraph of section 2360 of Title 12 of the Revised Statutes, as enacted by chapter 46 of the public laws of 1969, is repealed as follows:

~~There shall be an open season for the trapping of foxes from October 21st to February 15th in the next following year~~

Sec. 22. R. S., T. 12, § 2360, amended. The 6th paragraph of section 2360 of Title 12 of the Revised Statutes is amended to read as follows:

All beaver skins must be presented to the warden supervisor in whose division they were caught, or a warden of that division authorized by the chief warden to tag and mark beaver and if said supervisor or warden is satisfied that the beaver presented were legally trapped in his division, he shall tag and mark the same in the manner as directed and with the materials furnished by the commissioner. ~~There shall be not less than 3 wardens, in addition to the supervisor, designated in any warden division for the purpose of stamping beaver skins~~ A fee of \$1 shall be paid by the trapper for each skin tagged and marked.

Sec. 23. R. S., T. 12, § 2360, amended. The 9th paragraph of section 2360 of Title 12 of the Revised Statutes, as amended by section 2 of chapter 322 of the public laws of 1967, is further amended by adding at the end the following new sentence:

The fee for tagging such skins which are imported into this State from another state, country or province shall be 25¢ for each tag so issued.

Sec. 24. R. S., T. 12, § 2361, amended. Section 2361 of Title 12 of the Revised Statutes, as amended by section 42 of chapter 425 of the public laws of 1969, is further amended by adding a new paragraph before the first paragraph to read as follows:

There shall be an open season for the trapping of foxes from October 21st to February 15th in the next following year.

Sec. 25. R. S., T. 12, § 2451, amended. The 2nd and 3rd sentences of the 3rd paragraph of Section 2451 of Title 12 of the Revised Statutes are repealed as follows:

No person shall set a bear trap unless the same is enclosed by at least 2 strands of wire, one 2 and one 4 feet from the ground, said wire to be securely held in position and to be not less than 5 yards or more than 10 yards at any point from the enclosed trap. Said enclosure shall be marked by substantial signs with the words "BEAR TRAP" and with letters not less than 3 inches in height, said signs to be spaced around each enclosure at intervals of not more than 20 feet and each sign securely fastened to the top strand of wire

Sec. 26. R. S., T. 12, § 2451, amended. The last paragraph of section 2451 of Title 12 of the Revised Statutes, as amended by section 44 of chapter 425 of the public laws of 1969, is further amended to read as follows.

It shall be unlawful for any person, other than a law enforcement officer in the line of duty, to disturb any trap or take any fur-bearing animal from any trap other than his own without the consent of the owner of such trap, except that a landowner or occupant on land to which he is legally entitled to possess may remove any trap found thereon where permission has not been granted in accordance with section 2351.

Sec. 27. R. S., T. 12, § 2471, amended. The 2nd sentence of section 2471 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 86 of the public laws of 1967, is amended to read as follows:

No commercial shooting area shall be located nearer than 5 miles from another commercial shooting area ~~or from a state game preserve.~~

Sec. 28. R. S., T. 12, § 2472, amended. The 4th sentence of section 2472 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 86 of the public laws of 1967, is amended to read as follows:

The boundary of each shooting area shall be marked in such manner as prescribed by the commissioner ~~and shall consist of not less than a single strand of wire and signs~~ posted conspicuously with signs or other markings approved by the commissioner.

Sec. 29. R. S., T. 12, § 2473, amended. Section 2473 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 86 of the public laws of 1967, is amended to read as follows:

§ 2473. Birds

The only birds that may be shot on a commercial shooting area are mallard ducks, pheasants, quail and Chukar partridge. No other game, game birds or migratory birds may be shot, except during the regular open season, on such an area at any time. The commissioner may grant permits to import live mallard ducks, pheasants, quail and Chukar partridge. No birds of these species shall be imported without the written permission of the commissioner. Importers shall, when requesting a permit, provide the commissioner with information as to the number of mallard ducks, pheasants, quail or Chukar partridge to be imported, and the name and address of the seller. Importers of live mallard ducks, pheasants, quail or Chukar partridge shall furnish the commissioner with a statement from an approved veterinarian, the state department of agriculture or the conservation department of the state from

which the birds are imported, certifying that they are from flocks which have been tested for infectious or contagious disease and have not been exposed to such disease during the 6 months prior to importation. Such statement shall accompany each request for permission to import live **mallard ducks**, pheasants, quail or Chukar partridge. Upon receipt of shipment, importers of **mallard ducks**, pheasants, quail or Chukar partridge shall attach securely to each bird a metallic seal, the type and design of which shall be designated by the commissioner. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the department at a cost to be prescribed by the commissioner.

Sec. 30. R. S., T. 12, § 2477, repealed. Section 2477 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 86 of the public laws of 1967, is repealed as follows:

§ 2477. Guides

~~Persons employed by the operator of a commercial shooting area for guiding purposes shall be licensed Maine guides. Each shooting area shall have at least one licensed guide~~

Sec. 31. R. S., T. 12, § 2481, repealed. Section 2481 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 86 of the public laws of 1967, is repealed as follows:

§ 2481. Bond

~~In the event that the operation is abandoned by the proprietor, or the license is revoked by the commissioner, all signs and wire used as boundary marking shall be removed. To insure such compliance, the owner is required to provide a \$500 performance bond from a bonding company satisfactory to the commissioner~~

Sec. 32. R. S., T. 12, § 2553, amended. The last sentence of the 2nd paragraph of section 2553 of Title 12 of the Revised Statutes, as last amended by section 1 of chapter 317 of the public laws of 1969, is repealed as follows:

~~This paragraph shall not apply to Sebago Lake, Cumberland County, except waters open to ice fishing~~

Sec. 33. R. S., T. 12, § 2553, sub-§ 1, amended. Subsection 1 of section 2553 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

1. **Salmon or togue.** A salmon or togue less than 14 inches in length except that the length limit on salmon taken from any of the waters in Aroostook County shall be 12 inches ~~and except that the legal length of salmon taken from Sebago Lake, Cumberland County, shall be 13 inches~~ and except that the legal length of salmon taken from Green Lake in Dedham and Ellsworth, Hancock County, Alligator Lake in T34 MD and T28 MD, Spring River Lake in T10 SD, Hancock County and Upper Middle Branch Pond in Aurora and T28 MD, Hancock County, shall be 12 inches;

Sec. 34. R. S., T. 12, § 2554, amended. Section 2554 of Title 12 of the Revised Statutes is amended to read as follows:

§ 2554. Daily limit and live fish as bait in certain waters

The commissioner is authorized and directed to issue a rule and regulation closing to ice fishing, establishing a 5-fish daily limit and, prohibiting the use or possession of live fish as bait ~~in~~ and establishing an annual opening date for fishing as the last Saturday of April, such waters as have been reclaimed by the removal of rough fish.

Sec. 35. R. S., T. 12, § 2652, repealed. Section 2652 of Title 12 of the Revised Statutes, as amended by section 37 of chapter 404 of the public laws of 1967, is repealed as follows:

§ 2652. Reclaimed waters

~~The commissioner is authorized and directed to issue a rule and regulation closing to ice fishing, establishing a 5 fish limit and prohibiting the use or possession of live fish as bait, such waters as have been reclaimed by the removal of rough fish~~

Sec. 36. R. S., T. 12, § 2701, amended. The first sentence of section 2701 of Title 12 of the Revised Statutes, as amended by section 27 of chapter 448 of the public laws of 1965, is further amended to read as follows:

It shall be unlawful to take, kill, catch, or have in possession more than one bushel of alewives taken from the inland waters of the State except ~~The~~ the commissioner may grant permits to take suckers, eels, hornpouts, alewives, yellow perch, whitefish and cusk for market, by means of eel pots, traps, spears or nets, in inland waters frequented by these fish, under such terms, rules and regulations as he may establish.

Sec. 37. R. S., T. 12, § 2752, amended. The 2nd paragraph, as amended by section 30 of chapter 448 of the public laws of 1965, and the 3rd paragraph, both of section 2752 of Title 12 of the Revised Statutes, are amended to read as follows:

It shall be unlawful to angle or fish other than by the use of the single-baited hook and line, artificial flies, artificial ~~minnows lures, artificial insects, spoon hooks~~ and spinners, except that it shall be lawful to take smelts in Fish River Chain of Lakes, Aroostook County, by use of 3 single-baited hooks spaced a minimum of 4 inches apart.

It shall be unlawful to jig fish ~~at any time in any inland waters of the State and any salmon in tidal rivers.~~

Sec. 38. R. S., T. 12, § 2851, amended. The first 3 paragraphs of section 2851 of Title 12 of the Revised Statutes, as amended by section 41 of chapter 404 of the public laws of 1967, are further amended to read as follows:

Th commissioner may issue a license at an annual fee of \$10 to any person, firm or corporation, permitting the licensee to breed, rear or keep game birds ~~or migratory game birds~~. Said licensee shall fence in land for these

purposes and such fence shall be of a type which will prevent game birds ~~or migratory game birds~~ from entering or leaving the fenced-in area.

No person shall breed, rear or keep any game birds ~~or migratory game birds~~ except those that are owned by the department, at any time, without first having procured said license. No game birds ~~or migratory game birds~~, either live or dressed, shall be removed from said premises until there shall have been securely attached to each bird a metallic seal. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the commissioner at a cost of 5¢. Such licensed breeders may, at any time, consume, sell, transport or kill and sell, and any person, firm or corporation, resident of the State, may purchase, have in possession or transport any game birds ~~or migratory game birds~~ raised, by virtue of this section. Such licensed breeders may also sell live or dressed game birds ~~or migratory game birds~~ outside the State, subject to regulations governing the importation of game birds ~~or migratory game birds~~ of the state in which sold.

Every licensed game bird ~~or migratory game bird~~ breeder shall, on or before the 31st day of December of each year make a detailed report to said commissioner, on blanks to be furnished by the commissioner.

Sec. 39. R. S., T. 12, § 2851, amended. Section 2851 of Title 12 of the Revised Statutes, as amended by section 41 of chapter 404 of the public laws of 1967, is further amended by adding a new paragraph at the end to read as follows:

Game birds shall include only those species as set forth in section 2466.

Sec. 40. R. S., T. 12, § 3051, sub-§ 1, repealed and replaced. Subsection 1 of section 3051 of Title 12 of the Revised Statutes, as repealed and replaced by section 3 of chapter 431 of the public laws of 1965, is repealed and the following enacted in place thereof:

1. **Authority of law enforcement officers.** Any officer authorized to enforce the provisions of chapters 301 to 335, if in uniform and if he has reason to believe that a violation of any of such provisions has occurred or is taking place, may at any time stop any motor vehicle, boat, vessel, airplane or conveyance of any kind for the purpose of arresting or questioning the operator or occupant thereof, or for the purpose of searching said motor vehicle, boat, vessel, airplane or conveyance of any kind.

Sec. 41. R. S., T. 12, § 3057, amended. The last sentence of section 3057 of Title 12 of the Revised Statutes is repealed as follows:

~~Such prosecution shall at all times be subject to the supervision and control of the commissioner~~

Sec. 42. R. S., T. 32, § 4352, amended. The last sentence of the 4th paragraph of section 4352 of Title 32 of the Revised Statutes, as repealed and replaced by chapter 147 of the public laws of 1967, is amended to read as follows:

The report shall be open for inspection to any agent of the commissioner and shall be filed with said commissioner, after being notarized, on or before the 31st day of ~~December~~ **March** of each year.

STATEMENT OF FACT

The purpose of this Act is to correct certain errors and inconsistencies and to relocate parts of certain sections so that they will be under a common title.