

MAINE STATE LEGISLATURE

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New Draft of: S. P. 368, L. D. 1094

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1980

S. P. 645

In Senate, May 30, 1973

Reported by Senator Anderson of Hancock from the Committee on Fisheries and Wildlife and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Correct 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, § 1960, amended. The 3rd paragraph of section 1960 of Title 12 of the Revised Statutes, as last repealed and replaced by section 4 of chapter 404 of the public laws of 1967 and as amended by section 4-A of chapter 403 of the public laws of 1971, is further amended to read as follows:

Hearings shall be held on all prospective changes in regulations during the months of February, March, **April**, August, ~~and~~ September **and** October of each year, before the commissioner, or such other officer of the department as the commissioner may designate in his stead, at a date and place to be designated by the commissioner but in the county affected. Petitions shall be filed in the office of the commissioner as follows: Not later than February 1st for hearing in February, ~~and~~ March **and** April and not later than August 1st for hearing in August, ~~and~~ September **and** October.

Sec. 2. R. S., T. 12, § 1960, amended. The 5th paragraph of section 1960 of Title 12 of the Revised Statutes, as last repealed and replaced by section 4-B of chapter 403 of the public laws of 1971, is repealed and the following enacted in place thereof:

Such regulations shall specify the effective date thereof and shall become effective on that date.

Sec. 3. R. S., T. 12, § 1960-A, sub-§ 3, amended. Subsection 3 of section 1960-A of Title 12 of the Revised Statutes, as amended by section 2 of chapter 231 of the public laws of 1971, is further amended to read as follows:

3. **Public hearings; regulations establishing open seasons for hunting and trapping 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 or trapping in this State of upland game and fur-bearing animals, and make such other regulations, including bag limits, 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.

Sec. 4. R. S., T. 12, § 2154-A, amended. Section 2154-A of Title 12 of the Revised Statutes, as enacted by section 34 of chapter 425 of the public laws of 1969, is amended by adding a new paragraph at the end to read as follows:

Such other areas as the commissioner designates, by regulations adopted in accordance with section 2155, as state-owned wildlife management areas.

Sec. 5. R. S., T. 12, § 2155, amended. The 2nd paragraph of section 2155 of Title 12 of the Revised Statutes, as amended by section 12 of chapter 403 of the public laws of 1971, is further amended to read as follows:

This authority shall apply to lakes, ponds, marshes and sections of streams, including tidal rivers, creeks and streams, lying within the boundaries of any such wildlife management area.

Sec. 6. R. S., T. 12, § 2254, repealed. Section 2254 of Title 12 of the Revised Statutes, as amended, is repealed.

Sec. 7. Effective date. Section 6 of this Act shall become effective 91 days after adjournment of the Legislature.

Sec. 8. R. S., T. 12, § 2302, amended. The first paragraph, as last repealed and replaced by section 38 of chapter 622 of the public laws of 1971 and the 2nd, 4th and 5th paragraphs, as amended, of section 2302 of Title 12 of the Revised Statutes, are 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 of final disposition.~~

On conviction of any person holding a license or licenses issued under chapters 301 to 335 and Title 32, chapter 65, of the violation of any of the sections of said chapters not mentioned or of any rules or regulations of the commissioner, the commissioner may revoke any license or licenses held by such person for a period of not less than 3 months nor more than one year ~~from the date of final disposition.~~ If a person's license is revoked for one or more years, the revocation shall become effective on January 1st of the next calendar year following the date of final disposition.

If, at the time of committing a violation of any of the provisions of chapters 301 to 335 or Title 32, chapter 65, the offender shall not be the holder of a

license or licenses to conduct the particular activity in which he was engaged at the time of such violation, the commissioner may not issue any license to said person ~~until one year has elapsed from~~ **for the next calendar year following** the date of final determination of any complaint or legal proceedings instituted as a result of the violation.

A conviction of a 2nd violation of any of the provisions of chapters 301 to 335 or Title 32, chapter 65 or a violation of any of the rules and regulations of the commissioner may require the commissioner to revoke the license or licenses of such offender for a period of 2 years ~~from the date of the final conviction of the alleged violation.~~

Sec. 9. R. S., T. 12, § 2352, amended. Section 2352 of Title 12 of the Revised Statutes, as repealed and replaced by section 2 of chapter 71 of the public laws of 1971, and as amended, is further amended by adding a new paragraph at the end to read as follows:

No person shall use for hunting waterfowl, or have in his immediate possession while hunting waterfowl, any lead shot larger in size than #2. Wardens shall have authority to demand and open shells to check the size of shot. The warden shall pay for any shell or shells so opened at the current retail price. The use of single ball cartridges or single slugs is not prohibited by this section.

Sec. 9-A. R. S., T. 12, § 2354, sub-§ 1, amended. The first sentence of subsection 1 of section 2354 of Title 12 of the Revised Statutes is amended to read as follows:

The cultivator, owner, mortgagee or keeper of any orchard or growing crop, ~~including legumes~~ **except grass, clover, grain fields and blueberry lands,** or the owner or occupier of land whereon said crops or orchard are located, may take or kill deer or other protected wild animals, except **bear,** beaver or birds, night or day, on said land where substantial damage is being done by said deer or other protected wild animals to said orchard or crop.

Sec. 9-B. Effective date. Section 9-A shall become effective 91 days after adjournment of the Legislature.

Sec. 10. R. S., T. 12, § 2355, sub-§ 6, amended. The last sentence of subsection 6 of section 2355 of Title 12 of the Revised Statutes is amended to read as follows:

This deer transportation tag shall cost ~~\$2.25, 25¢~~ **\$2.50, 50¢** to be retained by the issuing agent.

Sec. 11. R. S., T. 12, § 2355, sub-§ 7, amended. The last sentence of subsection 7 of section 2355 of Title 12 of the Revised Statutes, as amended by section 15 of chapter 404 of the public laws of 1967, is further amended to read as follows:

This deer transportation tag shall cost ~~\$25.25, 25¢~~ **\$40.50, 50¢** to be retained by the issuing agent, except that no fee shall be required of any resident of this State who is serving in the Armed Forces of the United States.

Sec. 12. R. S., T. 12, § 2401, sub-§ 3, amended. The 3rd paragraph of subsection 3 of section 2401 of Title 12 of the Revised Statutes, as repealed and replaced by section 1 of chapter 409 of the public laws of 1971, is amended by adding at the end the following new sentence:

A hunting license issued to a resident under 16 years of age shall be considered valid through the calendar year in which the applicant reaches his 16th birthday.

Sec. 13. R. S., T. 12, § 2401-B, sub-§ 13, repealed and replaced. Subsection 13 of section 2401-B of Title 12 of the Revised Statutes, as enacted by section 2 of chapter 409 of the public laws of 1971, is repealed and the following enacted in place thereof:

13. Complimentary licenses to persons over 70 years of age. A complimentary license to hunt or fish, or a combination hunting and fishing license shall be issued to any resident of Maine who is over 70 years of age and applies therefor to the commissioner. Such application shall be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency. Each such license shall remain valid for 3 calendar years from date of issue. Any such application for a license to hunt shall be accompanied by certified evidence that the applicant has eyesight of at least 20/60 vision, with or without correction, in one eye.

Sec. 14. Effective date. Section 13 shall become effective January 1, 1974.

Sec. 15. R. S., T. 12, § 2401-B, sub-§ 16, ¶ B, amended. Paragraph B of subsection 16 of section 2401-B of Title 12 of the Revised Statutes, as enacted by section 2 of chapter 409 of the public laws of 1971, is amended to read as follows:

B. Willful issuing of resident license to nonresident. It shall be unlawful for a town clerk or agent to willfully issue any resident license to a person not a resident of the municipality in which the license is issued. **It shall be the responsibility of the applicant to submit proof of residency.**

Sec. 16. R. S., T. 12, § 2401-B, sub-§ 16, ¶¶ D and H, amended. Paragraphs D and H of subsection 16 of section 2401-B of Title 12 of the Revised Statutes, as enacted by section 2 of chapter 409 of the public laws of 1971, are amended to read as follows:

D. Agent to report to commissioner. Each agent shall forward to the commissioner ~~on the first~~ **or before the 15th** day of each calendar month all of the funds collected by him during the previous calendar month, together with a list of the persons and the kind of license issued to them. The funds received by the commissioner shall be deposited in the State Treasury.

H. Duplicates; fees. The commissioner may appoint agents who shall issue a duplicate license to any resident who has accidentally lost or destroyed any license issued to him under chapters 301 to 335 upon payment of a fee of \$1, ~~500~~ all of which shall be retained by the clerk or agent. All duplicates issued to residents shall be issued by the agent or clerk who issued the original license.

All duplicates issued to nonresidents who have lost or destroyed any license shall be issued by the Department of Inland Fisheries and Game.

Sec. 17. R. S., T. 12, § 2402, amended. The 12th paragraph of section 2402 of Title 12 of the Revised Statutes, as repealed and replaced by section 9 of chapter 231 of the public laws of 1971, is repealed.

Sec. 18. R. S., T. 12, § 2402, amended. The 16th, 17th and 18th paragraphs of section 2402 of Title 12 of the Revised Statutes, as enacted by section 24 of chapter 403 of the public laws of 1971, are repealed.

Sec. 19. R. S., T. 12, § 2402, amended. The 20th paragraph of section 2402 of Title 12 of the Revised Statutes, as enacted by section 42 of chapter 622 of the public laws of 1971, is repealed.

Sec. 20. R. S., T. 12, § 2451, amended. The first sentence of the 4th paragraph of section 2451 of Title 12 of the Revised Statutes, as enacted by section 10 of chapter 231 of the public laws of 1971, is amended 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 **manner** except the ordinary method of shooting with guns or long bow and arrow, **or by the use of falconry.**

Sec. 21. R. S., T. 12, § 2455, amended. The first sentence of the 2nd paragraph of section 2455 of Title 12 of the Revised Statutes, as amended by section 43 of chapter 622 of the public laws of 1971, is further amended to read as follows:

It shall be unlawful to hunt wild animals from $\frac{1}{2}$ hour after sunset until $\frac{1}{2}$ hour before sunrise of the following morning, except raccoons, as provided in ~~section 2358~~ **chapters 301 to 335.**

Sec. 22. R. S., T. 12, § 2458, amended. The last paragraph of section 2458 of Title 12 of the Revised Statutes, as enacted by chapter 335 of the public laws of 1973, is repealed.

Sec. 23. Effective date. Section 22 of this Act shall become effective 91 days after adjournment of the Legislature.

Sec. 24. R. S., T. 12, § 2459, amended. The first sentence of section 2459 of Title 12 of the Revised Statutes is amended to read as follows:

No person shall hunt with a net, trap, snare or contrivance other than the usual method of shooting with a firearm not larger than number 10-gauge, ~~or by shooting~~ with a long bow and arrow, **or by means of falconry**, any wild bird or animal of any species protected by law.

Sec. 25. R. S., T. 12, § 2466, amended. The first sentence of the 2nd paragraph of section 2466 of Title 12 of the Revised Statutes, as amended by chapter 76 of the public laws of 1965, is further amended to read as follows:

No person shall hunt, kill or have in his possession, living or dead, any wild bird, including turkeys, except as provided in ~~section 2352~~ **chapters 301 to 335.**

Sec. 26. R. S., T. 12, § 2466, amended. The last paragraph of section 2466 of Title 12 of the Revised Statutes is amended to read as follows:

Nothing in this section shall be construed to affect in any way the protection of ~~game birds or~~ migratory game birds as provided in section 2352.

Sec. 27. R. S., T. 12, § 2475, amended. Section 2475 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:

§ 2475. Hunting season

The annual season for commercial shooting areas shall extend from July 1st to November 30th, **including Sundays.**

Sec. 28. R. S., T. 12, § 2751-A, repealed and replaced. Section 2751-A of Title 12 of the Revised Statutes, as enacted by section 29 of chapter 448 of the public laws of 1965 and as amended, is repealed and the following enacted in place thereof:

§ 2751-A. Importing fish

No person shall introduce, import or transport any live fresh-water fish or eggs into the State or receive or have in possession such fish or eggs, so introduced, imported or transported, without written permission of the commissioner. This shall not apply to tropical fish which are for aquarium purposes, except piranhas, walking catfish and white amur (grass carp).

The commissioner may grant permits and establish rules and regulations to import live fresh-water fish or eggs into the State. Importers shall, when requesting a permit, provide the commissioner with information as to the number and species to be imported, the name and address of the source and a statement from a recognized fish pathologist, from a college or university, a state conservation department, or the United States Fish and Wildlife Service, certifying that they are from sources which show no evidence of viral hemorrhagic septicemia, infectious pancreatic necrosis, infectious hematopoietic necrosis, Myxosomo cerebralis or other diseases which may threaten fish stocks within the State. Such statement or inspection report shall accompany each request for permission to import live fish or eggs.

A violation of this section shall be punishable by a fine of not less than \$100 nor more than \$500.

Sec. 29. R. S., T. 12, § 2901, amended. Section 2901 of Title 12 of the Revised Statutes, as amended by section 34 of chapter 448 of the public laws of 1965 and by chapter 198 of the public laws of 1967, is further amended to read as follows:

§ 2901. Bobcat

There shall be a bounty of \$15 for every bobcat which is killed within the State, to be paid by the Treasurer of State to the person killing the same upon compliance with the following conditions. No bounty shall be paid unless the claimant, within 10 days after he has killed such animal, exhibits to the warden or warden supervisor in whose district the animal was killed the entire skin thereof, with the ears, nose and tail thereon in as perfect a state as when killed, except for natural decay, and signs a certificate under oath stating that he killed such animal and the time and place within the State.

Such certificate must be approved by and bear the signature of the warden or warden supervisor in whose district the animal was killed, stating that he believes the cat to have been killed at the time and place stated therein and the person claiming the bounty shall thereupon cut off the whole of the tail from the skin and forward the same to the commissioner, together with the claimant's certificate in the following form. Said warden or warden supervisor shall cut off the entire tail from the skin and destroy said tail. The person claiming the bounty shall forward to the commissioner the claimant's certificate in a form as prescribed by the commissioner. Any claim for a bounty must be made within 10 days after the killing of the animal.

Claimant's Certificate

To the Commissioner of Inland Fisheries and Game:

I hereby certify that on the _____ day of _____ A. D., 19____ at _____ in the State of Maine, I killed the bobcat, the skin of which I now exhibit to you, and I claim the bounty allowed by law for killing the same

Dated at _____ this _____ day of _____ A. D., 19____

(P. O. Address of Claimant)

Claimant

Subscribed and sworn to before me the day and year aforesaid

Notary Public

Justice of the Peace

It is believed that the cat was killed at the time and place stated herein.

This _____ day of _____

Game Warden

DEPARTMENT OF INLAND FISHERIES AND GAME

Augusta, Maine

19____

I hereby certify that I have received from _____ claimant, the tail of the bobcat described in the foregoing certificate

For Inland Fish and Game Commissioner

Note Claim for the bounty must be made within 10 days after the killing of the animal

Upon receipt by the State Controller of a certificate from the commissioner showing that said commissioner has received the tail of the bobcat from the claimant, said controller shall audit the claim for bounty and the same shall be paid forthwith by the Treasurer of State to the claimant from fines and penalties recovered and money received or collected under any provision of the inland fish and game laws or amendments thereof, or for sale of any seized or confiscated articles. After the foregoing funds have been exhausted, any further bounties shall be paid from the revenues of the Department of Inland Fisheries and Game.

Sec. 29-A. R. S., T. 12, § 2557-A, repealed. Section 2557-A of Title 12 of the Revised Statutes, as enacted by chapter 104 of the public laws of 1965, is repealed.

Sec. 30. Resolves, 1973, c. 17, repealed and replaced. Chapter 17 of the resolves of 1973 is repealed and the following enacted in place thereof:

Richard E. Varney Seaplane Base; designated. Resolved: That in recognition of the outstanding and unselfish service of Richard E. Varney to the Winthrop area and the State of Maine, the seaplane base located on Lake Maranacook, Winthrop, be named the "Richard E. Varney Seaplane Base" and that an appropriate plaque designating the name of the base be erected and maintained by the Department of Inland Fisheries and Game at such location as the department shall elect.

Sec. 31. Effective date. Section 30 of this Act shall become effective 91 days after adjournment of the Legislature.