

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1767

H. P. 1204 House of Representatives, March 25, 1975
Referred to Committee on Fisheries and Wildlife. Sent up for concurrence
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tozier of Unity.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Insure the Conservation of Endangered
Species in the State of Maine.

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

Sec. 1. 12 MRSA § 1906, as last amended by PL 1971, c. 622, § 34, is repealed.

Sec. 2. 12 MRSA c. 337 is enacted to read:

CHAPTER 337

ENDANGERED SPECIES

§ 3201. Declaration of purpose

The Legislature finds that various species of fish and wildlife have been and are in danger of being rendered extinct within the State of Maine, and that such species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish and wildlife found in the State, as well as the ecosystems upon which they depend.

§ 3202. Definition

For purpose of this chapter, an endangered species shall mean any species of the animal kingdom, including any part, product, egg or offspring thereof, or the dead body or parts thereof, which has been determined by the Secre-

tary of the Interior of the United States pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1543, as hereafter amended, or the commissioner pursuant to this chapter to be in danger of extinction throughout all or a significant portion of its range; and a threatened species shall mean any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

§ 3203. Investigations

The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any resident species of fish and wildlife, whether endangered or not; and may develop programs to enhance or maintain these populations.

§ 3204. Designation of endangered species

The commissioner shall designate a species to be endangered or threatened whenever he finds one of the following exist:

1. Present or threatened destruction. The present or threatened destruction, modification or curtailment of its habitat or range;
2. Overutilization. Overutilization for commercial, sporting, scientific, educational or other purposes;
3. Disease or predation. Disease or predation;
4. Inadequacy of existing regulatory mechanisms; or
5. Other factors affecting existence. Other natural or manmade factors affecting its continued existence within the State.

In designating a species to be endangered or threatened, the commissioner shall make use of the best scientific, commercial and other data available to him and shall consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations. He shall maintain a list of all species which he has designated to be endangered or threatened, naming each species contained therein by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened, except that no species shall be added to or deleted from such list unless notice of such change is published and a public hearing thereon has been held in accordance with the procedures established in section 1960-A.

§ 3205. Conservation of endangered species

The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened. These programs may include the acquisition of land or aquatic habitat or interests therein, propagation, live trapping, transplantation and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, regulated taking.

§ 3206. Regulations

The commissioner shall issue such regulations as are necessary to carry out the purposes of this chapter.

§ 3207. Prohibitions

No individual person, firm, corporation, governmental or other legal entity shall:

1. **Exportation.** Export any endangered or threatened species from the State;
2. **Certain harms.** Harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect any endangered or threatened species within the State or attempt to engage in such conduct;
3. **Possession.** Possess, process, sell or offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species; or
4. **Violation of regulations.** Violate any regulation promulgated by the commissioner pursuant to this chapter.

The commissioner may, under such terms and conditions as he may prescribe, permit any act prohibited by this section, for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species, and permit any endangered or threatened species which enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit.

§ 3208. Penalties

Any individual person, firm, corporation, governmental or other legal entity who violates the provisions of this chapter shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

§ 3209. Enforcement

Any officer or agent authorized by the commissioner or any state police officer, or any police officer of any municipality of the State shall have authority to execute any warrant to search for and seize any equipment, business records, merchandise, fish or wildlife used or possessed in connection with a violation of this chapter. Such equipment, business records, merchandise, fish or wildlife shall be held pending proceedings in any court of proper jurisdiction, and should a conviction result, be forfeited to the State to be offered by the commissioner to a qualified scientific or educational institution or, as he shall direct, destroyed.

§ 3210. Cooperative agreements

The commissioner is authorized to enter into agreements with federal agencies, other states, political subdivisions of this State or private persons

for the establishment and maintenance of programs for the conservation of endangered or threatened species and is authorized to receive all federal funds allocated for obligation to the State pursuant to such agreements.

STATEMENT OF FACT

The federal Endangered Species Act of 1973 authorized the federal regulation of endangered and threatened species in all states of the union which do not enter into cooperative agreements with the Secretary of the Interior, but specifies that before the secretary may enter into such agreements, he shall find that the agency authorized to act for the State has certain powers to investigate, designate and conserve endangered and threatened species. This Act confers such authority on the Commissioner of Inland Fisheries and Game so that he may enter into these agreements and thereby insure that the regulation of endangered species within the State will remain in state hands, as well as to make the State eligible for any federal funds which may become available for that purpose.