

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 505

House of Representatives, March 28, 1919.

Reported by Mr. Putnam from Committee on Inland Fisheries and Game and ordered printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Putnam of Danforth.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to Amend Sections Six and Seven of Chapter Thirty-three of the Revised Statutes, as amended by Chapters Two Hundred Nineteen and Two Hundred Forty-four of the Public Laws of Nineteen Hundred and Seventeen, relating to providing dams with Fishways.

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

Section 1. Section six of chapter thirty-three of the revised statutes, as amended by chapters two hundred nineteen and two hundred forty-four of the public laws of nineteen hundred and seventeen, is hereby amended by striking out all of said section and by substituting therefor the following section:

'Sect. 6. If the commissioner of inland fisheries and
2 game deems it expedient that any dam or other artificial ob-
3 struction above tidewater in any river or stream frequented
4 by salmon, landlocked salmon, shad, alewives, or other
5 migratory fish shall be provided with a fishway, he shall give
6 fourteen days' notice in writing to one or more of the own-
7 ers or occupants of such dam or other obstruction for a
8 hearing thereon.

'If, after said hearing, the commissioner finds the fishway
2 to be expedient, he may, by an order in writing, require said
3 owner or occupant to provide said dam or obstruction with
4 a durable and efficient fishway within such time and with
5 such specifications as to location, form and capacity as shall
6 be specified in said order. Certified copies of said order
7 shall be mailed to some owner or occupant of said dam or
8 other artificial obstruction.

'An appeal may be taken by such owner or occupant from
2 any order of said commissioner to any two justices of the
3 supreme judicial court and to the county commissioners of
4 the county in which such dam or other artificial obstruction
5 is located, within fourteen days after the mailing of the copy
6 of said order, by filing in the office of the clerk of the su-
7 preme judicial court, and in the office of the county com-
8 missioners, in the county in which said dam or other ob-
9 struction is located, notice in writing of such appeal, stating
10 the reasons therefor; at the request of the appellant or com-
11 missioner of inland fisheries and game, the senior commis-

12 sioners in office of any two adjoining counties may be asso-
13 ciated with the justices of the supreme judicial court and
14 the commissioners of the county where the dam is located.
15 Said justices and county comimssioners shall appoint a time
16 to view the premises and hear the parties and give due notice
17 thereof and after such hearing they shall decide all questions
18 in relation thereto and cause record to be made thereof and
19 their decision shall be final.

‘If the requirements of the commissioner of inland fisher-
2 ies and game are affirmed, the owner or occupant of any
3 such dam shall be liable for the costs of all proceedings
4 arising after the appeal, otherwise said costs shall be paid
5 by the state.

‘On the completion of a fishway to the satisfaction of the
2 commissioner of inland fisheries and game, or at any subse-
3 quent time, he shall prescribe in writing the time during which
4 the same shall be kept open and free from obstruction to the
5 passage of fish each year, and a copy of such writing shall
6 be served on the owner or occupant of the dam. The com-
7 missioner of inland fisheries and game may change the time
8 as he sees fit. Unless otherwise provided, fishways shall be
9 kept open and unobstructed from the first day of May to the
10 fifteenth day of July.

‘If a fishway thus required to be built is not completed to
2 the satisfaction of the commissioner of inland fisheries and
3 game within the time specified, or if a fishway, when com-
4 pleted, is not kept open and unobstructed as required by

5 regulations made by said commissioner in accordance here-
6 with, each owner or occupant shall forfeit not more than
7 one hundred, nor less than twenty dollars, for every day of
8 such neglect.

Sect. 2. Section seven of chapter thirty-three of the re-
2 vised statutes, as amended by chapters two hundred nineteen
3 and two hundred forty-four of the public laws of nineteen
4 hundred and seventeen, is hereby amended by striking out
5 all of said section and by substituting therefor the following
6 section:

‘Sect. 7. Whenever the commissioner of inland fisheries
2 and game finds a fishway out of repair or needing altera-
3 tions, he may, as in the case of new fishways, require the
4 owner or occupant to make such repairs or alterations; and
5 all proceedings in such cases and the penalty for neglect
6 shall be as provided in the preceding section without appeal,
7 unless the cost of said repairs or alterations, as estimated by
8 said commissioner, exceeds five hundred dollars, in which
9 case an appeal may be taken as provided in the preceding
10 section. If the dam is owned and occupied by more than
11 one person, each is liable for the cost of erecting and main-
12 taining such fishway in proportion to his interest in the dam,
13 and if any owner or occupant neglects or refuses to join with
14 the others in erecting or maintaining such fishway, the other
15 owners or occupants shall erect or repair the same, and have
16 an action on the case against such delinquent for his share
17 of the expenses. If the owner or occupant of such dam re-

18 sides out of the state, said penalties may be recovered by a
19 libel against the dam and land on which it stands, filed in
20 the supreme judicial court in the county where it is located,
21 in the name of the commissioner of inland fisheries and game
22 or of any inland fish and game warden who shall give to
23 such owner or occupant, and all persons interested therein,
24 such notice as the court or any justice thereof in vacation
25 orders, and the court may render judgment therein, against
26 said dam and lands for said penalties and costs, and order a
27 sale thereof to satisfy such judgment and costs of sale, sub-
28 ject, however, to all said requirements for the erection and
29 maintenance or repair of said fishway. The commissioner
30 of inland fisheries and game may delegate to any inland fish
31 and game warden or other lawful officer of inland fisheries
32 and game any of the powers given to said commissoner in
33 relation to the construction of fisheries.'