

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 538

H. P. 1311

House of Representatives, February 12, 1935.

Referred to Committee on Inland Fisheries and Game and 500 copies order printed. Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Flanders of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Clarify the Laws Relating to Hunting by Dogs.

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

Sec. 1. R. S., c. 38, § 65, amended. Section 65 of chapter 38 of the revised statutes is hereby amended by striking out all of said section, and by substituting in place thereof the following:

‘Sec. 65. Hunting by dogs, regulated. Anyone may lawfully kill any dog he may find at any time of the year in the act of hunting, worrying, wounding or killing any moose, caribou or deer when said dog is outside of the immediate care of its keeper; or may, at his own expense, seize any dog found so doing, when outside of the immediate care of its keeper, and humanely keep the same for 3 days within the town where found, for the purpose of making or causing to be made the complaint herein described; provided that no person other than an inland fish and game warden or deputy warden, sheriff, deputy sheriff, or constable may so kill any dog unless within 48 hours thereafter he personally makes a full report of the circumstances to a warden or deputy warden, giving his own name and address and a description of the dog.

Any person having evidence of any dog so doing, or of any dog worrying, wounding or killing any fox in captivity, whether outside of the imme-

diate care of its keeper or not, may complain on oath and in writing in behalf of the state to any trial justice or judge of a municipal court having civil jurisdiction in the town where the dog is then kept. The complaint shall describe the dog sufficiently to identify it; give the name and residence of the person who, when the complaint is filed, is the keeper of the dog; state that the complainant has evidence that the dog has done the act or acts aforesaid; and shall pray that the dog be ordered killed. The complaint shall not be dismissed for want of form when it can be rightly understood.

Hearing shall be ordered thereon and notice of not less than 2 days nor more than 10 days shall be given to said keeper by giving to him in hand or by leaving at his dwelling-house a copy of the complaint and order, attested by the court or by the officer serving the same, which service, as well as that of all other precepts issued in the case, may be made by any officer qualified to serve civil process in that town, or by any inland fish and game warden or deputy warden. A complaint so served shall not be defeated by the fact that the alleged keeper became keeper after the act of the dog was done; or that after service of process possession of the dog passed to another; or that title to the dog be in another; or that actual possession of the dog be in another member of the household or immediate family of the alleged keeper. When no service is had, or service is defective, a new order of service may be made, returnable as above. The court may, if it sees fit, order the dog seized by the officer serving the process and humanely kept until the case is disposed of, and the reasonable expense thereof shall be added to the costs.

If upon hearing it appears that the allegations in the complaint are true, the court shall forthwith issue a precept directed to any officer beforenamed and returnable 14 days from its date, ordering said dog killed, and shall assess the keeper named in the complaint the costs of the proceedings which shall be taxed and disbursed as in criminal cases, except that the officer shall be allowed \$1 for attending court; \$2 and travel for killing the dog and making return. \$1 and travel for service or for posting of the copies hereinafter provided for, and if the dog is seized by the officer, 50 cents additional; and except that the court, besides the usual costs, shall have 50 cents for the order of notice, and 25 cents for each attested copy. Execution shall issue for costs in favor of the state and when collected they shall be paid into court, and if not recovered or if not collected on the first execution, they shall be paid by the county upon a bill of costs presented and audited in the usual way. But if the alleged keeper appears and satisfies the court under oath, that he was not the keeper nor the owner of the dog when the acts were committed,

and that no member of his household or of his immediate family was keeper when the acts were committed, he shall not be assessed the costs. Any person may appear and in writing on the back of the complaint claim title or the right of possession to said dog and shall then be admitted as a party to the case and no further notice to him shall be necessary; and if the dog is ordered killed, such person or persons shall be liable for the costs; otherwise the dog, if then detained, and in all other cases where the complaint is not sustained, shall be returned to the person from whom it was taken.

If the keeper of the dog is unknown to the complainant, the complaint shall so state, and in such case shall further state in what town or towns the acts of the dog were committed, and such complaint shall be filed with any trial justice or judge of a municipal court having civil jurisdiction in any of said towns. Said court shall thereupon fix a time and place for hearing and shall issue its monition to all persons interested, citing them to appear at the time and place appointed and show cause why said dog should not be ordered killed. A copy of said complaint and monition, attested as provided above, shall be posted by any officer before named or by said magistrate in 2 public and conspicuous places in said town, or in either town if more than one, at least 5 days before the return day, and if upon hearing the court is satisfied that the allegations are true, it shall issue its precept as above provided ordering the dog killed.

Nothing herein contained shall limit the power to kill unlicensed dogs otherwise provided by law.'

Sec. 2. R. S., c. 38, § 65-A, additional. Chapter 38 of the revised statutes is hereby amended by adding thereto a new section to be numbered 65-A, and to read as follows:

'Sec. 65-A. Penalty. Any person who, after being served with process as alleged keeper of a dog under the foregoing section, sells, gives away, removes or conceals such dog; or permits the same to go at large; or who, having been so served with process, kills such dog and fails to exhibit the body thereof, on demand of the officer having the precept directing that said dog be killed, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$25, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.'

Sec. 3. R. S., c. 5, § 171, amended. Section 171 of chapter 5 of the revised statutes is hereby amended to read as follows:

‘Sec. 171. Certain officers may kill dogs found chasing game or worrying domestic animals; other persons may kill dogs under certain conditions. Any inland game warden or deputy warden, sheriff, deputy sheriff, or constable may at any time lawfully kill any dog ~~he may find in the act of hunting or chasing moose, caribou, or deer, or~~ he may find worrying, wounding, or killing any domestic animal, when said dog is outside of the enclosure or immediate care of its owner or keeper. Any owner of sheep, or any member of his family, or any person to whom is intrusted the custody of any sheep, shall have a right to kill any dog attacking any of said sheep. Any person having any evidence ~~of any dog hunting or chasing moose, caribou or deer, or of any dog kept and used for that purpose, or~~ of any dog worrying, wounding, or killing any domestic animal or fowl, when said dog is outside of the enclosure or immediate care of his owner or keeper, may present said evidence to any trial justice or judge or recorder of any municipal court, which said trial justice, judge, or recorder shall have power to issue a warrant against the owner of said dog, ordering him to appear before him and show cause why said dog should not be killed; and upon hearing the evidence in said case said court may order said dog killed. Any person may lawfully kill a dog which suddenly assaults him or another person when peaceably walking or riding.’