

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 574

S. P. 193

In Senate, February 7, 1957.

Referred to the Committee on Inland Fisheries and Game. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Carpenter of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT to Revise the Inland Fish and Game Laws.

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

Sec. 1. R. S., c. 37, § 9, repealed and replaced. Section 9 of chapter 37 of the Revised Statutes, as revised, is hereby repealed and the following enacted in place thereof:

‘Sec. 9. Rules and regulations. Whenever any existing conditions adversely affect the fish in waters in any part of the State, the Commissioner, with the advice and approval of the Advisory Council, shall make such regulations as may be deemed remedial of any such adverse conditions, in those calendar years in which the Legislature is not in session, in the manner provided in this section.

Petitions stating the conditions affecting the fish and the regulations which are desired as a remedy may be addressed to the Commissioner, by a majority of the municipal officers or 25 citizens of the municipality in which the waters exist; or if the waters are in an unorganized territory, by a majority of the county commissioners of the county in which said waters exists; or the Commissioner may investigate the conditions adversely affecting the fish in any waters in any part of the State and may make such regulations as may be deemed remedial in the manner provided in this section. This petition shall be filed in the office of the Commissioner not later than the first day of August of each year.

Hearing shall be held in the several counties prior to September 14th of the year in which said petition has been filed before the Commissioner or such subordinate officer of the Department as the Commissioner may designate, at a date and place to be designated by the Commissioner.

Notice of the hearings to be held and the time and place thereof shall be by publication once a week for 2 successive weeks prior to the hearing in a newspaper published in the county where said hearing is to be held, and if no paper is published there, in a newspaper having state-wide circulation.

After hearing pursuant to the petitions filed, the Commissioner, with the advice and approval of the Advisory Council, shall make such regulations as may be deemed remedial of any adverse conditions proven to exist at the time of said hearing, such regulations to become effective on January 1st of the year next following the date of the petition. The Commissioner shall cause the regulations to be reduced to writing and publish the same once a week for 2 successive weeks in a newspaper published in the county where the waters are situated and which are affected thereby, or if no paper is published there, in a newspaper having state-wide circulation, the last publication being prior to January 1st, following the date of the petition. The Commissioner shall file a certified copy of said regulations with the Secretary of State and with the clerk of the Superior Court of the county in which the waters affected are situated.

If an unusually large concentration of fishermen should occur on any one of the waters in this State, so that the supply of fish in those waters might be depleted, the Commissioner may declare an emergency and order a hearing held at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 days prior to the hearing in a newspaper published in the county where the water is situated, and if no newspaper is published in that county, then the notice shall appear in a newspaper having state-wide circulation. After the hearing, the Commissioner may promulgate regulations providing for the times, number, weight and manner in which fish may be taken from such waters. He shall reduce the regulations to writing and provide for the expiration date thereof, and shall cause notice of the same to be published, the regulations to take effect upon the day following the publication thereof. A certified copy of the regulations shall be filed with the Secretary of State and with the clerk of the Superior Court in the county in which the water is situated.

Whoever violates any provision of this section or any rule or regulation issued under the provisions of this chapter shall be penalized under the provisions of section 139.

Sec. 2. R. S., c. 37, § 15, amended. The 6th paragraph of section 15 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

"The Commissioner may issue permits to any person, firm or corporation to engage in the business of propagating ~~game birds~~ game or wild animals, or wild rabbits on island surrounded by open salt water all year under such regulations as he shall establish. He may issue to any person, firm or corporation permit to fence in land for ~~the above named~~ this purpose, providing that the fence shall be of a type which will prevent fur-bearing animals from entering or leaving the fenced-in area, and except that such permit may be issued without fencing or enclosing land in the case of islands used to propagate rabbits. When it appears that such application is made in good faith, and upon the payment of an annual fee of \$10, said Commissioner may issue to the applicant a

breeder's license permitting the breeding and rearing of any species of ~~game birds or~~ wild animals within such enclosure or on such island. Such licensed breeders may at any time sell, transport, or kill and sell, and any licensed person, firm or corporation, resident of the State of Maine, may purchase, have in possession or transport any ~~game birds,~~ game or fur-bearing animals, or the skins thereof, raised by virtue of the provisions of this section, under such regulations as said Commissioner may establish. No person shall engage in the business of breeding or rearing any ~~game birds or~~ game or fur-bearing animals at any time without first having procured a breeder's license ~~as provided in this section.'~~

Sec. 3. R. S., c. 37, § 15, additional. Chapter 37 of the Revised Statutes, as revised, is hereby amended by adding thereto a new section to be numbered 15-A, to read as follows:

'Sec. 15-A. Pheasant breeders; license. The Commissioner may issue a license at an annual fee of \$10 to any person, firm or corporation, permitting the the licensee to breed, rear or keep pheasants. Said license shall fence in land for these purposes, and such fence shall be of a type which will prevent pheasants from entering or leaving the fenced-in area.

No person shall breed, rear or keep any pheasants, except those that are owned by the Department, at any time, without first having procured said license. No pheasants, 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 5c. 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 pheasants raised, by virtue of the provisions of this section. Such licensed breeders may also sell live or dressed pheasants outside the State, subject to regulations governing the importation of pheasants of the state in which sold.

Every licensed pheasant 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.

A license shall only be issued to persons who comply with the provisions of this section, and such license shall be revoked for any violation thereof.'

Sec. 4. R. S., c. 37, § 22, repealed and replaced. Section 22 of chapter 37 of the Revised Statutes is hereby repealed and the following section enacted in place thereof:

'Sec. 22. Bulldozing of rivers, streams and brooks. Whoever bulldozes or causes to be bulldozed between the banks of a river, stream or brook in unorganized territory in excess of 500 feet in length in any one mile, measured along the thread of the stream, without first obtaining permission therefor from the Commissioner, shall be guilty of a misdemeanor an upon conviction shall be punished by a fine of not less than \$100 nor more than \$500.'

Sec. 5. R. S., c. 37, § 39, sub-§ III, amended. The 2nd sentence of subsection III of section 39 of chapter 37 of the Revised Statutes, as revised, is hereby repealed and the following sentence enacted in place thereof:

'The license shall be issued upon payment of \$2.75, and the clerk or agent shall retain 25c from the fee.'

Sec. 6. R. S., c. 37, § 44, repealed and replaced. Section 44 of chapter 37 of the Revised Statutes, as revised, is hereby repealed and the following section enacted in place thereof:

'Sec. 44. Open seasons for fishing. The following shall be the open seasons for fishing in the State, except as changed by rules and regulations of the Department, and the opening and closing dates in all instances are inclusive. That part of any calendar year falling outside of the open season shall be expressly declared to be a closed season:

I. For all fish except black bass in lakes and ponds, there shall be an open season in waters naturally free of ice or any portions of waters naturally free of ice from April 1st until September 30th.

II. There shall be an open season for black bass in Lakes and ponds from June 21st to September 30th; in rivers above tidewater from June 21st to September 15th; in brooks and streams from June 21st to August 15. Three black bass per day on single-pointed hooked artificial lures only may be taken from June 1st to June 20th and no person shall have in his possession at any one time more than 3 black bass during this period.

III. There shall be an open season for all fish except black bass in all the rivers above tidewater in waters free of ice from April 1st until September 15th.'

IV. There shall be an open season for all fish except black bass in brooks and streams in waters free of ice from April 1st until August 15th.

Sec. 7. R. S., c. 37, § 66, amended. The last 2 sentences of the 1st paragraph of section 66 of chapter 37 of the Revised Statutes, as revised, are hereby amended to read as follows:

'The Commissioner, through the warden service, shall fix the number of persons who may be lawfully transported **by the owner, operator or bailee** in each such boat or canoe at any one time. The owner of such boat or canoe shall cause the registration number and figures indicating the capacity established to be displayed upon ~~each~~ **one** side of the bow, in numerals painted or attached thereto of suitable size and color and so placed as to be always plainly visible.'

Sec. 8. R. S., c. 37, § 66, amended. The last paragraph of section 66 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Any person, **owner, operator or bailee** who shall violate any of the provisions of this section shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 11 months, or by both ~~such fine and imprisonment~~. Trial justices shall have jurisdiction concurrent with municipal courts and the Superior Court of all complaints and prosecutions under the ~~preceding sections~~ **provisions of this section.**'

Sec. 9. R. S., c. 37, § 69, amended. The 1st 2 sentences of section 69 of chapter 37 of the Revised Statutes, as revised, are hereby repealed and the following sentences enacted in place thereof:

'Any resident who traps for any wild animal, except rabbits, shall annually procure a license therefor from the Commissioner, paying therefor \$10. The annual fee for such trapping within the limits of municipalities of the State shall be \$5. Whoever traps for any beaver on any land in the State open to beaver trapping by said Commissioner shall pay therefor a fee of \$10 annually, and an additional fee of \$1 for the tagging and marking of each skin as required by law, skins to be tagged and marked by a warden supervisor as provided in section 119. The fee for a nonresident for a trapping license shall be \$200.'

Sec. 10. R. S., c. 37, § 71, amended. The 3rd paragraph of section 71 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'No person shall set any trap for any wild animal without having the trap plainly labeled with his full name and address, and he shall forfeit to the State the trap or traps not so marked and any wild animal found therein; ~~provided further, that no.~~ No person shall set a bear trap unless the same is enclosed by at least 2 strands of ~~barbed~~ 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 "~~TRAPPE D'OURS~~" 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 of ~~barbed~~ wire.'

Sec. 11. R. S., c. 37, § 73, sub-§ III, amended. The 2nd and 3rd paragraphs of subsection III of section 73 of chapter 37 of the Revised Statutes, as revised, are hereby repealed and the following paragraphs enacted in place thereof:

'The license may be issued to a resident by the clerk or agent in the town in which the applicant resides, or if domiciled in an unorganized territory, then by the clerk or agent in the nearest town, upon payment of a fee of \$2.75, of which 25c shall be retained by the town clerk or agent. The Commissioner may appoint agents in unorganized towns for the purpose of issuing resident hunting licenses to the residents domiciled in that unorganized town.

A combination of hunting and fishing license may be issued on payment of \$5.25, 25c to be retained by the town clerk or agent.'

Sec. 12. R. S., c. 37, § 82, repealed. Section 82 of chapter 37 of the Revised Statutes, as revised, is hereby repealed.

Sec. 13. R. S., c. 37, § 84, amended. Section 84 of chapter 37 of the Revised Statutes, as revised, is hereby amended by adding at the end thereof 2 new paragraphs, to read as follows:

'The Commissioner may grant permits to import live or dressed pheasants. No pheasants, either alive or dead, shall be imported without the written per-

mission of the Commissioner. Importers shall, when requesting a permit, provide the Commissioner with information as to the number of pheasants to be imported, the name and address of the seller, and whether or not said birds are live or dressed. Importers of live pheasants or pheasant eggs 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 pheasants are imported, certifying that they are from flocks which have been tested for pullorum and typhoid, show no evidence of tuberculosis, or other 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 pheasants.

Upon receipt of shipment, importers of pheasants 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 Commissioner at a cost of 5c each.

Sec. 14. R. S., c. 37, § 85, repealed and replaced. Section 85 of chapter 87 of the Revised Statutes, as revised, is hereby repealed and the following enacted in place thereof:

‘Sec 85. Federal regulation on migratory game birds to govern; open season on partridge and pheasants. No person shall hunt or have in his possession any eagle, Hungarian partridge, sharp-tailed grouse, chukar partridge or bob-white quail.

There shall be a closed season on partridge or grouse and pheasant from November 16th to September 30th of the following year, both days inclusive. No person shall at any time buy or sell any partridge, grouse or pheasant. There shall be a closed season on pheasants within the following described territory until September 30, 1958: All of Penobscot county north of the Canadian Pacific railroad tracks, running from Megantic to Mattawamkeag and Maine Central railroad tracks running from Mattawamkeag to Vanceboro. No person shall have in possession any partridge or pheasants taken in closed season.

During the open season, it shall be unlawful for any person to shoot, take, kill, or have in possession more than 4 partridge or 2 pheasants taken, shot or killed in any one day, and not more than 8 partridge and not more than 2 pheasants in possession at any one time.

Except as provided in this section, it shall be unlawful for any person to hunt, capture, kill, take, possess, transport, buy or sell any migratory game bird at any time. It shall not be deemed to be a violation of this chapter to hunt, capture, kill, take, possess, transport, buy or sell any migratory game bird or part thereof at the times, in the manner and numbers, and by the means specifically permitted by regulations adopted and approved pursuant to the provisions of the Federal Migratory Bird Treaty Act (Act of Congress approved July 3, 1918).’

Sec. 15. R. S., c. 37, § 85, amended. Section 85 of chapter 37 of the Revised Statutes, as revised, is hereby amended by adding at the end thereof a new paragraph, to read as follows:

If, in the opinion of the Commissioner, it is in the best interests of the migratory bird population in the State to have a shorter season, fewer shooting hours or a smaller bag limit than the Federal regulations permit, the Commissioner may, after public hearing, promulgate such regulations as he considers to be in the best interests of the migratory bird population. Notice of the hearing to be held and the time and place thereof shall be by publication once a week for 2 successive weeks prior to the hearing in newspapers having a state-wide circulation. If, as a result of the hearing, the Commissioner promulgates any regulations, they shall be reduced to writing and published once a week for 2 successive weeks in newspapers having state-wide circulation. The Commissioner shall file a certified copy of the regulations with the clerks of the Superior Courts in the 16 counties of the State and with the Secretary of State.'

Sec. 16. R. S., c. 37, § 89, amended. The last paragraph of section 89 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'All regulations shall conform to the regulations issued by the United States Fish and Wildlife Service except such further restrictions as shall be made by the Commissioner under the provisions of section 85.'

Sec. 17. R. S., c. 37, § 91, amended. The 3rd paragraph of section 91 of chapter 37 of the Revised Statutes, as revised, is hereby repealed and the following paragraph enacted in place thereof:

'There shall be a continual closed season on deer on the Island of Mount Desert and all of Swan Island in the town of Swan's Island, which last mentioned town is in the county of Hancock, and on Cross Island and Scotch Island, which last mentioned places are in Washington county, and in the town of Isle au Haut, and the islands within the confines of the town of Isle au Haut, which last mentioned town is in the county of Knox, and in game sanctuaries which have been established by law where the closed season shall be perpetual.'

Sec. 18. R. S., c. 37, § 91, amended. The last paragraph of section 91 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Any person convicted of violating any of the provisions of this section shall be punished by a fine of not less than \$100 and costs, which fine and costs shall not be suspended, or by imprisonment for not more than 90 days, or by both.'

Sec. 19. R. S., c. 37, § 94, amended. Subsections I and II of section 94 of chapter 37 of the Revised Statutes, as revised, are hereby repealed and the following subsection enacted in place thereof:

'I. The cultivator, owner, mortgagee or keeper of any orchard or growing crop, including legumes, except grass, 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 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. Such person may authorize a member of his immediate family or someone employed by him to take or kill said deer or other protected wild animal. Such person, whenever he employs someone not domiciled on said land where the damage is being done to take or kill said deer or other protected wild animal, shall apply to the game warden in charge of the district in which the crops or orchard is located for permission to employ such person or persons and shall receive permission from said game warden in writing.

A person by whom, or under whose direction, such deer or other protected wild animal is wounded or killed shall within 12 hours report all the facts relative to such act to a fish and game warden, stating the time and place of such wounding or killing. Such person who kills such deer or other protected wild animal shall immediately properly dress the carcass or carcasses and care for the meat. The fish and game warden shall immediately investigate the case and if he is satisfied that the deer or other protected wild animal was taken as provided in this subsection, he shall give such person a certificate of his finding in the matter. Such certificate shall entitle such person to the ownership of the carcass or carcasses, to be possessed and consumed only within the immediate family of the person to whom certificate was given.'

Sec. 20. R. S., c. 37, § 94, sub-§§ III-VI, renumbered. Subsections III to VI, inclusive, of section 94 of chapter 37 of the revised statutes, as revised, are hereby renumbered to read subsections II to V, inclusive.

Sec. 21. R. S., c. 37, § 108, amended. Section 108 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Sec. 108. Open season. There shall be an annual open season on deer in all counties of the State, ~~except that portion of Piscataquis county south of the main line of the Canadian Pacific railway~~ beginning on the first Monday of October and ending the 2nd Saturday thereafter, both days inclusive, for the purpose of hunting deer with bow and arrow only.'

Sec. 22. R. S., c. 37, § 110, amended. The 2nd sentence of section 110 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'The arrow head shall be not ~~more than 2 1/2 inches in length and not~~ less than 7/8 inch in width.'

Sec. 23. R. S., c. 37, § 113, sub-§ I, amended. The 5th and 6th paragraphs of subsection I of section 113 of chapter 37 of the Revised Statutes, as revised, are hereby repealed and the following paragraphs enacted in place thereof:

'The open season on otter shall be the months of November, December, January and February of each calendar year. There shall be an open season on fisher from November 16th to December 15th, both days inclusive, of each calendar year.'

Sec. 24. R. S., c. 37, § 119, amended. The 1st paragraph of section 119 of chapter 37 of the Revised Statutes, as revised, is hereby repealed and the following paragraph enacted in place thereof:

'There shall be an open season on beaver from January 1st to February 28th, both days inclusive, of each calendar year in the following described area except in such parts of this area as the Commissioner shall declare closed or shortened: North of a zone line formed by the Appalachian Trail, beginning where it crosses the Maine-New Hampshire line and continuing northeasterly along it to the point where it crosses the Canadian Pacific railroad tracks near Onawa, Piscataquis county, thence easterly along these railroad tracks to the point where they enter Canada near Vanceboro, Washington county. South of the abovedescribed line there shall be an open season on beaver during the month of January of each calendar year except in those areas that are declared closed or shortened by the Commissioner.'

Sec. 25. R. S., c. 37, § 119, amended. The last sentence of section 119 of chapter 37 of the Revised Statutes, as revised, is hereby repealed, as follows:

'A beaver dam is defined as a dam that actually maintains water for a live colony of beavers.'

Sec. 26. R. S., c. 37, § 130, amended. The 1st paragraph of section 130 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'Any officer authorized to enforce the inland fish and game laws may, without process, arrest any violator of said laws and shall, with reasonable diligence, cause him to be taken before a municipal court in the county in which the offense is alleged to have been committed, for a warrant and trial; or if a municipal court in an adjoining county is the nearest court to the place of ~~arrest~~ violation, jurisdiction is given to such municipal court to hear and try such case.'

Sec. 27. R. S., c. 37, § 139, sub-§ I, amended. Subsection I of section 139 of chapter 37 of the Revised Statutes, as revised, is hereby amended to read as follows:

'I. Whoever violates any provision of this chapter relating to beaver, except setting any trap within 25 feet of any beaver house, shall be punished by a fine of not less than \$50 and costs and \$50 additional for each beaver or skin involved, or by imprisonment for not more than 90 days, or by both ~~such fine and imprisonment~~.'