

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature  
1ST SPECIAL SESSION  
JANUARY 2, 1974 TO MARCH 29, 1974  
AND BY THE  
One Hundred and Seventh Legislature  
REGULAR SESSION  
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,  
SECTION 164, SUBSECTION 6.

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THE KNOWLTON AND MCLEARY COMPANY  
FARMINGTON, MAINE  
1975

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PUBLIC LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE  
One Hundred and Sixth Legislature

AT THE  
SPECIAL SESSION

January 2, 1974

to

March 29, 1974

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## CHAPTER 739

## 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**Sec. 1.** R. S., T. 12, § 501-A, sub-§ 9, repealed. Subsection 9 of section 501-A of Title 12 of the Revised Statutes, as enacted by section 3 of Section D of chapter 91 of the private and special laws of 1971 and as repealed and replaced by section 61 of chapter 625 of the public laws of 1973, is repealed.

**Sec. 2.** R. S., T. 12, § 1960-A, sub-§ 1, amended. Subsection 1 of section 1960-A of Title 12 of the Revised Statutes, as enacted by section 2 of chapter 231 of the public laws of 1971, is amended to read as follows:

1. **Upland game defined.** For the purposes of this section, the following shall be considered upland game:

Cottontail Rabbit  
Crow  
Gray Squirrel  
Red Squirrel  
Ring Necked Pheasant  
Ruffed Grouse  
Snowshoe Hare  
Spruce Grouse  
Wild Turkey  
Woodchuck

**Sec. 3.** R. S., T. 12, § 1978, sub-§ 6, amended. The 2nd paragraph of subsection 6 of section 1978 of Title 12 of the Revised Statutes, as enacted by section 11 of chapter 613 of the public laws of 1973, is repealed.

**Sec. 4.** R. S., T. 12, § 1980, amended. The next to the last sentence of section 1980 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 414 of the public laws of 1969, is repealed as follows:

~~The Commissioner of Inland Fisheries and Game, after determining that like privileges are granted by a state, district or country, shall have the authority to enter into a formal written agreement or make other arrangements with such state, district or country for the purpose of carrying out the purpose of this section.~~

**Sec. 5.** R. S., T. 12, § 2001, amended. The 3rd paragraph of section 2001 of Title 12 of the Revised Statutes, as repealed and replaced by section 23 of chapter 544 of the public laws of 1967 and as amended, is further amended to read as follows:

It shall be the duty of the inland fish and game wardens to enforce all laws relating to inland fisheries and game and all rules and regulations pertaining thereto, Title 7, chapter 707 and ~~sections 3601~~ section 3602, Title 17, section 2794, Title 32, chapter 65; all regulations of the Federal Migratory Bird Treaty Act, Act of Congress approved July 3, 1918, as amended; all rules and regulations promulgated by the State Bureau of Parks and Recreation relating to hunting, fishing and trapping; all rules and regulations promul-

gated in accordance with Title 38, section 323 and all rules and regulations promulgated by authority of chapter 206; to arrest all violators thereof, and to prosecute all offenses against the same.

**Sec. 5-A.** R. S., T. 12, § 2154, amended. Section 2154 of Title 12 of the Revised Statutes, as amended, is further amended by adding at the end the following new paragraph:

**Sebago Lake Basin Wildlife Management Area:** All that portion of Sebago Lake commonly known as Sebago Lake Basin lying below the high water mark in the Towns of Standish and Windham.

**Sec. 6.** R. S., T. 12, § 2401, sub-§ 6, amended. The 2nd sentence of subsection 6 of section 2401 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 16 of the public laws of 1973, is amended to read as follows:

Such stamp shall be issued by the commissioner or his authorized agent at a fee of \$1, 25¢ of which shall be retained by the issuing agent, and shall be exhibited to any warden or employee of the department upon request.

**Sec. 7.** 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 and the 15th paragraph as enacted by section 24 of chapter 403, both of the public laws of 1971, are repealed.

**Sec. 8.** R. S., T. 12, § 2402, amended. 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 and as amended, is further amended by adding at the end the following new paragraphs:

All beaver skins shall be presented for tagging and marking within 10 days from the closing of the so-called open season. All beaver which are not tagged and marked in accordance with this section shall be seized and confiscated by the wardens.

Whoever traps for any wild animal in violation of this section, or who has in his possession at any time any wild animal, or part thereof, taken in violation of any provisions of this section, or of section 1960-A or any regulation promulgated thereunder, shall be subject to the penalties provided in sections 3060 and 3060-A.

**Sec. 9.** R. S., T. 12, § 2452, repealed and replaced. Section 2452 of Title 12 of the Revised Statutes, as amended by section 45 of chapter 425 of the public laws of 1969, is repealed and the following enacted in place thereof:

#### § 2452. Use of poisons

It shall be unlawful to use poisons to kill foxes, dogs or other vertebrate land animals except vermin within a building. Any person who leaves or deposits in any place any poison or poisonous substance or kills by poisoning any fox, dog or other vertebrate land animal except vermin within a building shall be subject to the penalties of section 3060. The commissioner may grant permits to use poison to agents of the U. S. Bureau of Sport Fisheries and Wildlife and to fruit growers and nurserymen for the use of poison in the

destruction of rodents. The commissioner may by regulation exempt from this section the control of rats on private premises and in municipal dumping areas as required in Title 30, section 4103. The commissioner or his duly appointed agents may in an emergency use such devices or methods as are necessary for the control of wild dogs or other wild animals when approved by the advisory council.

Whoever violates this section shall be punished by a fine of not less than \$50 nor more than \$200 or by imprisonment for not less than 2 months nor more than 6 months.

Sec. 10. R. S., T. 12, § 2552, sub-§ 7, ¶ A, amended. Paragraph A of subsection 7 of section 2552 of Title 12 of the Revised Statutes, as enacted by chapter 105 of the public laws of 1969 and as repealed and replaced by section 1 of chapter 297 of the public laws of 1973, is amended by adding after the first sentence 2 new sentences to read as follows:

The commissioner may also appoint clerks of towns or other agents to issue said stamp. Any clerk or agent so appointed shall retain 25¢ for each stamp issued.

Sec. 11. R. S., T. 12, §§ 3055-3059, amended. Sections 3055 to 3059 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows:

#### § 3055. Recovery and disposition of fines, fees, forfeitures and penalties

The Commissioner of Inland Fisheries and Game shall have the same authority concerning fines, fees, forfeitures and penalties authorized by chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65 as is granted and vested in the Commissioner of Marine Resources under section 4508.

#### § 3056. Proceedings against corporations

In case of violation of any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, by a corporation, the warrant may be served by an attested copy on the president, secretary, manager or any general agent thereof in the county where the action is pending, and upon return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation. This section shall not be deemed to exempt any agent or employee from prosecution.

#### § 3057. Prosecution by county attorneys

Each county attorney shall prosecute all violations of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, occurring within his county when such cases may come to his knowledge, or when he may be so requested by the commissioner or any officer charged with its enforcement.

§ 3058. Results reported to commissioner

Every judge or the clerk of the court, except the District Court before whom any prosecution under chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, is commenced or shall go on appeal, within 20 days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and disposition thereof, to the commissioner.

§ 3059. Jail costs

The costs for imprisonment in a county jail for the violation of any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or rules and regulations promulgated thereunder shall be paid by the commissioner to the county involved. Such costs shall not exceed the average amount paid for board of federal prisoners.

**Sec. 12. R. S., T. 12, § 3060, amended.** The first paragraph of section 3060 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

Whoever violates any of the provisions of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or rules and regulations promulgated thereunder, or rules and regulations heretofore promulgated and still in force and effect, excepting only those for the violation of which specific penalties have been provided, shall be punished by a fine of not less than \$20 nor more than \$500 and costs, or by imprisonment for not more than 90 days, or by both, except as hereafter noted:

**Sec. 13. R. S., T. 12, § 3061, amended.** The first sentence of section 3061 of Title 12 of the Revised Statutes, as amended, is further amended to read as follows:

All fines, penalties, officers' costs and all other moneys recovered by the court under any provision of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65 shall accrue to the Treasurer of State.

**Sec. 14. R. S., T. 12, § 3101, amended.** The first 2 sentences of section 3101 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows:

All birds, fish or animals, or parts thereof, hunted, bought, sold, carried, transported or found in possession of any person in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, or equipment possessed in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, shall be contraband and shall be subject to seizure by the State. The officer who made such seizure may within reasonable time file with a judge a libel against such birds, fish or animals, or parts thereof, or any equipment possessed in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, except that articles of less than \$10 in value shall not be libeled unless

reasonable doubt exists as to the ownership thereof, setting forth their seizure by him, describing such birds, fish or animals, or parts thereof, or equipment and that they were hunted, taken, caught, killed or had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, and pray for a decree of forfeiture thereof.

Sec. 15. R. S., T. 12, § 3101, amended. The 2nd and 4th sentences of the 3rd paragraph of section 3101 of Title 12 of the Revised Statutes, as amended, are further amended to read as follows:

If any person appears and claims such articles, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the judge such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it must declare that they were not had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, with his knowledge or consent, and state his business and place of residence, and shall sign and make oath to the same before said judge.

If the judge is, upon the hearing, satisfied that said birds, fish or animals, or parts thereof, or any equipment possessed were not had in possession in violation of chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody commanding him to deliver to said claimant the articles, or proceeds derived from the sale of the same, to which he is so found to be entitled, within 48 hours after demand.

Sec. 16. R. S., T. 12, § 3101, amended. That part of section 3101 of Title 12 of the Revised Statutes, which relates to Form of Libel, and as amended, is further amended to read as follows:

FORM OF LIBEL

STATE OF MAINE

County of ....., ss. To .....  
Clerk:  
Judge of the District Court:  
Complaint Justice:

The libel of ....., of ..... shows that he has seized certain birds, fish or animals, or parts thereof, or equipment possessed in violation of the provisions of the Revised Statutes, Title 12, chapters 301 to 335 and Title 7, chapter 707 and Title 7, ~~3601 and section 3602~~ and Title 32, chapter 65, as revised, described as follows: .....

.....  
.....

because the same were hunted, taken, caught, killed or had in possession in violation of the provisions of said chapters and sections, as follows: .....



.....  
.....

which said articles were possessed at ..... in said County of .....  
Wherefore he prays for decree of forfeiture of said articles, according to the  
provisions of law in such case made and provided.

Dated at ....., in said county, this ..... day of .....,  
in the year of our Lord nineteen hundred .....

(Signed) .....  
Inland Fish and Game Warden

Sec. 17. R. S., T. 12, § 3102, amended. The last sentence of section 3102  
of Title 12 of the Revised Statutes, as amended by section 40 of chapter 448  
of the public laws of 1965, is further amended to read as follows:

The failure of any person or officer to perform any act, duty or obligation  
enjoined upon him by chapters 301 to 335 and Title 7, chapter 707 and Title  
7, ~~sections 3601 and section 3602~~ and section 3602 and Title 32, chapter 65 shall be deemed a  
violation thereof.

Sec. 18. R. S., T. 12, § 3153, amended. Section 3153 of Title 12 of the  
Revised Statutes, as amended by section 41 of chapter 448 of the public laws  
of 1965, is further amended to read as follows:

§ 3153. Participant in violation compelled to testify

In any prosecution under chapters 301 to 335 and Title 7, chapter 707 and  
Title 7, ~~sections 3601 and section 3602~~ and Title 32, chapter 65, any participant  
in a violation thereof, when so requested by the county attorney, commission-  
er or other officer instituting the prosecution, may be compelled to testify as  
a witness against any other person charged with violating the same, but his  
evidence so given shall not be used against himself in any prosecution for  
such violation.

Effective June 28, 1974

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CHAPTER 740

AN ACT Revising Certain Laws Relating to Passamaquoddy Indians.

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

Sec. 1. R. S., T. 22, § 4721, additional. Title 22 of the Revised Statutes  
is amended by adding a new section 4721 to read as follows:

§ 4721. Baptismal records in lieu of birth certificates

Any Indian whose birth is not recorded pursuant to this Title relating to  
the registration of live births may, in lieu of such birth certificate, present  
an official copy of the baptismal record from the files of the mission where  
such Indian was baptized, and such baptismal record shall have the same evi-  
dentiary character as an unamended and undelayed birth certificate under  
section 2707.