

LEGISLATURE OF PENNSYLVANIA.

FILE OF THE HOUSE OF REPRESENTATIVES.

No. 792 Session of 1919.

INTRODUCED BY. MR. SCHILLING, MARCH 5, 1919.

REFERRED TO COMMITTEE ON FISHERIES, MARCH 10, 1919.

AN ACT

To revise amend and consolidate the law relating to fish
in certain boundary lakes bays and peninsular waters

1 Section 1 *Be it enacted by the Senate and House of Repre-*
2 *sentatives of the Commonwealth of Pennsylvania in General Assembly*
3 *met and it is hereby enacted by the authority of the same That*

ARTICLE I

Definitions

6 Section 2 The following terms when used in this act
7 are employed except where the context otherwise indicates
8 with the meaning herein respectively assigned thereto

9 "Boundary Lake" means such part or parts of lakes
10 of more than five thousand acres lying between this and
11 any other State or foreign country as this Common-
12 wealth has jurisdiction over

13 "Bay" means a bay adjacent to or connected with a
14 boundary lake as above defined

1 "Peninsular waters" means water on any peninsula
2 which water is adjacent to or connected with a bound-
3 ary lake as above defined

4 "Person" means an individual copartnership association
5 or corporation

6 "Game fish" means all species or varieties of black
7 or yellow bass rock bass calico bass or strawberry bass
8 crappie bass muscallonge and grass pike

9 "Bait fish" means minnows and killifishes

10 "Food fish" means all fish other than game fish and
11 bait fish as above defined

12 Singular number includes the plural

13 Masculine gender includes the feminine and neuter

14 ARTICLE II

15 Regulatory provisions applicable to boundary lakes bays and
16 peninsular waters

17 Section 5 Except as hereinafter otherwise specifically
18 provided no person shall fish for or capture game fish
19 or food fish in boundary lakes bays or peninsular waters
20 in any manner with any device means or method other
21 than

22 (a) Rod and line having not more than three hooks

23 (b) Hand line having not more than three hooks

24 (c) Trolling line with spoon hooks attached

25 (d) Spear which may be used for catching carp and
26 suckers only

27 Any person violating any provision of this section
28 shall on conviction be subject to a penalt of twenty-five
29 dollars or in default of payment undergo imprisonment in

1 the county jail for a period of one day for each dol-
2 lar of fine imposed

3 Section 6 No person shall in any one day catch
4 kill or have in possession the same being killed more
5 than the number of fish herein designated for the res-
6 pective species that is to say

7 (a) Rock bass twenty-five

8 (b) Crappie twenty-five

9 (c) Strawberry or calico twenty-five

10 (d) Any species of black bass twelve

11 (e) Any species of grass pike twelve

12 (f) Any species of muscallonge twelve

13 Section 7 No person shall catch take or have in
14 possession the same being killed any game fish from the
15 first day of November to the thirtieth day of May next
16 ensuing both dates inclusive

17 Section 8 Any person violating the provisions of sec-
18 tion six or seven of this act shall on conviction be
19 subject to a penalty of five dollars for each and every
20 fish caught killed or had in possession In default of
21 payment such person shall be imprisoned in the county
22 jail for the period of one day for each dollar of fine
23 imposed

24 Section 9 No person shall cause or allow any dead
25 fish fish offal contents of tannery vats planing mill shav-
26 ings dye stuffs coal or gas tar coal oil sawdust tan-
27 bark cocculus indicus (otherwise known as fish berries)
28 lime vitriol or any of the compounds thereof refuse from
29 gas houses oil tanks pipes or vessels or any deleterious

1 destructive or poisonous substances of any kind or char-
2 acter to be turned into or allowed to run flow wash
3 or be emptied into any boundary lakes bays or penin-
4 sular waters

5 Any person violating the provisions of this section
6 shall on conviction be subject to a penalty of one hun-
7 dred dollars or to undergo imprisonment in the county
8 jail for six months or both

9 Section 10 No persons shall fish in any boundary
10 lake bay or peninsular waters with electricity quick-lime
11 or any kind of explosive drug or poisonous substance

12 No persons shall place any such substance in such
13 waters except for engineering purposes and after written
14 permission has been obtained from the proper national
15 State or local authorities

16 Any person violating any provision of this section
17 shall on conviction be subject to a penalty of one hun-
18 dred dollars or to undergo an imprisonment in the county
19 jail for a period of six months or both

20 Section 11 Except by and with the consent of the
21 Commissioner of Fisheries no person shall catch sell or
22 make use of any game fish or food fish or minor food
23 fish for the purpose of making composts or other fer-
24 tilizing mixture

25 Any person violating the provisions of this section
26 shall on conviction be subject to a penalty of one hun-
27 dred dollars or to undergo an imprisonment in the
28 county jail for three months or both

1 Section 12 No person shall capture and kill any
2 sturgeon under four feet in length nor have in posses-
3 sion the carcass or flesh of any sturgeon under the
4 length aforesaid

5 Any sturgeon of less than the said length of four
6 feet which may be captured must be immediately returned
7 to the waters from which taken and in such a man-
8 ner as to cause to the fish so returned the least
9 possible injury

10 Any person violating any provision of this section
11 shall be subject for each sturgeon illegally captured and
12 killed or had in possession to a penalty of twenty-five
13 dollars or to undergo an imprisonment in the county
14 jail for the period of one month

15 Section 13 The Commissioner of Fisheries may make
16 such rules and regulations applicable to any peninsula
17 on which is located any pensinsular waters as hereinbe-
18 fore defined as he may deem necessary for the protec-
19 tion of fish in such pensinsular waters or for the pro-
20 tection of any fish hatchery located on such pensinsula
21 Such rules and regulations shall be posted in not less
22 than five conspicuous places on such peninsula Any per-
23 son violating any such rule or regulation shall on con-
24 viction be subject to a penalty of fifty dollars

25 ARTICLE III

26 Regulatory Provisions Applicable Exclusively to Bays and

Peninsular Waters

1
2 Section 20 The Commissioner of Fisheries is hereby
3 empowered to authorize the use of minnow nets for
4 angling or scientific purposes in any bay or peninsular
5 water

6 Section 21 The Commissioner of Fisheries or any rep-
7 resentative of the Department of Fisheries may for the
8 purpose of stocking the waters or for the purpose of
9 taking spawn catch fish with nets in such waters at
10 any time of the year

11 Section 22 The Department of Fisheries may remove
12 by means of nets by contract or otherwise any fish
13 which it may deem injurious to other fish

ARTICLE IV

14
15 Regulatory Provisions Applicable Exclusively to Boundary
16 Lakes

17 Section 25 The Department of Fisheries is hereby au-
18 thorized to issue a fishing license upon written applica-
19 tion therefor signed by the applicant upon payment of
20 the license fee herein prescribed for the respective fishing
21 devices that is to say for each

22 (a) Row or sail-boat used in fishing with gill nets
23 ten dollars

24 (b) Boat other than a row or sail boat under ten
25 tons gross burden twenty dollars

26 (c) Boat of from ten to twenty tons gross burden
27 thirty dollars

28 (d) Boat over twenty tons gross burden forty dollars

29 (e) Pound net twenty dollars

1 (f) Trap net or device other than a pound net
2 not less than one dollar nor more than ten dollars to
3 be determined and fixed by the Commissioner of Fisheries

4 The Commissioner of Fisheries may revoke any license
5 for violation of any provision of this act or for viola-
6 tion of any conditions in which the license was granted

7 Any person operating or employing others to operate
8 any boat net or device without being licensed as here-
9 inbefore provided shall on conviction be subject to a
10 penalty of fifty dollars or in default of payment be
11 imprisoned in the county jail for a period of one day
12 for each dollar of fine All fish caught with such un-
13 licensed devices shall be forfeited to the Department of
14 Fisheries All unlicensed devices used in violation of the
15 provisions of this act shall be forfeited to the Depart-
16 ment of Fisheries

17 Section 26 No license shall be issued except upon
18 the condition that the operator of any boat so licensed
19 shall permit a person designated by the Commissioner of
20 Fisheries to accompany such boat at any time when it
21 is engaged in fishing for the purpose of securing for
22 the use of the Department of Fisheries from the fish
23 so caught so much of their spawn as the Department
24 may desire

25 Section 27 No license shall be issued to a resident
26 of any State or county whose laws prohibit the issuing
27 of a license to a resident of the Commonwealth of
28 Pennsylvania

1 Section 28 Except as in this section hereinafter pro-
2 vided no gill nets shall be licensed other than gill nets
3 having a mesh of not less than three inches stretched
4 mesh fishing measure

5 Gill nets used in fishing for trout may be licensed
6 which have meshes of at least five and one-half inches
7 in size stretched mesh fishing measure

8 No pound nets shall be licensed other than pound
9 nets the cribs of which shall have a mesh of not less
10 than two and one-half inches stretched mesh fishing
11 measure

12 No trap nets shall be licensed other than trap nets
13 of which shall have a mesh of not less than two and
14 one-half inches stretched mesh fishing measure

15 Section 29 Licenses issued under the authority of
16 this article shall be good for the calendar year in
17 which issued Such licenses shall be carried by the
18 operator of any boat net or device for which issued
19 and shall be shown on demand to any fish warden con-
20 stable deputy sheriff fish commissioner or any authorized
21 representative of the Department of Fisheries

22 Any person refusing to exhibit his license on demand
23 as aforesaid shall be subject to a penalty of five dol-
24 lars or in default of payment be imprisoned in the
25 county jail for one day for each dollar of fine

26 Section 30 No net except a gill or a net fastened
27 to and supported by poles driven in the ground and
28 known as a pound net shall be set fastened drawn or
29 used within sixteen miles from the entrance to any bay

1 nor within one-half mile from any stream measured in a
2 direct line

3 No gill net or pound net shall be set fastened drawn
4 or used within two miles of the entrance to any bay

5 No net of any character shall be set fastened drawn
6 or used within three-fourths of a mile from shore meas-
7 ured in a direct line

8 A person violating any provision of this section shall be
9 subject to a penalty of one hundred dollars or imprison-
10 ment in the county jail for a period of three months

11 Section 31 No nets except gill nets and pound nets
12 shall be set fixed or fastened without having thereto at-
13 tached a buoy of at least eighteen inches in diameter
14 bearing a metallic tag on which shall be marked the
15 owner's name and address and which buoy must be plainly
16 visible and above water at all times

17 A person violating any provision of this section shall
18 on conviction be subject to a penalty of twenty-five dol-
19 lars and the confiscation of the net Any net required to
20 be buoyed which is found in the water without buoy as
21 above provided and the owner cannot be located shall be
22 confiscated to the Department of Fisheries

23 Section 32 No person except the owners thereof or their
24 representatives shall remove or take fish from any device
25 licensed under and operated according to the provisions of
26 this act

27 A person violating any provision of this section shall
28 on conviction be subject to a penalty of ten dollars for

1 each fish so unlawfully taken provided the total amount
2 of fines shall not exceed one hundred dollars for fish
3 taken at any one time In default of payment such per-
4 son shall be imprisoned in the county jail for the period
5 of one day for each dollar of fine

6 Any fish recovered shall be returned to the owner or
7 owners from the net or device from which they were
8 taken and all boats and appliances used in unlawfully
9 taking the fish shall be forfeited to the Department of
10 Fisheries

11 Section 33 No person shall catch by means of any
12 device for which a license is issued under the provisions
13 of this act any

14 (a) Blue pike and sauger pike less than eleven inches
15 in length

16 (b) Yellow pike less than thirteen inches in length

17 (c) Yellow perch less than nine inches in length

18 (d) Ciscos not less than six ounces in weight in
19 the round

20 (e) White fish not less than one and three-fourths
21 pounds in weight in the round

22 Any person violating the provisions of this section shall
23 be subject to a penalty of ten dollars for each fish so
24 taken or had in possession

25 The foregoing provisions of this section shall not ap-
26 ply to a person who having caught any fish less than
27 the size or weight permitted returns such fish in the
28 condition in which they were caught to the waters from
29 which they were taken

1 Section 34 The Commissioner of Fisheries is hereby
2 empowered to authorize the use of minnow nets for
3 angling or for scientific purposes

4 Section 35 The Commissioner of Fisheries may make
5 such rules and regulations applicable to any boundary
6 lake as hereinbefore defined as he may deem necessary
7 for the protection of fish in such waters

8 ARTICLE V

9 Provisions Relating to the Enforcement of the Act and
10 the Disposition of Fines

11 Section 40 Any fish commissioner fish warden special
12 warden sheriff constable or any special officer or any
13 peace officer in this Commonwealth is hereby authorized
14 and required to proceed with such force of the county
15 as may be necessary to seize any device for catching
16 fish used contrary to or prohibited by this act Such
17 officers are required to arrest with or without warrant
18 any person owning placing or using such device or vio-
19 lating any provision of this act

20 Section 41 Such officers are authorized and required
21 to apprehend and arrest and immediately take any person
22 guilty of any violation of this act before any alderman
23 magistrate or justice of the peace who shall forthwith
24 hear and determine such charge in the manner herein pro-
25 vided

26 Section 42 In case of any fish commissioner fish
27 warden or any other officer hereinbefore named fails to
28 prove his case and the defendant is discharged or in
29 case the defendant is convicted and sent to jail in lieu

1 of the payment of fine the county in which the case
2 is heard shall pay the costs

3 Section 43 Such arrests may be made on Sunday or
4 any legal holiday in which case the person so arrested
5 shall be taken before the proper officer and proceed
6 against on the first lawful day following the arrest

7 Section 44 Any sheriff deputy sheriff constable special
8 officer or other peace officer of this Commonwealth refus-
9 ing or neglecting to proceed with such force of the
10 county to forthwith remove and destroy any existing de-
11 vice illegally used for the catching of fish within its
12 jurisdiction after being notified in writing of the exist-
13 ence of such illegally used device or any such officer
14 neglecting or refusing to remove or destroy any such il-
15 legal device for catching fish within the Commonwealth of
16 which he shall be cognizant shall on conviction as pro-
17 vided herein be sentenced to pay a fine of fifty dollars

18 Section 45 Any person who shall by threat menace
19 or force or in any manner attempt to deter or pre-
20 vent any fish warden or other person authorized to make
21 arrests for violation of the fish laws from enforcing or
22 carrying into effect any provisions of this act or who
23 shall resist the seizure of boats devices or nets illegally
24 used shall on conviction thereof as provided be sentenced
25 to pay a fine of one hundred dollars

26 Section 46 That in all cases of arrest for violation
27 of any provision of this act the possession of fish pro-
28 hibited by such provision or the possession of a device at
29 or near a place where such device is prohibited by such

1 provision shall be prima facie evidence of the violation
2 of such provision

3 In case of the pollution of waters by any substances
4 known to be injurious to fish it shall not be necessary
5 to prove that such substances actually caused the death
6 of any particular fish

7 Section 47 Any alderman magistrate or justice of the
8 peace upon information or complaint made to him by
9 affidavit of one or more persons charging any person with
10 having violated any of the provisions of this act or any
11 of the rules and regulations adopted and promulgated by
12 the Commissioner of Fisheries pursuant to this act is
13 hereby authorized and required to issue his warrant under
14 his hand and seal directed to any constable peace officer
15 or warden and shall cause such person to be arrested
16 and brought before such alderman magistrate or justice
17 of the peace who shall hear and determine the guilt or
18 innocence of the person or persons so charged

19 Section 48 All license fees collected under this act
20 and all fines imposed and collected for the violation of
21 any provision of this act shall be forthwith paid by
22 such alderman magistrate or justice of the peace to the
23 Department of Fisheries at Harrisburg All moneys received
24 or recovered by the Department of Fisheries under any
25 provision of this act shall be immediately paid into the
26 State Treasury where it shall be kept as part of a
27 fund separate and apart to be used solely under the
28 direction of the Department of Fisheries for the purpose

1 of defraying any of the necessary expenses incurred in
2 fish propagation and protection

3 Section 49 All actions for violation of any provisions
4 of this act shall be taken within one year from the
5 time the offense is committed The Commissioner of Fish-
6 eries is hereby authorized to employ legal counsel to as-
7 sist in the enforcement of this act and to defend the
8 officers and employes of the Department of Fisheries for
9 acts done in the proper performance of their duties

10 Section 50 All boats and legal devices used unlaw-
11 fully and forfeited to the Department of Fisheries under
12 any of the provisions of this act shall be sold by the
13 Commissioner of Fisheries or destroyed by his order All
14 unlawful nets or devices not preserved for exhibition pur-
15 poses by the Department of Fisheries shall be destroyed
16 by the Commissioner of Fisheries or by his order Records
17 shall be made of all such sales or destruction on the
18 books of the Department

19 ARTICLE VI

20 Construction and Repeal

21 Section 60 The provisions of this act are severable
22 and if any of the provisions shall be held to be un-
23 constitutional such decisions shall not affect the validity
24 of any of the remaining provisions of this act This act
25 is intended as a complete and exclusive system for the
26 protection and propagation of fish in boundary lakes bays
27 and peninsular waters as hereinbefore defined

1 Nothing in this act shall be construed to affect in
2 any way the provisions of the act approved April fifth
3 one thousand nine hundred and seventeen entitled "An act
4 prescribing a closed season for sturgeon in the waters of
5 Lake Erie under the jurisdiction of this Commonwealth on
6 the condition that certain legislation shall be adopted by
7 certain States of the United States and by the Province
8 of Ontario of the Dominion of Canada"

9 Section 61 The act of May fifth one thousand nine
10 hundred eleven (Pamphlet Laws one hundred sixty-four) en-
11 titled "An act to forbid the use of a gill net of more
12 than thirty meshes deep in such parts of boundary lakes
13 of more than five thousand acres as this Commonwealth
14 has jurisdiction over and providing penalty and punishment
15 for the violation of any provision of this act"

16 The act approved April eighteenth one thousand nine
17 hundred thirteen (Pamphlet Laws one hundred) entitled "An
18 act to classify the species of fish in such parts of the
19 boundary lakes of more than five thousand acres as this
20 Commonwealth has jurisdiction over and in waters of any
21 peninsula or in any bay adjacent to or connected with
22 such lakes to declare which fish are game fish which
23 fish are food fish and which are minnows or bait fish
24 to protect and provide for the maintenance and increase
25 of fish in such lakes to regulate and provide for the
26 payment of license fees for the catching of fish from
27 such boundary lakes and prohibit the unauthorized taking
28 of fish from devices used by authority of such license
29 to provide penalties and punishments for the violation of

1 any of the provisions of this act and requiring the
2 county wherein an offense is charged to pay costs of
3 prosecution in certain instances and repealing all acts in-
4 consistent herewith" are hereby repealed.

5 All other acts or parts of acts inconsistent with the
6 provisions of this act are hereby repealed.

7 The repeal by this act of any act or parts of acts
8 shall not operate to revive any act or parts of acts
9 heretofore repealed.