

## No. 109

## AN ACT

## HB 385

Amending the act of December 15, 1959 (P.L.1779), entitled, as amended, "An act relating to fish, frogs, tadpoles and turtles; and amending, revising, consolidating and changing the law relating to fish in the inland waters and the boundary lakes and boundary rivers of the Commonwealth," further providing for payments for, and maintenance and closing of, devices that enable fish to migrate and changing a penalty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 185, 186, 187 and 188, act of December 15, 1959 (P.L.1779), known as "The Fish Law of 1959," are amended to read:

Section 185. Devices to Enable Fish to Migrate to Be Erected at Dams.—Any person, now or hereafter, erecting or maintaining a dam in the waters of this Commonwealth, shall, immediately, on a written order from the Commission, erect therein such chutes, slopes, fishways, gates or other devices, as the Commission may deem necessary, to enable the fish to ascend and descend the waters at all seasons of the year, but in lieu of requiring the erection of such chutes, slopes, fishways, gates or other devices, at any dam where the same is not deemed by the Commission to be practicable or advisable for the ascending or descending of fish, the Commission is empowered to enter into an agreement with the owner, lessee or operator of such dam, to pay to the Commission annually or at other stated periods, a sum of money which shall be not less than two and one-half per centum per annum upon the estimated cost of the erection of such chutes, slopes, fishways, gates or other devices, plus the estimated cost or reasonable depreciation and maintenance of the same, except in such cases where the sum of such interest, depreciation and maintenance so calculated would be equal to or exceed the sum of **[six thousand five hundred dollars (\$6500.00)] *twenty-five thousand dollars (\$25,000.00)*** per annum, then, the annual payment shall, in all such cases, be **[six thousand five hundred dollars (\$6500.00)] *twenty-five thousand dollars (\$25,000.00)*** per annum, to be expended by the Commission for the purpose of stocking with fish the waters of the stream dammed, and for the purpose of propagating, rearing and distributing the fish actually placed in said waters, and the acquisition of the necessary facilities therefor as well as for carrying out such other fish managing practices at or in said waters as are deemed proper for the improvement of public fishing opportunities therein. Any money received by the Commission pursuant to such an agreement shall be paid into The Fish Fund and is hereby specifically appropriated to be expended by the Commission for the purpose above named: Provided, That when funds are available for such purpose, the Commission shall conduct and encourage such surveys

and experimentation as may be necessary and feasible in order to discover and/or develop such chutes, slopes, fishways, gates or other devices as may successfully pass migratory fish over the dams.

Section 186. Devices to Be Maintained.—Every such chute, slope, fishway, gate or other devices, shall be *operated in a manner prescribed by the Commission and shall be* maintained open and in good order and repair by the person owning or maintaining such dam [until said dam is removed, raised or rebuilt].

Section 187. Closing of Devices.—Any chute, fishway or other device aforesaid may be closed for repairs [at the time of low water but such closing shall only be for a period of thirty days at any one time] or when not needed on written approval of the Commission.

Section 188. Penalty.—Any person neglecting or refusing to comply with sections 185 and 186 of this article, within three months from the date of notice provided in section 185 of this act, shall forfeit and pay the sum of one hundred dollars (\$100.00) for every [month] day such person so refuses or neglects. Such sum shall be recovered by civil suit or process in the name of the Commonwealth.

APPROVED—The 5th day of May, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 109.



*Louis J. Kelly*  
Secretary of the Commonwealth.