

No. 331

AN ACT

HB 2538

Amending the act of December 15, 1959 (P.L.1779, No.673), 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," authorizing the Executive Director, with the approval of the Commission, to promulgate rules and regulations to protect reptiles, amphibians and all endangered species, and adding a penalty for endangered species.

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

Section 1. Section 200, act of December 15, 1959 (P.L.1779, No.673), known as "The Fish Law of 1959," amended February 17, 1972 (P.L.67, No.21), is amended to read:

Section 200. Pollution of Waters Prohibited; Explosives.—No person shall put or place in any waters within or on the boundaries of this Commonwealth any electricity, explosives or any poisonous substances whatsoever for the purpose of catching, injuring or killing fish, except that, for the purposes of fish management, agents of or persons authorized by the Commission under the supervision of the Executive Director may use any method or means of eradication or control of fish. No person shall allow any substance of any kind or character, deleterious, destructive or poisonous to fish, *aquatic organisms, amphibians and reptiles*, to be turned into or allowed to run, flow, wash or be emptied into any waters within this Commonwealth, but nothing herein contained shall be deemed to repeal or supersede any of the provisions of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

Section 2. Section 202.1 of the act, added January 19, 1968 (1967 P.L.1009, No.444), is amended to read:

Section 202.1. Civil Suits.—(a) The Commonwealth in its sovereign capacity as the guardian and trustee for the people of Pennsylvania of all the natural resources of Pennsylvania, including fish, *aquatic organisms, amphibians, reptiles*, and aquatic life, is hereby declared to have sufficient interest in said fish, *aquatic organisms, amphibians, reptiles* and aquatic animals living in a free state to give it standing, through its duly authorized agencies, to recover damages in civil action against any person or persons who unlawfully or negligently kill or otherwise destroy any fish, *aquatic organisms, amphibians and reptiles* or other aquatic animals by pollution.

(b) The proprietary ownership, jurisdiction over and control of fish, *aquatic organisms, amphibians, reptiles* and aquatic animals living free in nature, including bait-fish and fish-bait, as defined in this act, are hereby declared to have been achieved through the continued

expenditure of Commonwealth funds and efforts to protect, perpetuate, propagate and maintain populations of fish, ***aquatic organisms, amphibians, reptiles***, bait-fish and fish-bait within the waters of the Commonwealth as a renewable natural resource of the Commonwealth.

(c) The Fish Commission, as an agency of the Commonwealth duly authorized to regulate, control, manage and perpetuate the fish, ***aquatic organisms, amphibians, reptiles*** and other aquatic life in the waters of the Commonwealth may, in addition to criminal penalties provided in this act, bring civil suits in trespass on behalf of the Commonwealth for the value of any fish, ***aquatic organisms, amphibians and reptiles***, bait-fish or fish-bait destroyed in violation of section 200 of this act.

Section 3. Sections 203 and 251 of the act are amended to read:

Section 203. Evidence in Prosecution for Pollution.—In prosecutions under this article for the pollution of waters by substances known to be injurious to fish, ***aquatic organisms, amphibians and reptiles***, or to fish food, it shall not be necessary to prove that such substances have actually caused the death of any particular fish, ***aquatic organisms, amphibians and reptiles***.

Section 251. Power of Executive Director and His Agent to Fish; Rules and Regulations.—The Executive Director or his agent may catch fish in any of the waters of this Commonwealth at any season of the year and with any kind of nets or devices. The Executive Director, with the approval of the Commission, may promulgate such rules and regulations for the angling, catching, introduction or removal of fish in or from any of the inland waters, artificial or otherwise, and the boundary lakes and boundary rivers of this Commonwealth, as he may deem necessary. To aid in the better protection and management of fish in any of the inland waters and boundary lakes and boundary rivers of this Commonwealth, the Commission may also reduce or increase open seasons and creel possession size and season limits, or may close or open seasons as, in its judgment, may be necessary to conserve, protect or assure the future fish supply in any portion of the inland waters and boundary lakes and boundary rivers of this Commonwealth.

To reduce or increase open seasons or creel limits, or to open or close seasons for fishing in any portion of the inland waters or boundary lakes or boundary rivers of this Commonwealth, the Commission shall prepare and distribute such posters or notices as, in its judgment, may be necessary to give due notice of its regulations adopted hereunder.

The Executive Director, with the approval of the Commission, may promulgate rules and regulations governing the taking, catching, killing and possession of all amphibians and reptiles and in addition may establish seasons and possession limits for all amphibians, reptiles and aquatic organisms.

The Commission may issue annual Scientific Collectors Permits for educational and scientific purposes for the taking of fish, amphibians and reptiles at a fee established by the Commission.

Any person violating any of said rules and regulations shall, upon conviction as provided in chapter 14 of this act, be sentenced to pay a fine of twenty dollars (\$20.00), and in addition thereto, may be fined ten dollars (\$10.00) for each fish, ***amphibian and reptile*** caught, taken or had in possession contrary to such rules and regulations of the Commission.

Section 4. The act is amended by adding a section to read:

Section 251.1. Rare and Endangered Species.—The Executive Director, with the approval of the Commission, may promulgate rules and regulations governing the taking, catching, killing, and possession of endangered species within the classifications of fish, amphibians and reptiles. Any species caught by mistake shall immediately be released in the condition in which it was captured in the place it was taken.

Any person violating any of said rules and regulations shall, upon conviction as provided in chapter 14 of this act, be sentenced to pay a fine of five hundred dollars (\$500.00) for each violation.

APPROVED—The 27th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 331.



Secretary of the Commonwealth.