

## No. 223

## AN ACT

To amend sections fifty and seventy-two as amended, subsection (b) of section one hundred ninety-one, section two hundred twenty-six as amended, sections two hundred twenty-eight and two hundred fifty-one, and section two hundred eighty-five as amended of, and to add sections two hundred eighty-two and two hundred eighty-three to the act, approved the second day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, four hundred forty-eight), entitled "An act relating to fish; 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," by further regulating the taking of fish; requiring certain persons to possess fishing licenses; providing for and regulating the revocation of fishing licenses; providing for the payment over of fines collected, and the return of fines erroneously collected; vesting certain additional powers in the Board of Fish Commissioners; eliminating certain restrictions on the use of license fees; and regulating closed seasons on boundary lakes.

Section 1. Be it enacted, &c., That section fifty of the act, approved the second day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, four hundred forty-eight), entitled "An act relating to fish; 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," as last amended by the act, approved the seventeenth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws, one thousand one hundred forty-five), is hereby further amended to read as follows:

Section 50, act of May 2, 1925 (P. L. 448), as amended by act of July 17, 1935 (P. L. 1145), further amended.

Section 50. Devices to Catch Game-fish, Bait-fish, and Fish-bait.—No person shall use any device, means, or method whatsoever, except as in this article otherwise provided, for taking fish from the waters within this Commonwealth, except the following; that is to say, for:

(a) Game-fish, two rods and two lines and one hand line, with not more than three hooks attached to either line.

(b) Bait-fish, and fish-bait, two rods and two lines, with not more than three hooks attached to each line; a dip-net, or minnow seine not over four feet square or four feet in diameter; a minnow trap, with not more than one opening, which shall not exceed one inch in diameter. The rods, hooks, and lines must be under the immediate control of the person using the same.

(c) *Pickarel not more than five tip-ups when fishing only through holes in the ice.*

[(c)] (d) It shall be unlawful to take or attempt to take fish of any kind by the methods known as snatch-fishing, foul hooking, or snag-fishing, or the taking or fishing for fish with hook or hooks, baited or otherwise attached to rod or line or other device for the taking of or fishing for fish with any device whatsoever which may be

used to capture any fish by engaging such device in, to or with any part of the body of a fish.

[(d)] (e) Eels in rivers of this Commonwealth, in addition to such rods and lines, eel chutes from the first day of August to the last day of November in each year, Sundays excepted, but only from four o'clock in the afternoon to eight o'clock in the morning on such days, when a special license therefor, in addition to the regular fishing license, has been first secured. Eel chutes to be lawful shall not have any wings of netting of any kind, or any cloth or wire netting, but shall be constructed of wooden slats or lath which shall not be closer than one-half inch in the bottom. Eel chutes shall not be more than five feet long, and the width of entrance of an eel chute shall not be more than ten feet. A metal tag, issued at the time the special license is secured, shall be securely fastened to the eel chute in a conspicuous place.

No wing walls of stone or other material shall be constructed for more than three-fourths of the distance across any river. The heads of no two wing walls when constructed side by side, shall be closer together than a distance of twenty feet.

All eel chutes must be kept free of rubbish, and all game fish found therein must be immediately returned to the water of the river uninjured.

During the hours of each day, and on Sunday, when the operation and use of eel chutes is not legal under this section, a portion of the bottoms of such chutes shall be removed to facilitate the unobstructed passage of fishes.

(f) *It shall be unlawful to take or attempt to take fish of any kind by trolling from a moving boat electrically propelled or propelled by an internal combustion motor.*

Section 72, as amended by act of July 17, 1935 (P. L. 1145), further amended.

Section 2. That section seventy-two of said act, as amended by the act, approved the seventeenth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws, one thousand one hundred forty-five), is hereby further amended to read as follows:

Section 72. Closed Season.—No person shall catch, take, or have in possession—the same being killed—the same game-fish from the first day of [November] *December* to the [twenty-ninth day of May] *fourteenth day of June* next ensuing, both dates inclusive: *Provided, however, That pickerel may be caught and taken, not exceeding the daily creel limits fixed by this act, during the months of December and January, but only when tip-ups are employed while fishing through holes in the ice.*

Any person violating the provisions of sections seventy-one or seventy-two of this act shall on conviction, in the manner provided in chapter fourteen of this act, be subject to a penalty of five dollars for each and every fish caught, killed, or had in possession.

In addition to such penalty, the license of such person may be revoked for one year for the first offense, and two or more years for the second offense, at the discretion of the Board.

Section 3. That subsection (b) of section one hundred ninety-one of said act, which was added by the act, approved the twenty-ninth day of May, one thousand nine hundred and thirty-five (Pamphlet Laws, two hundred sixty-three), is hereby amended to read as follows:

Subsection (b), section 191, as amended by act of May 29, 1935 (P. L. 263), further amended.

(b) Interference with Dams, Deflectors, and Retards, Et Cetera.—Dams, deflectors, retards, or similar devices, placed across, or in any [stream] *waters inhabited by fish*, with permission of the owner or owners of the land *adjacent thereto* or through which such [stream] *water* flows, shall not be destroyed, removed, breached or disturbed, except by written permission first obtained from the board. Any person or persons violating the provisions of this subsection shall on conviction, as provided in chapter fourteen of this act, be sentenced to pay a fine of ten dollars for each dam, deflector, retard, or similar device, destroyed or removed or breached or disturbed.

Penalty for violation of this subsection.

Section 4. That section two hundred twenty-six of said act, as amended by the act, approved the tenth day of June, one thousand nine hundred and thirty-five (Pamphlet Laws, two hundred ninety-six), is hereby further amended to read as follows:

Section 226, as amended by act of June 10, 1935 (P. L. 296), further amended.

Section 226. Unlawful to Fish Without License.—No person shall angle or fish in any of the waters within or bounding on or adjacent to this Commonwealth unless the license hereinbefore provided be at such time continually kept about the person of the licensee and exhibited upon the request of any fish warden, sheriff, constable, or other officer of the Commonwealth. No person shall angle or fish in any of the waters within or bounding on or adjacent to this Commonwealth unless the license button be at such time continually displayed on the outer garment in such manner that the license figures are plainly visible.

The provisions of this section shall not apply to a person holding a fishing license, issued pursuant to the laws of the State of New York, when fishing by angling in that portion of the waters of the Delaware River lying between New York and Pennsylvania, within the jurisdiction of this State, if the persons holding angling licenses, issued pursuant to the provisions of this act, when fishing by angling in the waters of the Delaware River lying between New York and Pennsylvania, within the jurisdiction of the State of New York, are not required to have New York licenses, nor shall the provisions of this section apply to a person holding a fishing license, issued pursuant to the laws of the State of Ohio, when fishing by angling in the waters of the Pymatuning Lake

Persons holding a New York permit.

Persons holding an Ohio permit.

or reservoir, within the jurisdiction of this State, if the person holding licenses, issued pursuant to the provisions of this act, when fishing by angling in the waters of said lake, within the jurisdiction of the State of Ohio, are not required to have Ohio licenses: *Provided, however, That where the persons doing such fishing shall fish from the bank on lands in Pennsylvania, then a Pennsylvania license shall be required: And provided further, That where such fishing is done by persons residing in Pennsylvania, whether permanently or only temporarily, a Pennsylvania license shall be required.*

Proviso.

Proviso.

Section 228,  
amended.

Section 5. That section two hundred twenty-eight of said act is hereby amended to read as follows:

Section 228. *Penalty; Revocation of Licenses; Period of Revocation.*—Any person violating any provisions of this article shall on conviction, in the manner provided in chapter fourteen of this act, be sentenced for each offense to pay a fine of twenty-five dollars. *It shall be unlawful for any person to obtain or use a fishing license during the period for which his license was revoked, and any person violating this provision shall be subject to the penalty provided in this section.* In addition to [such] *any penalty provided for any violation of this act, the fishing license of any person convicted or signing an acknowledgment, as hereinafter provided, shall be void, and the license and license button shall be surrendered by such person and immediately sent by the court making the conviction or the officer taking the acknowledgment to the [commissioner] board at Harrisburg. In such cases, and in cases where a person has been convicted of a violation of this act who does not possess a fishing license, the board shall notify him of the time during which he shall not be eligible to possess a fishing license, and during which period he may not apply for such a license, but no such period shall exceed three years.*

Section 251,  
amended.

Section 6. That section two hundred fifty-one of said act is hereby amended to read as follows:

Section 251. *Power of Commissioner and His Agent to Fish; Rules and Regulations.*—The Commissioner 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 Commissioner, with the approval of the Board, may promulgate such rules and regulations for the angling, catching, or removal of fish in or from any of the inland waters, artificial or otherwise [wholly within] *and the boundary lakes and boundary rivers of this Commonwealth, as he may deem necessary. To aid in the better protection of fish in any of the inland waters and boundary lakes and boundary rivers of this Commonwealth, the board 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 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 the Commonwealth, the board shall prepare and distribute such posters or notices, as, in its judgment, may be necessary to give due notice of its regulations adopted hereunder.

Any person violating any of said rules and regulations shall upon conviction, as provided in chapter fourteen of this act, be sentenced to pay a fine of twenty dollars.

Section 7. That said act is hereby further amended by adding thereto after section two hundred eighty-one two new sections to read as follows:

Sections 282 and  
283 added.

*Section 282. Fines to Be Forwarded to Commissioner.*—All fines recovered in cases where the prosecutor is a salaried officer of the Commonwealth shall be immediately surrendered by the court receiving the same to the prosecutor, who in turn, as soon as may be, shall forward or deliver such fines and penalties to the commissioner. Where any officer of the Commonwealth, other than a salaried officer, is the prosecutor the fines and penalties shall, as soon as the case is fully determined by any magistrate, alderman or justice of the peace, be forwarded by such magistrate, alderman or justice of the peace to the Commissioner at Harrisburg, together with a statement of the cause for which such fines were collected, the cost of which statement is hereby fixed at fifty cents and made a part of the costs of prosecution. All fines received by the commissioner shall be paid into the State Treasury monthly, by and through the Department of Revenue, for the use of the fish fund.

Sworn statements of all fines and penalties so collected and all bail forfeited shall also be made by the magistrate, alderman or justice of the peace, imposing or receiving the same, to the commissioner upon forms furnished by the Department of Revenue; such reports shall be made monthly not later than the tenth day of the following month.

Any magistrate, alderman or justice of the peace who shall fail to make such monthly reports and returns, or either of them, shall be guilty of a misdemeanor in office, and, upon conviction thereof in a court of quarter sessions, shall be sentenced to pay a fine of one hundred dollars and costs of prosecution, or undergo imprisonment for not more than sixty days, or suffer both such fine and imprisonment.

*Section 283. Return of Fine Erroneously Paid.*—Whenever the board is satisfied that any fine paid into

*the State Treasury under the provisions of this act was erroneously collected and deposited, the board, within six months after such deposit, may, by resolution, direct the commissioner to draw a requisition upon the fund into which fund such fine was deposited for the amount involved. Upon the receipt of such requisition and an extract of the minutes of the board, the Auditor General shall draw his warrant upon the State Treasurer in favor of the person from whom such fine was erroneously collected.*

Section 285, as amended by act of May 28, 1931 (P. L. 205), further amended.

Section 8. That section two hundred eighty-five of said act, as\* last amended by the act, approved the twenty-eighth day of May, one thousand nine hundred and thirty-one† (Pamphlet Laws, two hundred five), is hereby further amended to read as follows:

Section 285. Fish License Fund Established.—All fees, fines, penalties, and other moneys paid, received, recovered, and collected (a) under the provisions of any law repealed and replaced by this act and now held in the State Treasury as a fund or any part of a fund separate and apart from the various purposes designated by law, or (b) that may be hereafter paid, recovered, received, and collected under the provisions of any act repealed and replaced by this act, or (c) that may be paid, received, recovered, and collected under the provisions of this act, shall be placed in a separate fund by the State Treasurer, to be known as "The Fish Fund," and shall be used solely for the payment of all expenses incurred by the Department of Revenue in procuring, issuing, or supervising the issuance of resident and non-resident fishing licenses and license buttons, and under the direction of the board for the following purposes:

(a) The payment of the salaries, wages, or other compensation of the Commissioner of Fisheries, such deputies, directors, superintendents, bureau or division chiefs, experts, scientists, engineers, surveyors, draftsmen, accountants, secretaries, auditors, inspectors, examiners, statisticians, clerks, stenographers, bookkeepers, messengers, fish wardens, laborers, and other assistants and employes as may be required for the work of the board, and such special deputy attorneys general, assistant deputy attorneys general, as may be assigned by the Attorney General to the board or for handling any legal business pertaining to its work;

(b) The payment of the traveling and other expenses of the members, officers, and employes of the Board of Fish Commissioners;

(c) The purchase, through the Department of Property and Supplies as purchasing agency, of such furniture, furnishings, stationery, supplies, materials, equipment, fuel, motor vehicles, and printing and binding, as

\* "as" inserted.

† "thirty-five" in the original.

may be necessary in the conduct of the work of the board, and the payment of premiums on surety bonds for such officers or employes of the board as may be required to furnish them policies of Workmen's Compensation Insurance and policies of liability insurance, covering the aforesaid motor vehicles and persons operating same, which bonds or insurance policies shall have been contracted for by the Department of Property and Supplies as agent of the board;

(d) The payment of postage, telegrams, telephone rentals, telephone toll charges, and rentals for patented leased office devices or machines;

(e) Rentals for any offices outside of the Capitol Buildings or any other grounds, buildings, or quarters necessary for the work of the board;

(f) The propagation, protection, and distribution of fish and the stocking of waters within this Commonwealth, as provided by law;

(g) Necessary repairs and improvements to fish hatcheries or other buildings, offices, or quarters used in the work of the board;

(h) Field work, gathering spawn, and transferring fish;

(i) The maintenance and operation of a boat on Lake Erie, and the cruiser "Anna" at Torresdale on the Delaware River; and

(j) Any contingent, incidental, or other expenses of any kind or description reasonably necessary in carrying on the work of the board;

(k) With the consent of the Governor, for the purchase of lands and waters and for the impounding of waters and to make the same available for use by the citizens of the Commonwealth for fishing, hunting, and forest purposes, and said lands and waters so purchased shall be under the supervision, direction and control of the board; and

(l) The purchase and acquisition of additional land and water for State fish hatcheries, the purchase, acquisition, and erection of buildings, ponds, and other extensions incidental to fish hatcheries and for the propagation and protection of fish and hatcheries hereafter established, and for the distribution of fish from hatcheries, and the stocking of waters within this Commonwealth. [All moneys received from license fees in any fiscal year in excess of three hundred and fifty thousand (\$350,000) dollars shall be expended solely and exclusively for the purposes set forth in this clause.]

All moneys in such separate fund, from time to time, are hereby specifically appropriated to the Department of Revenue and the board, and may be expended for the purposes hereinbefore enumerated. All printing, buttons, and other supplies or materials, purchased by the

Department of Revenue for the purpose of performing its duties under the provisions of this act, shall be purchased through the Department of Property and Supplies as purchasing agency.

Estimates of the amounts to be expended under this act, from time to time, by the Department of Revenue and the Board of Fish Commissioners, respectively, shall be submitted to the Governor for his approval or disapproval as in the case of other appropriations made to administrative departments, boards, and commissions, and it shall be unlawful for the Auditor General to honor any requisition for the expenditure of any moneys out of this appropriation by the Department of Revenue or by the Board of Fish Commissioners in excess of the estimates approved by the Governor. Subject to the foregoing [provision] *provisions*, the Auditor General shall, from time to time, upon requisition of the Secretary of Revenue or of the Commissioner, draw his warrant on the State Treasurer for the amount specified in such requisition not exceeding, however, the amount in such fund at the time of making such requisition.

When effective.

Section 9. This act shall become effective immediately upon its final enactment.

APPROVED—The 25th day of May, A. D. 1937.

GEORGE H. EARLE

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No. 224

AN ACT

Providing for the use of the Pennsylvania Industrial School at Huntingdon as an institution for the reception, care, maintenance, detention, employment, and training of defective delinquents; authorizing the preparation and equipment (including necessary construction) of the institution for such purposes, either by the Department of Property and Supplies or The General State Authority, and authorizing the necessary leases or conveyances for this purpose; changing the name of the Board of Trustees of Pennsylvania Industrial School; providing for the commitment and transfer of such persons to such institution and discharge therefrom; conferring powers and imposing duties on the aforesaid board of trustees, the Department of Welfare, and courts; and imposing certain charges on counties.

WHEREAS, No suitable institution has heretofore been provided for the segregation of male defective delinquents, and it is urgent that said cases be separated from persons confined in penal and correctional institutions, and in mental health hospitals for the criminal insane; and

WHEREAS, A new industrial school is to be erected to which are to be transferred all persons detained in and presently committed to the Pennsylvania Industrial