

the provisions of this section shall be subject to a penalty of ten dollars for each bait-fish or fish-bait sold or offered for sale, upon conviction as provided in chapter fourteen of this act.

Section 2. This act shall become effective immediately upon final enactment.

Act effective immediately.

APPROVED—The 15th day of April, A. D. 1943.

EDWARD MARTIN

No. 34

AN ACT

To amend section three of the act, approved the fourteenth day of June, one thousand nine hundred twenty-three (Pamphlet Laws, seven hundred fifty-four), entitled "An act providing for the survey, construction, reconstruction, improvement, and maintenance of an Industrial State Highway between the cities of Chester and Philadelphia, and making the same a part of the system of State Highways; providing for the taking of certain roads and of certain private property therefor under the power of eminent domain, and the payment of damages by certain counties; and imposing certain powers and duties upon the Highway Commissioner and county commissioners," providing for ascertaining damages for the taking of private property and payment thereof, in the same manner as provided by law in the case of State Highways.

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

Industrial State Highway.

Section 1. Section three of the act, approved the fourteenth day of June, one thousand nine hundred twenty-three (Pamphlet Laws, seven hundred fifty-four), entitled "An act providing for the survey, construction, reconstruction, improvement, and maintenance of an Industrial State Highway between the cities of Chester and Philadelphia, and making the same a part of the system of State Highways; providing for the taking of certain roads and of certain private property therefor under the power of eminent domain, and the payment of damages by certain counties; and imposing certain powers and duties upon the Highway Commissioner and county commissioners," is hereby amended to read as follows:

Act of June 14, 1923, P. L. 754, section 3, amended.

Section 3. In carrying out the provisions of this act the [State Highway Commissioner] *Department of Highways* shall possess all the powers now by law vested in [him] *it* in relation to the laying out, constructing, reconstructing, improvement, and maintenance of State highways and State-aid highways, and, in addition thereto, [he] *it* shall have, and is hereby authorized to exercise, the rights of eminent domain for the purpose of condemning and taking private property for any pur-

Powers of Department of Highways.

Eminent domain

Payment of
damages.

pose connected with the location, relocation, widening, construction, reconstruction, improvement, or maintenance of said industrial highway. *The damages for the taking of private property shall be ascertained and paid as provided by law for damages for the taking of private property in the case of State Highways.*

[Provided, That before any private property is condemned and taken for said purposes, the State Highway Commissioner shall notify the proper board of county commissioners of the proper county within which said property lies, in writing, of his intention to condemn and take said land, whereupon the said commissioners, when possible, shall enter into an agreement with the owner or owners of said property as to the amount of damage to be paid to said owner or owners, which damage, if agreed upon, shall be paid by the proper county as to property lying within its limits; or, in case an agreement satisfactory to said county commissioners and the said owner or owners cannot be made, the State Highway Commissioner may proceed with the work of construction or improvement, and the owner or owners of said property so taken may present their petition to the court of quarter sessions for the appointment of viewers to ascertain and assess damages due therefor. The proceedings upon said petition and by said viewers shall be governed by existing laws relating to the ascertainment and assessment of damages for laying out and opening public highways, and such damages when ascertained shall be paid by the county in which said property or highway is located:

Provided, That the county commissioners, or any other party to such proceedings, may appeal from the award of the viewers to the court of common pleas, and shall be entitled to a trial by jury. From the judgment of the court of common pleas, an appeal may be had to the Supreme or Superior Court as in other cases.]

State funds
made available.

Any State funds appropriated or available for the construction, improvement, and maintenance of State highways, *and for the payment of damages for the taking of private property therefor*, shall be available and *are hereby appropriated* for the construction, improvement, and maintenance of said Industrial State Highway, *and for the payment of damages for the taking of private property therefor.*

Act effective im-
mediately; re-
troactive as to
unpaid damages
heretofore in-
curred.

Section 2. The provisions of this act shall become effective immediately upon its final enactment, and shall apply in the case of all damages for the taking of private property heretofore incurred that have not heretofore been paid.

APPROVED—The 15th day of April, A. D. 1943.

EDWARD MARTIN