

township of the first class of this Commonwealth, entitled to a lien under this act, shall file a lien therefor, if not heretofore filed, in the office of the prothonotary of the county within which the property lies within six months after the completion of the work where the improvement is now in progress, or within twelve months after the confirmation absolute of the report of the viewers assessing the benefits for such improvement whether now or hereafter pending, or within twelve months after the approval of this act where the improvement is now completed if no lien has been heretofore filed for the same, or within twelve months after the passage of any councilmanic ordinance assessing benefits under the provisions of this act where the improvement is already completed, and the same shall be entered upon record as other municipal claims. Such liens shall state the name of the party claimant, which shall be the corporate name of the city, borough or township making the improvement; name of the owner or reputed owner of the property assessed; a reasonable description of the property assessed; the amount or sum claimed to be due which shall include interest on the assessment from the completion of the improvement for what improvement the claim is made; the date of its completion; the date of the assessment for which the lien is filed. Such lien, when so filed, shall be prima facie evidence of all matters therein set forth and of the right of the city, borough or township to recover the amount therein claimed to be due, together with interest from the date of the lien or completion of the improvement, costs, and an attorney's commission of five per centum for collecting.

Such lien.

Section 3. The claim, when so filed, shall be proceeded upon for collection by writ of scire facias: Provided, That this act shall not apply to any proceeding, suit or lien wherein a final order or judgment of any court of record has already been made or entered.

May issue execution.

APPROVED—The 15th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 673

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.

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

The Fish Law of 1959.

CHAPTER I.

PRELIMINARY PROVISIONS.

Section 1. Purpose of Act.—The laws relating to fish are hereby amended, revised, consolidated and changed as hereinafter provided.

Section 2. Short Title.—This act shall be known and may be cited as “The Fish Law of 1959.”

Section 3. Definitions.—As used in this act—

(1) “Person” shall include individuals, copartnerships, associations and corporations; the singular shall include the plural, and the masculine, the feminine and neuter.

(2) “Commission” shall mean the Pennsylvania Fish Commission.

(3) “Executive Director” shall mean the Executive Director of the Pennsylvania Fish Commission.

(4) “Unnaturalized Foreign-Born Resident” shall mean any unnaturalized foreign-born person who shall reside or live within the boundaries of the Commonwealth of Pennsylvania for ten consecutive days. Such person

shall be considered a resident and shall be liable to the penalties imposed for violation of the provisions of this act.

Section 4. Effect of Act on Existing Laws.—The provisions of this act, so far as they are the same as those of existing laws, shall be construed as a continuation of such laws and not as new enactments. The repeal by this act of any provision of law shall not revive any law heretofore repealed or superseded, nor shall such repeal affect any act done, liability incurred or any right accrued or vested, or affect, abate or prevent any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of such repealed laws.

Section 5. Constitutionality.—The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been adopted by the General Assembly had such unconstitutional provision not been included therein.

CHAPTER II. FISHING REGULATIONS APPLYING TO INLAND WATERS.

ARTICLE I. DEFINITIONS; SCOPE OF CHAPTER.

Section 10. Game Fish Defined.—The term “game fish,” as used in this chapter, means the following fish: Brook trout, *Salvelinus fontinalis*; all other species of trout, including brown trout, *Salmo trutta*; and rainbow trout, *Salmo gairdneri*, and the salmon family, *Salmo*ides; walleye, *Stizostedion vitreum*, otherwise known as Susquehanna salmon, or pike perch; pickerel, *Esox niger*; northern pike, *Esox lucius*; muskellunge, *Esox masquinongy*; fallfish, *Semotilus corporalis*; small mouth bass, *Micropterus dolomieu*; large mouth bass, *Micropterus salmoides*, otherwise known as Oswego, green or yellow bass; crappies, *Pomoxis* sp., otherwise known as strawberry, or calico bass; white bass, *Lepibema chrysops*; rock bass, *Ambloplites rupestris*, otherwise known as red-eye or goggle-eye; yellow perch, *Perca flavescens*; striped bass or rockfish, *Roccus saxatilis*; all suckers, *Catostomidae*; eels, *Anguilla bostoniensis*; chubs, *Semotilus* and *nocomis*, measuring six inches and over in length; and all other species or varieties of fresh-water fish except bait fish.

Section 11. Bait Fish Defined.—The term “bait fish,” as used in this chapter, means the following fish: All forms of minnows, suckers and eels, measuring less than

eight inches in length, and all forms of darters, killifishes, chubs, measuring less than six inches in length, and stone catfish.

It shall be unlawful to use any species of goldfish or carp for bait under penalty of ten dollars for each offense.

Section 12. Fish Bait Defined.—The term “fish bait,” as used in this chapter, means crayfish or crabs, mussels and the nymphs, larvae and pupae of all insects spending any part of their life cycle in the water.

Section 13. Fee-Fishing Lake Defined.—The term “fee-fishing lake,” as used in this chapter, means any artificial or man made pond or lake owned, leased or controlled in any manner by any individual partnership, association or corporation, where fishing is permitted for payment of a fee, and in which all fish stocked are artificially propagated by commercial hatcheries or purchased from persons licensed to sell fish.

Section 14. Scope of Chapter Provisions.—The provisions of this chapter and its several articles and sections shall be construed as applying only to waters wholly within the boundaries of the Commonwealth.

ARTICLE II. CLOSED SEASONS.

Section 20. Closed Seasons.—There shall be no fishing between the fourteenth day of March and five o'clock antemeridian on the twelfth day of April or the first Saturday following in any year, except in rivers, ponds *and lakes not stocked with trout and in streams emptying into Lake Erie within the confines of Pennsylvania from the mouth of the stream in a southerly direction to State Highway Route No. 5, a distance of approximately one-half mile. For the purpose of this paragraph, a person shall be deemed to be fishing if he shall have in his possession any fishing line, rod or other device which can be used for fishing while on or in any water or on the banks of any water where fishing is prohibited. Ponds and lakes in which fishing is prohibited shall be posted by the Commission. Any person violating the provisions of this paragraph shall, upon conviction, be sentenced to pay, for the first offense, a fine of five dollars (\$5.00) and costs, and for a second or subsequent offense, a fine of twenty dollars (\$20.00) and costs.

The following closed seasons are hereby established for the fish as hereinafter enumerated:

(a) Any species of trout, except lake or salmon trout, beginning on the first day of August to five o'clock antemeridian on the twelfth day of April when it falls on a

* “and” not in original.

Saturday and the first Saturday following the twelfth day of April in other years.

(b) Lake trout or salmon trout, from the thirtieth day of September to the thirtieth day of June next following, both dates inclusive.

(c) Small mouth and large mouth bass, white bass, crappie, strawberry or calico bass, walleye, otherwise known as Susquehanna salmon or pike perch, pickerel, muskellunge, northern pike, from the first day of December to the thirtieth day of June next following, both dates inclusive: Provided, however, That game fish in season may be caught and taken, not exceeding the daily creel limits fixed by this act, at any time when tipups or other legal devices are employed while fishing through holes in the ice.

(d) The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Section 21. Penalty for Having Fish during Closed Season.—No person shall have in his possession, except as in this article otherwise provided, any of the fish enumerated in section 20 of this act during the closed season respectively provided for. Any person violating the provisions of this section shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each fish so taken, caught 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 Commission.

Section 22. Exceptions to Penalty Clause.—The provisions of section 21 of this act do not apply to a person who, having caught any fish during the closed season respectively provided therefor, immediately returns such fish in the condition in which it was captured to the water from which it was taken, nor shall such provisions to fish artificially propagated under the authority of this act.

ARTICLE III. LEGAL SIZES OF FISH.

Section 30. Legal Sizes.—No person shall have in possession, except as in this article otherwise provided:

- (a) Any species of trout, less than six inches in length.
- (b) Small mouth bass or large mouth bass, less than nine inches in length.
- (c) Walleye, less than twelve inches in length.

- (d) Pickerel, less than fifteen inches in length.
- (e) Muskellunge and northern pike, less than twenty-two inches in length.
- (f) The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Section 31. **Penalty.**—Any person violating the provisions of section 30 of this act shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each fish so taken 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 Commission.

Section 32. **Exceptions to Penalty.**—The provisions of sections 30 and 31 of this act do not apply to a person who, having caught any fish less than the size respectively permitted, immediately returns such fish in the condition in which it was caught to the water from which it was taken, nor shall such provisions apply to fish artificially propagated under the authority of this act.

ARTICLE IV. CREEL LIMITS.

Section 40. **Number of Fish and Fish Bait Which May Be Caught.**—No person, except as in this article otherwise provided, shall, in any one day, catch, kill or have in possession more than the number of fish or fish bait hereby designated for the respective species:

- (a) Trout of the combined species, ten.
- (b) Lake or salmon trout, eight.
- (c) White bass, rock bass, crappie, strawberry or calico bass, fifteen.
- (d) Small or large mouth bass, six.
- (e) Walleye, six.
- (f) Pickerel, eight.
- (g) Muskellunge and northern pike, two.
- (h) Yellow perch, fifteen.
- (i) Sunfish, fifteen.
- (j) Catfish, fifteen.
- (k) Suckers, fifteen.
- (l) Fallfish, fifteen.
- (m) Rock fish or striped bass, five.
- (n) Carp, fifteen.

(o) All other species of fish not specifically mentioned in this section, except eels, fifty.

(p) Fish bait, thirty-five, or bait fish, thirty-five, or fifty combined.

The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Section 41. Penalty.—Any person violating the provision of section 40 of this act, shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each fish or fish bait taken, caught or had in possession over the number respectively allowed by this act.

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 Commission.

Section 42. Exceptions to Penalty.—In computing the number of fish taken, caught or had in possession, the number of fish returned in the condition in which they were caught to the waters from which they were taken shall be omitted, and the provisions of this article do not apply to fish or fish bait artificially propagated under the authority of this act.

ARTICLE V. FISHING DEVICES.

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:

(a) Game fish, not more than two rods and two lines and one hand line, with not more than three hooks attached to any line. The rods, hooks and lines must be under the immediate control of the person using the same.

(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 two openings 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) Any species, when fishing only through holes in the ice, not more than five tip-ups or other legal devices.

(d) Except as hereinafter provided in the case of rough fish or trash fish and suckers, 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 of 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. Nothing in this section shall prohibit the use of long bows and arrows or spears for taking or killing carp and suckers. Rough fish or trash fish, when so designated by the Commission, may be taken *with such devices and under such regulations as the Commission determines.

(e) In addition to such rods and lines, eel chutes may be operated 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 or 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.

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 are not legal under this section, a portion of the bottoms of such chutes shall be removed to facilitate the unobstructed passage of fishes.

(f) The Commission is hereby authorized to adopt appropriate rules and regulations governing the taking of fish by trolling from a moving boat electrically propelled or propelled by an internal combustion motor. Such rules and regulations shall specify the waters within the **Commonwealth in which such trolling may be engaged in.

It shall be unlawful to engage in such trolling in violation of the rules and regulations duly adopted by the Commission.

Section 51. Penalty.—Any person violating the provisions of section 50 of this article shall, on conviction

* "with" in original.

** "Commonwealth" in original.

as provided in chapter 14, be sentenced to pay a fine of twenty dollars (\$20.00) and shall forfeit to the Commission all devices unlawfully used.

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 Commission.

Section 52. Exceptions to Penalty.—The provisions of this article do not prohibit the use of a gaff or landing-net to assist in landing fish already caught by a lawful device, nor do they apply to fish artificially propagated under the authority of this act or to fish caught by a seine or net for which a license is obtained under the provisions of this act, or to fish caught by a device for which a lawful permit is obtained from the Executive Director or Commission under the provisions of this act.

Section 53. Net Permits.—The Commission may issue permits to make, sell or possess nets larger than four feet square or four feet in diameter. Such permits, when issued, shall specify when and where such nets shall be used by the owner or the persons in possession thereof.

Section 54. Nets Unlawful without Permit.—It shall be unlawful for any person to make, sell or have in his possession a net larger than four feet square or four feet in diameter without a permit therefor issued by the Commission. The possession of a net without a permit therefor shall be prima facie evidence of the violation of this section.

Section 55. Penalty.—Any person violating any of the provisions of section 54 of this article shall, upon conviction as provided in chapter 14, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or to undergo imprisonment for a term of thirty days for each violation, or both.

ARTICLE VI. FARM FISH PONDS.

Section 56. Fishing Authorized without License.—The Pennsylvania resident owner or lessee of a farm, his family and persons residing or regularly employed upon the farm, on which is constructed an artificial pond holding water the source of which is wholly within the limits of such farm or from waters in which there are no game fish, may, without license at any time, fish in such pond and take therefrom fish of any kind and size and in any number without regard to closed seasons or creel limits or other restrictions or limitations.

Section 57. Transporting Fish from Premises.—When any trout or bass lawfully taken from a farm pond are to

be transported from the premises during the closed season for such fish, the owner or lessee of the farm shall give to the person transporting the fish a written statement, signed by him, showing the date, place and by whom the fish were taken, the number and species of fish, the name and address of the person transporting the fish, and the date they are being transported. Any person may lawfully have in his possession and transport such fish during the closed season for such species when accompanied by the statement herein provided for.

Section 58. Penalty.—Any person having in his possession during the closed season any trout or bass taken from a farm pond and transported from the premises without being accompanied by the statement of the owner or lessee provided for in the preceding section shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each fish had in possession.

ARTICLE VII. FEE-FISHING LAKES.

Section 59. Licenses.—The Commission shall, upon application therefor accompanied by a license fee of twenty-five dollars (\$25.00), issue a fee-fishing lake license effective from the first day of April to the thirty-first day of March to the owner, lessee or person controlling in any manner a fee-fishing lake. The licenses may be renewed each year.

Section 60. Exemption from Limitations.—The provisions of section 20 and 21 of this act shall not apply to fee-fishing lakes stocked with fish from commercial hatcheries or licensed fisheries, nor to persons fishing in or fish caught in such lakes.

Section 61. Permits and Bills of Sale.—The owner or person in charge of any fee-fishing lake shall, during closed seasons for any species of fish, or when fish in numbers exceeding the legal creel limit may be taken, issue consecutively numbered permits or bills of sale to all fishermen catching or taking that species or those numbers of fish from the fee-fishing lake. The permit or bill of sale shall be valid only on the date of issue. The permits or bills of sale shall be made in duplicate and one copy shall be kept on file by the issuer for inspection by the Commission or any persons designated by it. Each fisherman, while in possession of such fish, shall have in his possession the permit or bill of sale relative thereto and shall produce it upon demand by proper authority.

All permits or bills of sale shall contain the following information:

- * (1) Name, location and license number of the fee-fishing lake.
- (2) Fishing license number of the fisherman.
- (3) Number of fish of the species for which the season is closed or creel limit exceeded.
- (4) Date of issue.

Section 62. Files.—Any person, owning or operating a fee-fishing lake, shall keep on file for inspection by the Commission, or any person designated by it, all bills of sale received by the owner or operator for purchases of fish made for the purpose of stocking the fee-fishing lake.

Section 63. Fishermen to Possess Licenses.—Any fisherman patronizing a fee-fishing lake shall have in possession a valid fishing license issued pursuant to section 220 or 221 of this act.

Section 64. Penalty.—Except as herein otherwise provided, any owner or operator of a fee-fishing lake, who operates the lake without a license as herein provided for, or who violates any of the provisions of this act, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of one hundred dollars (\$100.00).

In addition thereto, for any second or subsequent violation, the owner's or operator's fee-fishing lake license may be revoked for one year, at the discretion of the Commission. For the purpose of enabling the imposition of the penalty of revocation of any license authorized by this section, any magistrate, alderman, or justice of the peace, imposing a penalty in a summary proceeding pursuant to this section, shall report the imposition of such penalty to the Commission.

CHAPTER III. FISHING REGULATIONS APPLYING TO BOUNDARY LAKES.

ARTICLE I. DEFINITIONS; SCOPE OF CHAPTER.

Section 70. Definitions.—As used in this act—

(a) "Boundary lake" means such part or parts of lakes of more than five thousand acres lying between this and any other state or foreign country as this Commonwealth has jurisdiction over.

(b) "Bay" means a bay adjacent to or connected with a boundary lake as above defined.

(c) "Peninsular waters" means water on any peninsula, which water is adjacent to or connected with a boundary lake as above defined.

(d) "Game fish" means the fish defined in section 10, chapter II.

* "(a)" in original.

(e) "Bait fish" means the fish defined in section 11, chapter II.

(f) "Fish bait" means the bait defined in section 12, chapter II.

(g) "Food fish" means all other than game fish and bait fish as above defined.

Section 71. Scope of Chapter.—The provisions of this chapter and its several articles and sections shall be construed to apply only to the boundary lakes of the Commonwealth and their bays and peninsular waters.

ARTICLE II.—FISHING DEVICES; CREEL LIMIT; CLOSED SEASON; GENERAL REGULATIONS; REGULATORY PROVISION APPLICABLE TO BOUNDARY LAKES, BAYS AND PENINSULAR WATERS.

Section 80. Fishing Devices.—Except as hereinafter in article 3 of this chapter otherwise specifically provided, no person shall fish for or capture game fish or food fish in boundary lakes, bays or peninsular waters in any manner with any device, means or method other than the devices named or described in section 50, chapter II. of this act.

The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Any person violating any provision of this act shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of twenty-five dollars (\$25.00).

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 Commission.

Section 81. Creel Limits.—No person shall in any one day catch, kill or have in possession more than the number of fish designated for the respective species in section 40, chapter II. of this act.

The foregoing parts of this section shall be effective except where the Commission, by regulation shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Section 82. Closed Season.—No person shall catch, take or have in possession any game fish from the first day of December to the fourteenth day of June next

ensuing, both dates inclusive: Provided, however, That game fish in season may be caught and taken, not exceeding the daily creel limits fixed by this act, when tip-ups or other legal devices are employed while fishing through holes in the ice.

The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Any person violating the provisions of sections 71 and 72 of this act shall, on conviction in the manner provided in chapter 14 of this act, be subject to a penalty of five dollars (\$5.00) for each 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 Commission.

Section 83. Fish Not to Be Used for Fertilizers.—Except by and with the consent of the Executive Director, no person shall catch, sell or make use of any game fish or food fish or minor food fish for the purpose of making composts or other fertilizing mixture.

Any person violating the provisions of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of one hundred dollars (\$100.00), or to undergo an imprisonment in the county jail for three months, or both.

Section 84. Regulations concerning Sturgeon.—No person shall capture and kill any sturgeon under four feet in length nor have in possession the carcass or flesh of any sturgeon under the length aforesaid.

Any sturgeon of less than the said length of four feet, which may be captured, must be immediately returned to the waters from which taken and in such a manner as to cause to the fish so returned the least possible injury.

Any person violating any provision of this section shall, on conviction as provided in chapter 14 of this act, be subject for each sturgeon illegally captured and killed or had in possession to a penalty of twenty-five dollars (\$25.00), or to undergo an imprisonment in the county jail for the period of one month.

Section 85. Rules and Regulations of the Executive Director.—The Executive Director, with the approval of the Commission, may make such rules and regulations applicable to any peninsula on which is located any peninsular waters, as hereinbefore defined, as he may

deem necessary for the protection or management of fish in such peninsular waters or for the protection of any fish hatchery located on such peninsula. Such rules and regulations shall be posted in not less than five conspicuous places on such peninsula. Any person violating any such rule or regulation shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of fifty dollars (\$50.00).

Section 86. General Powers of the Executive Director and Commission.—The Executive Director, with the approval of the Commission, is hereby empowered to authorize the use of minnow nets for angling or scientific purpose in any bay or peninsular water.

The Executive Director, or any representative of the Commission, for the purpose of stocking the waters or for the purpose of taking spawn, may catch fish with nets or other devices in such waters at any time of the year.

The Commission may remove by means of nets or other devices, by contract or otherwise, any fish from such waters.

ARTICLE III. BOAT AND NET LICENSES.

Section 90. Boat and Net Licenses; Fees; Revocation.—The Commission is hereby authorized to issue a fishing license, upon written application therefor signed by the applicant, upon payment of the license fee herein prescribed for the respective fishing devices or persons, for each:

(a) Row or sailboat used in fishing with gill-nets: resident citizens, twenty dollars (\$20.00); nonresident citizens of the United States, forty dollars (\$40.00).

(b) Boat other than a row or sailboat under ten tons gross burden: resident citizens, forty dollars (\$40.00); nonresident citizens of the United States, eighty dollars (\$80.00).

(c) Boat of from ten to twenty tons gross burden: resident citizens, sixty dollars (\$60.00); nonresident citizens of the United States, one hundred twenty dollars (\$120.00).

(d) Boat over twenty tons gross burden: resident citizens, eighty dollars (\$80.00); nonresident citizens of the United States, one hundred sixty dollars (\$160.00).

(e) Pound-net: resident citizens, twenty-five dollars (\$25.00); nonresident citizens of the United States, eighty dollars (\$80.00).

(f) Trap-net or device other than a pound-net: resident citizens, not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00); nonresident citizens of the United States, not less than twenty dollars (\$20.00) nor

more than forty dollars (\$40.00), to be determined and fixed by the Executive Director.

(g) Out-line: two dollars (\$2.00), each.

The Executive Director may revoke any license for violation of any provision of this act or for violation of any conditions on which the license was granted.

Any person operating or employing others to operate any boat, net or device without being licensed as hereinbefore provided shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of fifty dollars (\$50.00). All fish caught with such unlicensed devices shall be forfeited to the Commission. All unlicensed devices used in violation of the provisions of this act shall be forfeited to the Commission.

Section 91. Representatives of the Commission May Accompany Boats to Secure Spawn.—No license shall be issued except upon the condition that the operator of any boat so licensed shall permit a person, designated by the Executive Director or the Commission, to accompany such boat at any time when it is engaged in fishing, for the purpose of securing for the use of the Commission from the fish so caught so much of their spawn as the Commission may decide. Any person refusing to permit a person so designated by the Executive Director to accompany such boat or to secure such spawn as he may deem necessary shall, upon conviction as provided in chapter 14 of this act, be subject to a penalty of one hundred dollars (\$100.00), or thirty days' imprisonment in default of the payment of such fine and costs.

Section 92. Licenses to Nonresidents.—No license shall be issued to a resident of any state or *country whose laws prohibit the issuing of a license to a resident of the Commonwealth of Pennsylvania.

Section 93. Meshes of Nets.—Except as in this section hereinafter provided, no gill-nets shall be licensed other than gill-nets having a mesh of at least sufficient size to permit a standardized three and one-sixteenth inch steel rule, stamped and authenticated by the Commission to be passed through without bending the rule.

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

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

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

* "county" in original.

The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Section 94. License Year; Exhibition of License.—Licenses issued under the authority of this article shall be good for the calendar year in which issued. Such licenses shall be carried by the operator of any boat, net or device for which issued and by each person employed on such boat, and shall be shown on demand to any fish warden, constable, deputy sheriff, the Executive Director or any authorized representative of the Commission.

Any person refusing to exhibit his license on demand as aforesaid shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of ten dollars (\$10.00).

Section 95. Nets Not to Be Used in Certain Places.—No net, except a gill or net fastened to and supported by poles driven in the ground and known as a pound-net, shall be set, fastened, drawn or used within sixteen miles from the entrance to any bay nor within one-half mile from either side of the mouth of any stream.

No gill-net or pound-net shall be set, fastened, drawn or used within two miles of the entrance of any bay.

No net of any character shall be set, fastened, drawn or used within three-fourths of a mile from shore, measured in a direct line, and no gill-net shall be set, fastened, drawn or used within one and one-half miles from shore, measured in a direct line.

A person violating any provision of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of one hundred dollars (\$100.00), or imprisonment in the county jail for a period of three months.

Section 96. Nets in Use to Bear Owner's Name and Address.—No trap nets shall be set, fixed or fastened without having thereto attached a buoy of at least eighteen inches in diameter, bearing a metallic tag on which shall be marked the owner's name and address, and which buoy must be plainly visible and above water at all times.

A person violating any provision of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of twenty-five dollars (\$25.00) and the confiscation of the net. Any net required to be buoyed which is found in the water without buoy as above pro-

vided and the owner cannot be located, shall be confiscated to the Commission.

Section 97. Unlawful Removal of Fish from Nets.—No person except the owners thereof, or their representatives, shall remove or take from any net or device licensed under and operated according to the provisions of this act.

A person violating any provision of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of ten dollars (\$10.00) for each fish so unlawfully taken, provided the total amount of fines shall not exceed one hundred dollars (\$100.00) for fish taken at any one time.

Any fish recovered shall be returned to the owner or owners of the net or device from which they were taken, and all boats and appliances used in unlawfully taking the fish shall be forfeited to the Commission.

Section 98. Legal Size and Weight of Fish and Fillets.—No person shall catch, by means of any net or device for which a license is issued under the provisions of this article, any—

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

(b) Walleye, otherwise known as yellow pike, less than thirteen inches in length,

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

(d) Ciscos, not less than six ounces in weight in the round, or

(e) Whitefish, less than one and three-fourths *pound in weight in the round.

No person shall purchase, sell or expose for sale, any blue pike or sauger pike, less than eleven inches in length in the round; or blue pike or sauger pike fillets, less than seven inches in length, dressed and cut out, caught in waters under the control of the Commonwealth, or in waters without this Commonwealth and received in interstate commerce, or otherwise.

The foregoing parts of this section shall be effective except where the Commission, by regulation, shall otherwise provide as a result of a determination by it that modification is desirable from a fish management standpoint, in which event, the Commission's regulation shall prevail.

Any person violating the provisions of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of ten dollars (\$10.00) for each

* "pounds" in original.

fish or fillet so taken, had in possession, purchased, sold or offered for sale.

The foregoing provisions of this section shall not apply to a person who, having caught any fish less than the size or weight permitted, returns such fish in the condition in which they were caught to the waters from which they were taken, or if inadvertently killed, turns them over to the Commission, at the Commission's option or request, for disposition.

Section 99. Minnow Nets.—The Executive Director is hereby empowered to authorize the use of minnow nets for angling or for scientific purposes.

Section 100. Rules and Regulations.—The Executive Director, with the approval of the Commission, may make such rules and regulations applicable to any boundary lake, as hereinbefore defined, as he may deem necessary for the protection or management of fish in such waters.

Any person violating any of the provisions of such rules and regulations shall, on conviction in the manner provided by chapter 14 of this act, be sentenced to pay a penalty of one hundred dollars (\$100.00) for each offense.

CHAPTER IV. FISHING REGULATIONS APPLYING TO BOUNDARY RIVERS.

ARTICLE I. PROVISIONS APPLYING TO THE DELAWARE RIVER ABOVE TRENTON FALLS.

Section 110. Scope of Article.—The provisions of this article shall affect and apply only to the propagation, catching, taking, management, protection and destruction of fish in the waters of the Delaware River above Trenton Falls, lying between the Commonwealth of Pennsylvania and the State of New Jersey.

Section 111. Right to Fish to Be Enjoyed.—The inhabitants of the Commonwealth of Pennsylvania and of the State of New Jersey shall have and enjoy a common right of fishery throughout, in and over the waters of said river between low water mark on each side of said river between said *states above Trenton Falls, except so far as either state may have heretofore granted valid and subsisting private right of fishery.

Section 112. Game Fish, Bait Fish and Food Fish Defined.—For the purpose of this act, "game fish" means the fish defined as such in section 10, chapter **II.

For the purpose of this act, "bait fish" means the fish defined as such in section 11, chapter **II.

* "state" in original.
** "2" in original.

All other species or varieties of fish whatsoever shall be designated as food fish.

It shall be unlawful to use any species of goldfish or carp for bait under penalty of ten dollars (\$10.00) for each offense.

Section 113. Fishing Devices for Game Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to catch or fish for any game fish or any sunfish or any white or yellow perch in any part of the Delaware River above Trenton Falls with any device excepting those devices defined in section 50, chapter *II. of this act. Any person violating any provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 114. Fishing Devices for Bait Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to fish for bait fish in the Delaware River above Trenton Falls except with the devices defined in section 50, chapter *II. of this act. Any person who uses any other device, method or means for catching bait fish other than those specified in this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 115. Fishing Devices for Food Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to fish for food fish in the Delaware River above Trenton Falls with any device, method or means excepting by the following devices and under regulations and restrictions hereinafter described, to wit: A seine; an eelpot or fyke net, each without wings and rods; and lines or hand lines, otherwise known as dipsey or throw lines, each having not more than three hooks; the number of rods and lines or hand lines not to exceed three of one or the other device named. Any person who shall use or employ any method or device for catching food fish other than those named in this section, or shall use or employ any device named in this section contrary to the regulations or restrictions hereinafter mentioned, shall, on conviction as provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 116. Seines for Sturgeon and Food Fish; Closed Season for Food Fish When Taken in Seines.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, sturgeon from the Delaware River above Trenton Falls with any

* "2" in original.

device excepting a seine, the meshes of which shall not be less than thirteen inches, stretched measure, while being fished, or to catch and take, or attempt to catch and take, any other food fish from said waters with a seine the meshes of which shall be less than two and one-half inches, stretched measure, while being fished. It shall also be unlawful for any person to catch and take, or to attempt to catch and take, any food fish, except sturgeon, by means of a seine between the tenth day of June in each and every year and the first day of March next ensuing: Provided, That suckers may be taken with a seine only from October fifteenth in each and every year to the fifteenth day of March next ensuing. Any person who shall violate any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00), together with a forfeiture of all nets, boats and appliances used.

Section 117. Staked and Fastened Nets Prohibited; Prohibited Places for Nets.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, any fish of any kind from the Delaware River above Trenton Falls with a net of any character which is anchored or staked or fastened down in any manner permanently or otherwise, or to use any net so anchored or fastened down in any manner. Nor shall any net of any kind or character be used for the purpose of catching and taking fish in said waters within one-half mile above or below the mouth of any river, creek or stream emptying into said Delaware River above Trenton Falls. Any person who shall violate any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00), together with the forfeiture of nets, boats and other appliances used.

Section 118. Use of Nets on Saturday Afternoon and Sunday Prohibited.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take fish of any kind or description from the Delaware River above Trenton Falls by the means of a net or to use a net of any character in the waters aforesaid between Saturday at two o'clock post meridian and twelve o'clock midnight Sunday night in each week. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00), together with a forfeiture of all nets, boats and appliances used.

Section 119. No Closed Season for Taking Food Fish with Lines; Closed Season for Game Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be lawful to catch food fish with devices as described in section 50, chapter *II. of this act at any time of the year in the Delaware River above Trenton Falls, but it shall be unlawful to fish for and take game fish on any days or dates specified as closed by the Commission. Any person violating any of the provisions in this section shall, on conviction thereof, be subject to a fine of ten dollars (\$10.00) for each fish so taken.

Section 120. Seasons for Use of Eelpots and Fyke Nets.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to use eelpots and fyke nets each without wings in the Delaware River above Trenton Falls from June first to July first in each year, both dates inclusive, but it shall be lawful to use eelpots and fyke nets, each without wings, from July first to May thirty-first, both dates inclusive, in each year for the purpose of catching carp, catfish, eels and suckers only. All other species of fish which may be caught in said nets must be returned unharmed immediately to the waters from which taken: Provided, That the entrance of said eelpot and fyke net shall not be more than six inches in diameter and the outside diameter not more than thirty inches. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00), together with a forfeiture of all nets, boats and other appliances used.

Section 121. Legal Sizes and Creel Limits of Fish; Penalties.—(a) Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, from the Delaware River above Trenton Falls in any manner whatsoever any striped bass, otherwise known as rockfish, weighing more than twenty pounds or measuring less than ten inches in length, or any sturgeon less than five feet in length, or any small mouth bass, large mouth bass, otherwise known as Oswego or yellow bass, less than nine inches in length, or any pike or pickerel, or any walleye, otherwise known as Susquehanna salmon, less than twelve inches in length, or any crappie, otherwise known as calico or strawberry bass, white bass, rock bass, otherwise known as red-eye or goggle-eye, or trout, less than six inches in length. Any fish of a less length than those described or any striped bass, commonly called rockfish, weighing more than twenty pounds, which may be caught, must be returned

* "2" in original.

immediately to the water: Provided, That nothing in this section shall be so construed as to prevent the fish authorities of the Commonwealth of Pennsylvania or of the State of New Jersey capturing fish of any size from said waters or at any time of the year or in any manner, for propagating or management purposes and for stocking other waters in their respective states through their authorized representatives. Any person who shall violate any of the provisions of this subsection shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of ten dollars (\$10.00) for each fish so caught and had in possession.

(b) Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to take, catch, kill or have in possession, in any one day, more than ten in all of large mouth and small mouth bass, twenty rock bass, twenty crappie, ten walleye, ten pike, ten pickerel or twenty trout. Any person violating the provisions of this subsection shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00) for each fish so taken, caught, killed or possessed in excess of the number permitted by this subsection.

Section 122. Penalty for Damage to Nets and Seines.—It shall be unlawful for any person by boat, anchor, dredge or otherwise, in the Delaware *River above Trenton Falls to wilfully, and without reasonable cause, interfere with, break, damage or destroy any hauling seine or net of any description being lawfully used. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 123. Concurrent Jurisdiction of States.—The Commonwealth of Pennsylvania and the State of New Jersey shall have concurrent jurisdiction over all offenses and violations of this act committed, or attempted to be committed, by any person or persons fishing in the Delaware River above Trenton Falls within the jurisdiction respectively of the said Commonwealth of Pennsylvania and of the State of New Jersey. Any fish warden, or any person in either state authorized to make arrests for violation of the fish laws, shall have power and authority to make arrests in any part of the river or shores thereof, and take such person or persons for trial to the state in which the offense was committed, and proceed against the offender according to the legal procedure for violation of the fish laws of said state. If the arrest be made within this Commonwealth, the procedure shall be as prescribed in chapter 14 of this act.

* "Diver" in original.

Section 124. Penalty for Threatening and Resisting Officers.—Any person or persons who shall by threat, menace or force or in any manner attempt to deter or prevent any fish warden, or other person authorized to make arrests for violation of the fish laws in either state, from enforcing or carrying into effect any provisions of this act, or who shall resist arrest or the seizure of boats or nets illegally used, shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00).

ARTICLE II. PROVISIONS APPLYING TO THE DELAWARE RIVER BELOW TRENTON FALLS.

Section 130. Scope of Article.—The provisions of this article shall affect and apply only to the propagation, catching, taking, management, protection and destruction of fish in the water of the Delaware River below Trenton Falls lying between the Commonwealth of Pennsylvania and the State of New Jersey.

Section 131. Right to Fish to Be Enjoyed.—The inhabitants of the Commonwealth of Pennsylvania and the State of New Jersey shall have and enjoy a common right of fishing throughout, in and over the waters of said river between low water mark on each side of said river between said states below Trenton Falls, except so far as either state may have heretofore granted valid and subsisting private right of fishing.

Section 132. Game Fish, Bait Fish and Food Fish Defined.—For the purpose of this act, "game fish" shall be the fish defined as such in section 10, chapter *II. of this act.

For the purpose of this act, "bait fish" shall be the fish defined as such in section 11, chapter *II. of this act.

All other species or varieties of fish whatsoever shall be termed food fish.

It shall be unlawful to use any species of goldfish or carp for bait under penalty of ten dollars (\$10.00) for each offense.

Section 133. Fishing Devices for Game Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to catch or fish for any game fish or any sunfish or any white or yellow perch in any part of the Delaware River below Trenton Falls with any device or by any means or methods whatsoever except with rods and lines or hand lines, commonly called dipsey or throw lines, each having not more than three hooks, or with trolling lines with spoon or artificial bait,

* "2" in original.

having not more than three burrs, each of which shall have not more than three hooks or points; the number of rods and lines or the number of trolling lines not to exceed two of one or the other device named. Any person violating any provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 134. Fishing Devices for Bait Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to fish for bait fish in the Delaware River below Trenton Falls except with the following devices: rods and lines and hand lines with not more than three hooks attached; a minnow seine not more than one hundred feet in length; a dip-net not more than five feet square; a minnow trap the opening of which shall not be more than one and one-quarter inches in diameter; a scoop net with a single handle and with a diameter of not more than two feet. Any person who uses any other device, method or means for catching bait fish or of a greater length or diameter of nets than specified in this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 135. Fishing Devices for Food Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to fish for food fish in the Delaware River below Trenton Falls with any device, method or means excepting by the following devices and under regulations and restrictions hereinafter described: A seine, a gill-net and eelpot, a fyke net, each without wings; a parallel net or net set at the edge of low water, and rods and lines or hand lines otherwise known as dipsey or throw lines, each having not more than three hooks; a number of rods and lines, or hand lines, not to exceed three of one or the other device named. Any person who shall use or employ any method or device for catching food fish other than those named in this section or shall use or employ any device named in this section contrary to the regulations or restrictions hereinafter mentioned shall, on conviction as is provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 136. Seines and Nets for Taking Sturgeon and Food Fish Season for Herring and Food Fish When Taken with Seines or Nets.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, sturgeon from the Delaware River below Trenton Falls with any device excepting a seine or gill-net the meshes of which shall not be less than thirteen

inches stretched measure while being fished, or to catch and take, or attempt to catch and take, any other food fish from said waters with a seine the meshes of which shall be less than two and one-half inches, stretched measure, while being fished, or any gill-net the meshes of which shall be less than five and one-quarter inches stretched measure while being fished: Provided, That gill-nets with a mesh not smaller than three inches may be used from March first to June tenth in each year for the purpose of taking herring only. It shall also be unlawful for any person to catch and take, or attempt to catch and take, any food fish, except sturgeon, by means of a seine or gill-net between the tenth day of June in each and every year and the first day of March next ensuing: Provided, That suckers may be taken with a seine only from October fifteenth in each and every year to the fifteenth day of March next ensuing. Any person who shall violate any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00), together with a forfeiture of all nets, boats and appliances used.

Section 137. Anchored, Staked and Fastened Nets Prohibited; Prohibited Places for Nets.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, fish of any kind from the Delaware River below Trenton Falls with a net of any character which is anchored or staked or fastened down in any manner, permanently or otherwise, or to use any net so anchored or fastened down in any manner. Nor shall any net of any kind or character be used for the purpose of catching and taking fish in said waters within one-half of a mile above or below the mouth of any river, creek or stream emptying into said Delaware River below Trenton Falls. Any person who shall violate any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00), together with a forfeiture of nets, boats and other appliances used.

Section 138. Use of Nets on Saturday Afternoon and Sunday Prohibited.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person to catch and take, or attempt to catch and take, fish of any kind or description from the Delaware River below Trenton Falls by means of net or to use a net of any character in the waters aforesaid between Saturday at two o'clock post meridian and twelve o'clock midnight Sunday night in each week. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this

act, be subject to a fine of one hundred dollars (\$100.00), together with a forfeiture to the Commission of all nets, boats and other appliances used.

Section 139. No Closed Season for Food Fish Taken with Lines; Closed Season for Game Fish.—Except where otherwise provided in this act or by Commission regulation, it shall be lawful to catch food fish with rods and lines and hand lines and trolling lines, as described in chapter 4 of this act, at any time in the year in the Delaware River below Trenton Falls, but it shall be unlawful to fish for and take game fish excepting from the fifteenth day of June to the first day of December, inclusive, in each year: Provided, however, That any form of trout may only be taken between the twelfth day of April when it falls on a Saturday and the first Saturday following the twelfth day of April in other years and the thirty-first day of July, both dates inclusive in each year. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of ten dollars (\$10.00) for each fish so taken.

Section 140. Seasons for Use of Eelpots and Fyke Nets.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to use eelpots and fyke nets, each without wings, in the Delaware River below Trenton Falls from June first to July thirty-first in each year, both dates inclusive, but it shall be lawful to use eelpots and fyke nets, each without wings, from July first to May thirty-first, both dates inclusive in each year, for the purpose of catching carp, catfish, eels and suckers only. All other species of fish which may be caught in said nets must be returned unharmed immediately to the waters from which taken: Provided, That the entrance of said eelpot and fyke net shall not be more than six inches in diameter and the outside diameter not more than thirty inches. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00), together with a forfeiture of all nets, boats and other appliances used.

Section 141. Seasons for Nets and Seines; Size of Mesh.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to use a parallel net, otherwise a net set approximately parallel with the shore in the Delaware River and Bay lying between the States of New Jersey and Pennsylvania below Trenton Falls and at low water mark, between the first day of June and the thirty-first day of August in each year, and it shall be lawful to use such parallel

net from the first day of September to the thirty-first day of May, inclusive, next ensuing in each year for the purpose of taking carp only: Provided, That the meshes of said net be not less than three and one-half inches, stretched measure, when being fished: Provided, That seines not smaller than two and one-half inch mesh may be used from September first to May thirty-first of each year for the purpose of taking carp only: And provided further, That no such net shall be set in such manner as to impede navigation. All other fish than carp must be returned unharmed to the water beyond the low water mark. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00), together with a forfeiture of all nets and other appliances used.

Section 142. Legal Sizes and Creel Limits of Fish; Penalties.—(a) Except where otherwise provided in this act or by Commission regulation, (a) it shall be unlawful for any person to catch and take, or attempt to catch and take, from the Delaware River below Trenton Falls in any manner whatsoever any striped bass, otherwise known as rock fish, weighing more than twenty pounds or measuring less than ten inches in length, or any sturgeon less than five feet in length, or any small mouth bass or large mouth bass less than nine inches in length, or any pike or pickerel or any walleye less than twelve inches in length, or any crappie, white bass, rock bass or trout less than six inches in length. Any fish of a less length than those described or any striped bass, commonly called rock fish, weighing more than twenty pounds, which may be caught, must be returned immediately to the water: Provided, That nothing in this section shall be so construed as to prevent the fishing authorities of the Commonwealth of Pennsylvania or of the State of New Jersey from capturing fish of any size from said waters or at any time of the year or in any manner, for propagation or management purposes and for stocking other waters in their respective states through their representatives. Any person who shall violate any of the provisions of this subsection shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of ten dollars (\$10.00) for each fish so caught and had in possession.

(b) Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to take, catch, kill or have in possession, in any one day, more than ten in all of large mouth and small mouth bass, twenty rock bass, twenty in all of crappie, ten walleye, ten pike, ten pickerel or twenty trout. Any person violating the provisions of this subsection shall, on conviction thereof

in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00) for each fish so taken, caught, killed or possessed in excess of the number permitted by this subsection.

Section 143. **Penalty for Damage to Nets and Seines.**—It shall be unlawful for any person by boat, anchor, dredge or otherwise, in the Delaware River below Trenton Falls, to wilfully and without reasonable cause, interfere with, break, damage or destroy any drifting gill-net, hauling seine or nets of any description being lawfully used, and it shall be unlawful for any person to drift a gill-net over the waters of a shore fishery while the hauling seine is being used. Any person violating any of the provisions of this section shall, on conviction thereof in the manner provided in chapter 14 of this act, be subject to a fine of twenty dollars (\$20.00).

Section 144. **Sale of Fish Regulated.**—It shall be unlawful to purchase, sell or offer for sale, any fresh dead game fish, or have in possession any fresh dead game fish or food fish except during the lawful period for catching the same and the space of ninety days after such period has expired. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a fine of ten dollars (\$10.00) for each fish.

Section 145. **Concurrent Jurisdiction of States.**—The Commonwealth of Pennsylvania and the State of New Jersey shall have concurrent jurisdiction over all offenses and violations of this act committed, or attempted to be committed, by any person or persons fishing in the Delaware River below Trenton Falls within the jurisdiction, respectively, of the said Commonwealth of Pennsylvania and the State of New Jersey. Any fish warden, or any person in either state authorized to make arrests for violations of the fish laws, shall have power and authority to make arrests in any part of the river or shores thereof and take such person or persons for trial to the state in which the offense was committed and proceed against the offender according to the legal procedure for violation of the fish laws of said state. If the arrest be made within this Commonwealth, the procedure shall be as prescribed in chapter 14 of this act.

Section 146. **Penalty for Threatening and Resisting Officers.**—Any person or persons who shall by threat, menace or force or in any manner, attempt to deter or prevent any fish warden, or other person authorized to make arrests for violation of the fish laws in either state, from enforcing or carrying into effect any provisions of this act, or who shall resist arrest or the seizure of boats or nets illegally used, shall, on conviction thereof, in the

manner provided in chapter 14 of this act, be subject to a fine of one hundred dollars (\$100.00).

ARTICLE III. PROVISIONS APPLYING TO THAT PORTION OF THE DELAWARE RIVER BETWEEN PENNSYLVANIA AND NEW YORK.

Section 150. Scope of Article.—The provisions of this article shall affect and apply only to the propagation, catching, taking, management, protection and destruction of fish in that portion of the Delaware River lying between the Commonwealth of Pennsylvania and the State of New York.

Section 151. Legal Devices for Taking Fish; Closed Season for Shad.—Except where otherwise provided in this act or by Commission regulation, hereafter, no person or persons shall cast, draw or fasten or otherwise make use of any seines, drift-net, fyke-net or net or nets of any other description, or use any other appliance for the catching of fish, except rod, hook and line, in that portion of the Delaware River lying between the Commonwealth of Pennsylvania and the State of New York: Provided, That this section shall not extend to shad fishing: Provided also, That the meshes of nets used for catching shad shall not be less than three inches in width or one and one-half inches from knot to knot: Provided further also, That it shall not be lawful to fish for shad with nets either shore, drift, gilling or dipnets or with any appliances whatever, from June fifteenth to December thirty-first of any year. Any person or persons violating any of the provisions of this section shall, on conviction as provided in chapter 14 of this act, forfeit or pay a penalty of one hundred dollars (\$100.00), together with the forfeiture to the Commission of all boats, nets and all appliances.

Section 152. Certain Nets and Devices Prohibited.—Except where otherwise provided in this act or by Commission regulation, hereafter, no person or persons shall cast, set, draw, fasten or otherwise make use of any fyke net or nets of any kind or device similar to a fyke net, for the purpose of catching fish in the Delaware River at any time in any year. Every person so offending shall, on conviction in the manner provided in chapter 14 of this act, be punished by a fine not exceeding one hundred dollars (\$100.00), together with the forfeiture to the Commission of the net or nets, devices or appliances used.

Section 153. Use of Nets, Seines and Eelpots Prohibited on Saturday Night and on Sunday.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person or persons to cast, draw, drift, anchor, set, stage or otherwise make use of any gilling net, seines, short-net, drift-net, eelpots

or any kind of net, for the purpose of catching fish in the Delaware River from sunset on Saturday until twelve o'clock on Sunday night of each week, and the person or persons so offending shall, on conviction as provided in chapter 14 of this act, forfeit and pay a penalty of one hundred dollars (\$100.00), together with the cost of suit for each offense.

Section 154. Use of Certain Devices Prohibited.—Except where otherwise provided in this act or by Commission regulation, it shall be unlawful for any person or persons to place, build, erect, fasten or use any fish baskets, gill-nets or any permanently set means for taking fish in the Delaware River, nor shall any person at any time affix any nets, fish baskets, fyke nets, eel racks or any kind of appliances or set means of taking fish to any wing walls in the Delaware River. Nor shall any person or persons erect, build or place or cause to be erected, built or placed any wing, wall or walls of stone or of any other substance or material in the Delaware River, for the purpose of affixing, adjusting, placing or setting thereto, or adjacent thereto, any of the above mentioned illegal devices, contrivances or appliances for taking fish. Any person violating the provisions of this section shall, on conviction in the manner provided in chapter 14 of this act, be fined fifty dollars (\$50.00) for the first offense. Any person or persons so offending a second time shall, on conviction in the manner provided in chapter 14 of this act, be liable to a fine of one hundred dollars (\$100.00) and imprisonment for three months in the county jail.

Section 155. Closed Season for Certain Fish.—Except where otherwise provided in this act or by Commission regulation, no person shall by any means or device whatsoever catch or kill in the Delaware River any rock bass, small mouth bass and large mouth bass between December first and June thirtieth in any year, any walleye between March second and May ninth in any year, any trout between September first in each year and the fourteenth day of April next ensuing, any pickerel between March second and April thirtieth in any year, all dates inclusive; nor shall catch or kill any of said species of fish at any other time during the year save with rod, hook and line. Any violation of this section shall, on conviction as provided in chapter 14 of this act, subject the offender to a penalty of ten dollars (\$10.00) for each fish so caught or illegal device so used.

Section 156. Legal Sizes and Creel Limits of Fish; Penalties.—(a) Except where otherwise provided in this act or by Commission regulation, no person shall catch or kill in the Delaware River any small mouth bass and

large mouth bass less than ten inches in length, or walleye less than twelve inches in length, any trout less than six inches in length, or any pickerel less than twelve inches in length, but should any such fish be taken of a less size than the above, it shall be the duty of anyone taking or capturing the same to return the fish immediately to the water from whence taken. Any violation of this subsection shall, on conviction as provided in chapter 14 of this act, subject the offender to a penalty of ten dollars (\$10.00) and costs for each fish so caught and not returned to the water.

(b) Except where otherwise provided in this act or by Commission regulation, it shall be unlawful to take, catch, kill or have in possession, in any one day, more than fifteen in all of small mouth bass and large mouth bass, fifteen walleye, twenty-five in all of trout or fifteen pickerel. Any violation of this subsection shall, on conviction as provided in chapter 14 of this act, subject the offender to a penalty of ten dollars (\$10.00) and costs for each fish so taken, caught, killed or possessed in excess of the number permitted by this subsection.

Section 157. Taking Fish for Bait, Scientific and Stocking Purposes.—Nothing in this article shall be so construed as to prevent the catching of bait fish, other than game fish, by means of hand or cast nets for angling or scientific purposes, or the catching of game fish by order of any member of the Commission or authorities of the State of New York in the Delaware River for the purpose of fish management or stocking other waters.

Section 158. Seizure of Illegal Devices; Interference with Officers.—Any fish warden, deputy warden, sheriff, deputy sheriff, constable, policeman or any special officer of this Commonwealth, is hereby authorized to destroy any fish-basket, eel-weir, fyke net, shore-net, drift-net, dip-net, wing wall or wing walls, or any illegal device named in any section of this article, and they are hereby authorized to arrest forthwith any person placing, erecting, using or fastening them. Any person or persons interfering with any of the above officers in the discharge of their duties or resisting arrest shall, on conviction as provided in chapter 14 of this act, pay a fine of one hundred dollars (\$100.00).

CHAPTER V. SEINE LICENSES.

Section 160. Seine Licenses; Fees.—The Commission is authorized to issue a "seine license" upon a written application therefor signed by the applicant and upon the payment to the Commission of a fee of ten dollars (\$10.00).

Section 161. Kinds of Seines; Size of Mesh.—No seine or net shall be licensed for use except a haul seine, sometimes called a shore seine, a dip-net or a hold-in net, sometimes called a moon rake. The meshes of any of the above enumerated seines or nets shall be not less than two and one-half inches, stretched fishing measure, or one and one-quarter inches from knot to knot, while being fished.

Section 162. Contents, Expiration and Production of License.—The license certificate shall be prepared by the Commission and shall show the date of issue, the name and place of residence of the licensee, and the name and number of the seine or net licensed. The certificate may contain such other matters as the Commission may determine. All seine licenses shall expire on the twenty-first day of June next following the date of issue. Such certificate shall be shown by the licensee to any fish warden, constable or other person authorized to make arrests for violation of any provisions of the laws of this Commonwealth relating to fish.

Section 163. Waters for Use of Seines; Seasons; Kinds of Fish.—No person shall fish with a seine or net in any inland waters of this Commonwealth, except within the limits of the tidal waters of a tidal stream. No person shall fish with a seine or net within the limits of the tidal waters of a tidal stream of this Commonwealth, except from the first day of March to the twentieth day of June.

No person shall, from the first day of March to the twentieth day of June, fish with a seine or net, within the limits of the tidal waters of any tidal stream of this Commonwealth, for any fish other than shad, herring, or alewife and carp. A person who catches in a licensed seine during the license period, fish other than those enumerated in the preceding sentence, shall not be guilty of violating the provisions of said sentence if he immediately returns such fish so taken to the waters from which taken and in the condition in which captured. No person shall, from the first day of March to the twentieth day of June, fish in the waters within the limits of the tidal waters of any tidal stream of this Commonwealth, with a seine or net other than a licensed net or seine.

Section 164. Owner's Consent for Removal of Fish Required; Exception.—No person shall remove fish from any licensed seine or net without the consent of the owner thereof, except that any person may return to the water any fish not authorized to be taken by such device.

Section 165. Penalty.—Any person violating any provisions of this article shall, on conviction in the

manner provided in chapter 14 of this act, be sentenced to pay a fine of one hundred dollars (\$100.00) and shall forfeit to the Commission all nets, seines, boats or appliances unlawfully used.

Section 166. Exceptions.—The provisions of this article do not apply to fish *artificially propagated under the authority of this act.

CHAPTER VI. ARTIFICIAL PROPAGATION LICENSES.

Section 170. Commission May Issue Propagation Licenses.—The Commission is authorized to issue an artificial propagation license for the propagation of all species of trout and all species of bass, upon a written application therefor signed by the applicant and upon the payment to the Commission of the sum of twenty-five dollars (\$25.00), each, for the propagation of trout and of bass; for the propagation of gold fish, the sum of twenty-five dollars (\$25.00); and for each other species of fish, the sum of twenty-five dollars (\$25.00): Provided, That a person licensed to propagate bait fish upon a written application therefor signed by the applicant and upon the payment to the Commission of the sum of ten dollars (\$10.00) for a dealer's license, wholesale or retail, may also propagate and sell fish bait.

Section 171. Applications for License; Expiration.—Applications shall be made on blanks prepared by the Commission and shall show the size, character and purpose of the propagation plant and such other matters as the Commission may require. All licenses issued under this article shall expire on the first day of January next following the date of issue.

Section 172. Waters Usable.—No dams, ponds or other devices which will prevent the free migration of fish shall be erected or placed by a person, licensed under this article, in any stream flowing over his property. No person shall use the ponds so licensed for any purpose other than for commercial propagation and rearing of fish.

Section 173. Authority under License.—The license issued under this article authorizes the licensee to carry on the business of propagation and sale of the species of fish authorized by the license, or the eggs thereof, during the year for which the license is issued. The license authorizes the licensee to catch and kill the fish authorized by the license from the licensed ponds in any manner whatsoever, except with explosives or poisonous sub-

* "artificially" in original.

stances. The license further authorizes the licensee to sell or dispose of in any manner whatsoever the fish authorized by the license, or the eggs thereof, at any time of the year, and it authorizes public transportation companies to receive and transport the same.

Section 174. Authority Denied under License.—The license issued under this article does not authorize the catching of fish out of any stream flowing over the property of the licensee.

Section 175. Sales of Fish and Fish Bait Regulated.—A person selling fish or fish bait under the license provided by this article shall furnish the purchaser with a certificate or invoice of the sale, bearing the date of sale, the number of the license under which sold, the number of fish and fish bait, and number of pounds sold. The certificate or invoice must be shown by the holder on demand of any fish warden, clerk of the market, constable or any person authorized to make arrests for violation of the laws of this Commonwealth relating to fish. The certificate or invoice shall authorize the sale, or holding in possession, of the fish or fish bait so purchased for a period of six days after its date of issue, except in the case of bait fish or fish bait, which may be held in possession by dealers and purchasers until disposed of.

Section 176. Reports by Licensee; Inspection of Premises.—A person holding an artificial propagation license under this article shall, annually, on the first day of January, file with the Commission a written statement, duly sworn to, showing the number, value and number of pounds of fish or the eggs thereof and fish bait sold or disposed of during the year. The books and property of the persons licensed under this article shall be open to the Commission or its agents for inspection at all reasonable times.

Section 177. Stocking Regulations.—No person licensed under this article shall, in any manner, stock or maintain his establishments with any species of fish or eggs thereof taken from any waters within this Commonwealth not owned, occupied or controlled by them. This section does not prohibit the exchange of fish eggs or the fry of any species of fish with the Commission.

Section 178. Authority of Licensee to Kill Fowl and Wild Birds.—A license issued under this article authorizes the licensee or his agent to kill, after five days' notice to their owner, if known, any domestic bird or fowl trespassing on the waters or lands controlled, used or occupied entirely for the artificial propagation of fish. Such license also authorizes the licensee or his agent to

kill any wild birds or wild animals destructive to fish life whenever found on such waters or lands.

Section 179. Unlawful Acts.—No person shall artificially propagate any species of fish or fish bait without first procuring the license provided by this article. No person receiving a license, as provided by this article, shall operate a propagating plant different from that designated in the license. No person operating a propagating plant for which a license has been issued for the operation of such plant shall catch fish out of any stream flowing over the property of the licensee.

No person shall fish, or trespass with intent to fish, in or upon any waters, or bed or banks of any waters, or any banks owned, controlled or occupied by persons licensed by this article. No person shall wilfully or maliciously destroy or damage any ponds, property or appliances whatever of a propagating plant licensed under this article. No person shall interfere or obstruct, pollute or diminish the natural flow of water into or through a propagating plant licensed under this article.

Section 180. Penalty.—Any person violating any provision of this article shall, on conviction in the manner provided by chapter 14 of this act, be sentenced to pay a fine of one hundred dollars (\$100.00).

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 Commission.

Section 181. United States Cultural Station.—The Commonwealth of Pennsylvania hereby gives its consent and accords to the Government of the United States and the United States Department of the Interior, and its duly authorized agents, the right to establish fish-cultural stations in this Commonwealth, and to conduct fish hatching and fish culture at said hatcheries in any manner and at any time the said Department may consider necessary and proper.

CHAPTER VII. DAMS, FISHWAYS, BAR-RACKS, OBSTRUCTIONS, ETC.

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) per annum, then, the annual payment shall, in all such cases, be six thousand five hundred dollars (\$6500.00) 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 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.

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 such person so refuses or neglects. Such sum shall be recovered by civil suit or process in the name of the Commonwealth.

Section 189. Erecting of Devices by Commission; Collection of Cost.—If, after the lapse of three calendar months from the date of notice provided by section 185 of this act, the person owning or maintaining said dam neglects or refuses to erect or place or maintain unchanged, open and in good order and repair the appliance, as directed by the Commission, said Commission is authorized to enter upon such dam and erect such slope, chute, fishway or gate, or make such repairs as may have been directed as aforesaid. The cost thereof shall be charged against the person owning or maintaining such dam by the Commission and may be recovered by civil suit and process in the name of the Commonwealth.

Section 190. When Commonwealth to Pay Cost of Erection.—Where by reason of any dam having been constructed prior to any requirements by law for the placing of chutes, slopes or fishways therein, or for any other reasons, the owner or person maintaining such dam cannot be compelled by law to pay the cost of erecting such chute, slope or fishway, as directed by the Commission, such cost shall be paid by the Commonwealth of Pennsylvania out of such funds as may be appropriated therefor.

Section 191. Drawing Off or Interference with Dams; Penalty.—(a) Drawing off dams. No person owning, leasing or maintaining a dam holding back waters inhabited by fish shall draw off such waters without first applying for written permission from the Commission, nor shall any such person obstruct the flow of water through any such dam without allowing sufficient water at all times to flow in the natural stream on which such dam is located to enable the fish to live. Any person violating the provisions of this subsection shall on conviction as provided in chapter 14 of this act be sentenced to pay a fine of one hundred dollars (\$100.00) for each offense.

(b) Interference with dams, deflectors and retards, et cetera. Dams, deflectors, retards or similar devices placed across or in any waters inhabited by fish, with permission of the owner or owners of the land adjacent thereto or through which such water flows, shall not be destroyed, removed, breached or disturbed, except by written permission first obtained from the Commission. Any person or persons violating the provisions of this subsection shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each dam, deflector, retard or similar device, destroyed or removed or breached or disturbed.

Section 192. Fishing near Devices Prohibited.—No person shall fish, except with a rod hook and line, within one hundred feet of the lower end of any fishway or dam or within such other distance as the Executive Director may determine. Such distance shall be plainly posted on the fishway or adjacent shore. Any person violating the provisions of this section shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of one hundred dollars (\$100.00).

Section 193. Placing Bar-racks.—Any person owning or maintaining a raceway, flume or inlet-pipe leading to a water-wheel, turbine pump or canal shall, immediately, upon receipt of a written order from the Commission, place and maintain a bar-rack of not less than one-half inch nor more than an inch and a half space between the bars in or near such raceway, flume or inlet pipe sufficient to prevent fish from entering therein. Any person refusing or neglecting to comply with such order for a period of one month shall forfeit and pay the sum of one hundred dollars (\$100.00), which shall be recovered by civil suit and process in the name of the Commonwealth.

Section 194. Erection of Bar-racks by Commission; Collection of Cost.—If one month after the notice provided in section 193 of this act the person owning or operating such raceway, flume or inlet pipe has not placed such bar-rack as may have been directed, the Commission is authorized to enter upon such raceway, flume or inlet pipe and place a bar-rack of not less than one-half inch nor more than an inch and a half space between the bars. The cost thereof shall be charged against such owner or operator, and if not promptly paid, may be recovered by civil suit and process in the name of the Commonwealth.

Section 195. Penalty for Preventing Migration of Fish.—No person shall place any device or object in the waters within this Commonwealth in such a manner as to obstruct the migration or passage of fish therein or to obstruct any fishway. Any person violating the provisions of this section shall, on conviction as provided in chapter 14, be sentenced to pay a fine of one hundred dollars (\$100.00).

Section 196. Removal of Obstructions by Fish Wardens, Etc.—Any obstruction in the streams of this Commonwealth not permitted by law shall, when found, be immediately removed by any member of the Commission, fish warden, sheriff or other peace officer.

CHAPTER VIII. POLLUTION; TRESPASS ON
STATE HATCHERIES.

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, to be turned into or allowed to run, flow, wash or be emptied into any waters within this Commonwealth, unless it is shown to the satisfaction of the Commission or to the proper court that every reasonable and practicable means has been used to abate and prevent the pollution of waters in question by the escape of deleterious substances.

Section 201. Permits for Use of Explosives.—The preceding section of this article does not prohibit the use of explosives for engineering purposes when a written permit has been given **therefor by the National, proper state, or proper municipal government authorities.

Section 202. Penalty.—Any person violating the preceding provisions of this article shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00).

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 or to fish food, it shall not be necessary to prove that such substances have actually caused the death of any particular fish.

Section 204. Trespass on State Hatcheries and Premises.—No person shall fish, or trespass with intent to fish, either upon any waters or bed or banks of any hatchery water or any hatchery lands controlled or owned or occupied by the Commission. No person shall, wilfully or maliciously, destroy or damage any ponds, property or appliances whatsoever of the Commission, nor interfere, obstruct, pollute or diminish the natural flow of water into or through any State hatchery. Any person violating the provisions of this section shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of one hundred dollars (\$100.00).

* "eradiction" in original.

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CHAPTER IX. SALE OF FISH; MARKETS,
HOTELS, ETC., REPORTS.

Section 210. Sale of Certain Fish Prohibited.—No person and no proprietor, manager, clerk or agent of any market, hotel, boarding house, eating house, restaurant or saloon shall purchase, sell or expose for sale (i) any trout, except lake trout, caught in waters wholly within this Commonwealth, (ii) any small mouth bass or large mouth bass, caught in waters wholly within this Commonwealth, or any small mouth bass or large mouth bass, caught in waters without this Commonwealth and received in interstate commerce, or otherwise, (iii) any striped bass or rockfish under twelve inches in length caught in waters wholly within this Commonwealth, or any striped bass or rockfish under twelve inches in length caught in waters without this Commonwealth and received in interstate commerce, or otherwise, or any game fish or bait fish as specified in this act: Provided, That this section shall not apply to blue pike or sauger or walleye taken legally by properly licensed commercial fishermen. No person and no proprietor, manager, clerk or agent of any market, hotel, boarding house, eating house, restaurant or saloon shall contract with or employ any person to catch and keep such fish for him, by the day or otherwise.

Section 211. Reports of Sales of Fish.—A person engaged in catching fish for market or who may be engaged in the sale of fish shall, on demand of the Executive Director, furnish at the close of each calendar year a duplicate statement of his sales of fish and the gross amount of money realized. The contents of such reports shall be used by the Commission entirely for statistical purposes. The contents of such report so received by the Commission shall not be made public without the written consent of the owner.

Section 212. Penalty.—Any person violating the provisions of this article shall, on conviction as provided in chapter 14 of this act, be sentenced to pay a fine of ten dollars (\$10.00) for each fish had in possession.

Section 213. Unlawful to Sell Bait Fish or Fish Bait.—It shall be unlawful for any person to sell, or offer for sale, any bait fish or fish bait taken from any waters of this Commonwealth when not *artificially propagated and sold pursuant to an artificial propagation license granted by the Commission: Provided, That under proper license specified species of bait fish may be netted from Lake Erie waters for purposes of sale. Any person violating the provisions of this section shall be subject

* "artificially" in original.

to a penalty of ten dollars (\$10.00) for each bait fish or fish bait sold or offered for sale, upon conviction as provided in chapter 14 of this act.

Section 214. Exceptions to Penalty.—This article does not prohibit any person from employing a guide to accompany him when fishing, nor does it apply to fish or fish bait artificially propagated or bait fish otherwise legally acquired and sold under authority of this act.

CHAPTER X. FISHING LICENSES.

Section 220. Resident Fishing License; Fees.—(a) For the purposes of this article, every person sixteen years of age and upward, upon application to any issuing agent within the Commonwealth, or to the Department of Revenue, and upon the establishment of his identity to the satisfaction of the issuing agent or the Department of Revenue by producing a bank book, letters, lodge cards, police cards, a motor vehicle operator's permit or some other positive means of identification, that he has been a bona fide resident of this Commonwealth for a period of sixty days next preceding his application and was born in the United States, and in the case of naturalized foreign-born residents, the production of such applicant's naturalization papers, shall, upon the payment to the issuing agent or the Department of Revenue of a license fee of three dollars and twenty-five cents (\$3.25) for the use of the Commonwealth, and in the event that the license is issued by an issuing agent, a fee of fifteen cents (15¢) for the use of the issuing agent, be entitled to the license herein referred to as a "resident fishing license."

(b) Any disabled veteran of any war or armed conflict whose disability consists of the loss of one or more limbs, or the loss of the use of one or more limbs, or a veteran who is totally blind and who meets the above qualifications shall be issued such license upon application to any county treasurer without the payment of the above license fee provided for the use of the Commonwealth. The application for the issuance of a license in such case shall, in addition to the other information required, contain a statement that the applicant is a war or armed conflict veteran and that his disability was service incurred. The county treasurer may likewise require of such applicant the production of such applicant's discharge papers.

(c) In case the license certificate is lost or destroyed, a new license may be secured from the Department of Revenue upon making affidavit to that effect, and the payment of a fee of fifty cents (50¢).

(d) Upon the making of an application by any person to the Department of Revenue for a special license to catch eels by the use and operation of eel chutes, and

the payment of a fee of one dollar (\$1.00) for the use of the Commonwealth, such person shall be entitled to a special eel chute license, which shall give him the right to use and operate an eel chute in the Susquehanna River below the boundary line of the City of Pittston and the Duryea Borough line on the north branch, below the bridge at the Northumberland-Lycoming County line on the west branch, in the Juniata River below Mount Union and in the Delaware River in accordance with the provisions of this act.

Section 221. Nonresident and Alien Nonresident Fishing License Fees; Tourist Fishing License Fees for Nonresidents and Alien Nonresidents.—(a) For the purposes of this article, every person, twelve years of age and upward, upon application to any issuing agent within the Commonwealth or to the Department of Revenue, and the presentation of proof that he is an alien or a nonresident of this Commonwealth, shall, upon the payment to the issuing agent or the Department of Revenue of the sum of seven dollars and fifty cents (\$7.50), plus a trout stamp license, in cases where it is required, of five dollars (\$5.00), and in the event the license is issued by an issuing agent, the payment of fifteen cents (15¢) for the use of the issuing agent, be entitled to the license herein referred to as a "nonresident fishing license."

(b) For the purposes of this article, every person, twelve years of age and upward, upon application to any issuing agent within the Commonwealth or to the Department of Revenue and the presentation of proof that he is a nonresident of the Commonwealth, shall, upon the payment to the issuing agent or the Department of Revenue a license fee of three dollars and twenty-five cents (\$3.25) for the use of the Commonwealth, and in the event that the license is issued by an issuing agent, a fee of fifteen cents (15¢) for the use of the issuing agent, be entitled to the license herein referred to as a "tourist fishing license," which shall be valid for a period of five consecutive days.

In case the license certificate is lost or destroyed, a new license may be secured from the Department of Revenue upon making affidavit to that effect and the payment of a fee of fifty cents (50¢).

(c) Any person serving or who has served in the armed forces of the United States during any part of any war or armed conflict in which the United States has been or may become engaged, and who is being hospitalized, or is in a convalescent camp within the Commonwealth, shall be issued such license as provided in subsections (a) and (b) of this section without the payment of the said license fee provided for the use of the Commonwealth.

The application for the issuance of a license in such case shall, in addition to the other information required, give the serial number of, the branch of service to which the applicant is attached, together with the applicant's rank and the hospital to which he is attached, and a certificate from the person in charge of the hospital or other place in which such person is confined or to which he is attached.

(d) The Department of Revenue is authorized to sell expired trout stamps upon payment of one dollar (\$1.00) per stamp, or fifty cents (50¢) per stamp in lots of one hundred or more.

Section 222. Applications for Licenses; License Year.—All licenses shall be issued on forms prepared and supplied by the Department of Revenue, the cost thereof to be paid from the Fish License Fund hereafter provided for. The license shall show the name, age, occupation and residence of the licensee and the date of its issue. It shall also contain the signature of the licensee, written in ink, and shall authorize the person named therein to fish or angle in the waters of this Commonwealth or in the waters bounding or adjacent thereto under the restrictions and requirements of existing laws during the year the date of which is inscribed thereon. The license shall become void upon the thirty-first day of December next following the date of issue. The license may contain such other information as the Department of Revenue may require.

Section 223. Issuing Agent's Record.—Every issuing agent of this Commonwealth shall keep, on a printed form supplied by the Department of Revenue, a correct and complete record of all resident and nonresident fishing licenses issued by him. Every issuing agent shall cause to be entered on such printed form at the close of each month, the name and place of residence of such individual to whom a license shall have been issued that month. Such printed form shall be available at reasonable hours for the inspection of any officer of the Commonwealth whose duty it is, by law, to protect the fish in the waters of this Commonwealth or in the waters bounding or adjacent thereto, or of any representative of the Department of Revenue, or of any representative of the Department of the Auditor General.

Section 224. Monthly Returns of Licenses Issued by Issuing Agents.—Every issuing agent of this Commonwealth shall each month forward to the Department of Revenue a complete list of the resident and nonresident licenses granted, with the names and addresses of the licensees, on forms to be furnished by the Department of Revenue.

Section 225. Issuing Agent to Be Agent of the Commonwealth; Monthly Payment to State Treasurer; Duplicate Report.—The issuing agents in the several counties shall be agents of the Commonwealth for *the collection of said license fees unless and until the Department of Revenue shall determine, with the approval of the Governor, to issue all of said licenses directly: Provided, That the Department of Revenue may recall the appointment of any agent at any time with or without cause, and shall recall the appointment of any agent, either upon receipt of evidence that such agent has not complied with the requirements of this act, or upon receipt of a recommendation from the Executive Director that such agent be recalled because of carelessness or other fault in the issuance of licenses. For services rendered in collecting and paying over the said fees, the said issuing agents, as long as they continue to act in that capacity, shall be allowed to collect and retain the sum of fifteen cents (15¢) for each resident and nonresident fishing license as provided in section 221 of this act, which amount shall be full compensation for services rendered by them under the provisions of this act. Such compensation shall be retained by the respective issuing agents, said compensation to cover, among other things, the cost of issuing licenses, postage, mailing, returns and bonding of said agents.

All license fees, except said agent's fees, paid to an issuing agent under this act, shall be, by such agent, paid into the State Treasury through the Department of Revenue, at least once a month, to be applied to the purposes hereinafter provided. Such issuing agent shall make a return to the Department of Revenue, upon a form to be supplied by the Department of Revenue, and shall in all such cases forward a duplicate of such report to the Executive Director at Harrisburg. Any issuing agent who shall fail to comply with any of the provisions of this act shall not be entitled to retain the sum herein fixed for his services, but such sums shall be paid to the State Treasurer, and if not so paid, may be recovered by the Commonwealth by suit in the same manner as like amounts are now recoverable by law.

Every agent designated to issue fishing licenses shall give bond to the Commonwealth in a sum not less than one thousand dollars (\$1000.00) before the annual supply of licenses is delivered to him.

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 con-

* "the collection of said license fees unless and until the Department of" not in original.

tinually kept about the person of the licensee and exhibited upon the request of any fish warden, sheriff, constable or other officer of the Commonwealth.

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 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.

Section 227. Loan and Transfer of License Prohibited; False Information.—No person shall alter, loan or transfer any license authorized by this act nor give any false or misleading information to the issuing agents or to the Department of Revenue, its officers or agents in the application therefor.

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 14 of this act, be sentenced for each offense to pay a fine of twenty-five dollars (\$25.00). 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 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 shall be surrendered by such person and immediately sent by the court making the conviction or the officer taking the acknowledgment to the Commission 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 Commission 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 229. Certain Persons Excepted from Licenses.—No person, now required by law to procure a license to propagate fish for sale, shall be required, in addition, to secure a license provided by this act in order to enable such person to exercise those rights conferred by the license.

The provisions of this article shall not apply to nor prevent the native born or naturalized owner of any farm or other land situate in this Commonwealth, who actually resides thereon throughout the year *or the members of his family so residing upon said farm or land, from angling or fishing in waters wholly within the limits of said farm or land or within the limits of land abutting thereon, without such license. The exemption provided by the foregoing provisions of this section shall not apply to any person temporarily residing upon said farm or land or any tenant thereon who is not a member of the family of said owner, nor shall said exemption apply to any servant or employe of said owner.

CHAPTER XI. COMPLIMENTARY LICENSES.

Section 240. Complimentary Licenses.—The Commission is hereby authorized to issue, annually, not more than one hundred complimentary fishing permits to any of the following persons: (a) The Chief Executive of the United States; (b) the Governor of any state; (c) authorized representatives of the conservation departments of other states; (d) Federal officials engaged in conservation work; (e) authorized officials of national conservation organizations, and (f) conservation officials of any foreign country or major subdivision thereof.

Such licenses shall be issued without fee, and shall be in such form as the Commission may determine.

CHAPTER XII. GENERAL POWERS OF THE COMMISSION; EXECUTIVE DIRECTOR, ASSISTANT EXECUTIVE DIRECTORS AND FISH WARDENS.

Section 249. Assistant Executive Directors.—The Commission may appoint two assistant executive directors, the first of whom shall be in charge of and respon-

* "of" in original.

sible for the activities of the Watercraft Safety Division, and the second shall be in charge of and responsible for the Fish Management Division.

Section 250. Permission to Fish for Scientific and Stocking Purposes.—The Executive Director may, with the approval of the Commission, grant permission to catch fish in any of the waters of this Commonwealth at any season of the year and with any kind of nets or devices, for a period not exceeding one year, to a person engaged in scientific research or for the propagation of fish and the stocking of public waters therewith. Persons permitted to fish pursuant to the foregoing provision of this section shall make a return, in writing, to the Executive Director of all fish caught by them and also the use made by them of the fish so caught.

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 the 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.

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 caught, taken or had in possession contrary to such rules and regulations of the Commission.

Section 252. Free Distribution of Fish.—The Commission shall make free distribution or planting of the fish produced at the State fish hatcheries or otherwise

acquired in the following order of preference: first, to the public waters of the Commonwealth and to the waters within the forestry reserve belonging to the Commonwealth; second, to the public school authorities and persons connected with institutions of learning, who may apply for the same for educational purposes or for scientific research, and to persons applying for public aquarium purposes or show ponds; third, to fish associations and individuals to stock any stream, lake or pond in which the public are permitted to fish. The Commission may distribute and plant fish without an application in any of the waters within the State in which the public are permitted to fish.

Section 253. Penalty for False Representation in Procuring Fish.—Any person who shall by false representation receive fish from the Commission and plant the same in waters where the public are not allowed to fish shall, on conviction in the manner provided by chapter 14 of this act, be sentenced to pay a fine of twenty-five dollars (\$25.00) for each offense, and shall not thereafter be eligible to receive fish from the Commission for a period of from one to five years, as may be determined by the Commission.

Section 254. Streams and Lakes to Be Free for Fishing; Exception.—Any natural stream or lake in this Commonwealth, which has been or may be stocked with fish furnished by the Commonwealth or the Commission, shall be open to the public for the purpose of lawful fishing, but nothing in this section shall be so construed as to free any person trespassing on the lands of any person in this Commonwealth from liability for any damage he may do to said lands or the improvements thereon or to any crops or livestock or poultry thereon.

Notwithstanding the provisions of this section, whenever any stream is stocked with trout during the open season for trout, the Commission may close such stream, or any part thereof, to fishing for a period of any number of days not exceeding five days after the same has been stocked. Whenever any stream, or part of a stream, is closed to fishing under the provisions of this section, the portion thereof that has been closed, shall be posted with signs giving notice of such closing, together with the date of stocking and the date when such stream, or part thereof, will again be open to fishing. A statement of the stocking of such stream, giving the number or pounds of trout planted, the fact that the stream, or part thereof, has been closed, and the dates of the stocking and reopening of the stream, shall be given to at least one newspaper published in the vicinity of such stream, with the request that the same be published as a news item. Nothing in this act contained shall authorize the Com-

mission to close any stream, or part thereof, which is owned or held by any individual, association or corporation, and which has not been stocked with fish furnished by the Commonwealth or the Commission.

Any person fishing in any stream, or part of a stream, during the period the same has been closed to fishing under the provisions of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of twenty-five dollars (\$25.00).

Section 255. Nursery Waters.—The Commission is authorized to set aside, at its discretion, such streams, lakes, dams, reservoirs, ponds or parts thereof, as it may judge best as nursery waters in which fishing shall be prohibited for such periods of time as the Commission may prescribe. Before setting aside such waters, the Commission, through the Executive Director, shall give notice of closing such waters by publishing the prohibition and the duration thereof in such manner as the Commission may prescribe. Notice of such closing shall also be posted along the banks of such waters. Any person fishing, catching or killing any fish from any stream or waters so closed, shall, on conviction in the manner provided by chapter 14, be sentenced to pay a fine of one hundred dollars (\$100.00).

Section 256. Powers of Fish Wardens.—A fish warden shall have power:

(a) To enforce all the laws of the Commonwealth relating to fish; (b) to execute all warrants and search warrants for the violation of the fish laws; (c) to serve subpoenas issued for the examination, investigation and trial of all offenses against the laws relating to fish; (d) to carry firearms or other weapons in the performance of his duties; (e) to search without warrant any boat, conveyance, vehicle, fish-box, bag, coat, boot, basket, or other receptacle for fish, when he has reason to believe that any provision of any law of this Commonwealth relating to fish has been violated; (f) to seize and take possession of any and all fish which may have been caught, taken or killed at any time, in any manner, or for any purpose, or had in possession or under control, or have been shipped or about to be shipped contrary to the laws of this Commonwealth *and fish so seized shall be disposed of in any manner as the Executive Director may direct; (g) to enter upon any land or water in the performance of his duty; (h) to demand and secure proper assistance in case of emergency; (i) to purchase fish for the purpose of securing evidence; (j) to arrest any person found in any of the acts, or in pursuit immediately following any of the acts, herein set forth, committed in or along waters in which the public is

* "and" not in original.

allowed to fish or on land adjacent or contiguous to such waters which are not posted with printed notices warning persons from trespassing thereon, (i) leaving garbage, bottles, cans, rubbish, wire, glass, paper, cardboard or wooden cartons or boxes or any other type of debris or trash, (ii) obstructing an owner or his tenant ingress, egress or regress to his property or cattle ways, (iii) digging in or driving upon fields under cultivation.

Any person convicted of violating clause (j) of this section shall be sentenced to pay a fine of ten dollars (\$10.00) and costs of prosecution for each such offense, and upon a second conviction for any such offense shall have his license revoked for a period of one year.

Section 257. Duties of Fish Wardens.—Each fish warden shall keep a record of his official acts, receipts and expenditures, and shall, at the close of each month, make a summary of such record with such detailed information as may be necessary for the information of or be required by the Commission. Such summary shall be immediately sent to the chief warden. The chief warden shall report to the Executive Director any negligence or incompetency on the part of any of the fish wardens, with the facts relating thereto. The chief warden shall report, monthly, to the Executive Director his operations during the preceding month and shall make such other reports as may be required by the Executive Director. The chief warden shall, annually, report, in writing, the operations of himself and subordinates during the year to the Commission.

Section 258. Special Fish Wardens.—The Commission may appoint special fish wardens to act anywhere within the Commonwealth. Newly appointed special wardens (excluding reappointments) may have a minimum of two weeks' training by the Commission. All special fish wardens appointed under the authority of this section may exercise the powers of their appointments until the thirty-first day of December next succeeding the date of their appointment and no longer. Special fish wardens shall have the same powers and shall make the same reports as are conferred on and required from other fish wardens.

CHAPTER XIII. SUNDAY FISHING.

Section 265. Sunday Fishing Lawful; Exception.—It is lawful to fish in any of the waters wholly within or on the boundaries of this Commonwealth for any species of fish during the open season therefor with not more than two rods and two lines and one hand line with not more than three hooks attached to either line, and to take bait fish and fish bait with 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, and to catch and take game fish in season when tip-ups are used while fishing through holes in the ice, and it is also lawful to catch and take turtles and frogs on the first day of the week, commonly called Sunday, if the consent of the owner or lessee of the land, abutting on a stream or body of water and of the bed thereunder where the fishing is done, has first been secured, but no such consent shall be required to fish in the manner above provided in a stream or body of water on State-owned or Federal lands, nor in a river or body of water the bed of which is publicly owned, except where the fishing is done from abutting land privately owned, in which case the consent of the owner or lessee shall first have been secured. It is unlawful to fish on any Sunday in any other manner than hereinbefore provided, or in streams and waters contrary to the provisions of this section. Any person violating any of the provisions of this section shall, on conviction as provided in chapter 14 of this act, be subject to a penalty of twenty-five dollars (\$25.00).

CHAPTER XIV. ENFORCEMENT OF THE ACT; PROCEDURE.

Section 270. Powers of Officers to Destroy Unlawful Devices and Make Arrests.—Any fish warden, special warden, sheriff, constable or any special officer, or any peace officer in this Commonwealth, is hereby authorized and required to proceed, with such force of the county as may be necessary to confiscate and turn over to the Commission any device for catching fish used contrary to or prohibited by law in any of the waters within or on the boundary of or adjoining to this Commonwealth. Such officers are hereby required to arrest with or without warrant any person owning, placing or using such device or violating any provisions of this act.

Section 271. Apprehension and Production before Magistrate.—Such officers are authorized and required to apprehend and arrest and immediately take any person guilty of any violation of this act before the nearest available alderman, magistrate or justice of the peace within the city, borough, incorporated town or township in the county where the alleged violation occurred, or if there is no available person holding the office of magistrate, alderman or justice of the peace in such city, borough, incorporated town or township, then before the nearest available magistrate, alderman or justice of the peace in any adjoining city, borough, incorporated town or township in such county, who shall forthwith hear and determine such charge in the manner herein provided.

Section 272. Payment of Costs in Certain Cases.—In case any fish warden, or any other officer hereinbefore named, fails to prove his case and the defendant is discharged, or in case the defendant is convicted and sent to jail in lieu of the payment of fine, the Commission shall pay the costs.

Section 273. Arrests on Sunday and Holidays.—Such arrests may be made on Sunday or any legal holiday, in which case, the person so arrested shall be taken before the proper officer and proceeded against on the first lawful day following the arrest, or he may acknowledge guilt and pay the penalty in full as provided in section 280 of this act.

Section 274. Penalty upon Officers for Failure to Perform Duties.—Any sheriff, deputy sheriff, constable, special officer or other peace officer of this Commonwealth, refusing or neglecting to proceed with such force of the county to forthwith remove and destroy any existing device illegally used for the catching of fish within its jurisdiction, after being notified, in writing, of the existence of such illegally used device, or any such officer neglecting or refusing to remove or destroy any such illegal device for catching fish within the Commonwealth of which he shall be cognizant, shall, on conviction as provided in this chapter, be sentenced to pay a fine of fifty dollars (\$50.00).

Section 275. Interference with Officers.—Any person who shall by threat, menace or force or in any manner, attempt to deter or prevent any fish warden, or other person authorized to make arrests for violation of the fish laws, from enforcing or carrying into effect any provision of this act, or who shall resist the seizure of boats, devices or nets illegally used, shall, on conviction thereof as provided in this chapter, be sentenced to pay a fine of one hundred dollars (\$100.00).

Section 276. Prima Facie Evidence.—In all cases of arrest for the violation of any of the provisions of this act, the possession of the fish or of the nets or appliances, or the possession of or operation of any other device herein prohibited, shall be prima facie evidence of the violation of this act.

Section 277. Complaint; Warrant; Hearing.—Complaints or information made under the provisions of this act shall be brought before the nearest available magistrate, alderman or justice of the peace within the city, borough, incorporated town or township in the county where the alleged violation occurred, or if there is no available person holding the office of magistrate, alderman or justice of the peace in such city, borough,

incorporated town or township, then such complaint or information shall be brought before the nearest available magistrate, alderman or justice of the peace in any adjoining city, borough, incorporated town or township in such county.

Any alderman, magistrate or justice of the peace, upon information or complaint made to him by affidavit of one or more persons charging any person with having violated any of the provisions of this act or any of the rules and regulations adopted and promulgated by the Executive Director or the Commission, pursuant to this act, is hereby authorized and required to issue his warrant under his hand and seal directed to any constable, peace officer or warden, and shall cause such person to be arrested and brought before such alderman, magistrate or justice of the peace, who shall hear and determine the guilt or innocence of the person or persons so charged.

Section 278. Sentence; Bail; Appeal.—If convicted, such person shall be sentenced to pay the fine provided in this act for such violation, together with the costs of prosecution. The person so convicted shall, on failure to pay such fine, be sentenced by such alderman, magistrate or justice of the peace, to undergo imprisonment in the county jail of the county in which such conviction takes place for a period of one day for each dollar of fine so imposed, unless specifically otherwise provided by this act, or unless the person so convicted shall give notice of an intention to procure a writ of certiorari or appeal, in which case, such person shall be permitted to enter into good and sufficient recognizance to appear before such justice, alderman or magistrate on or before the expiration of five days, if such appeal or certiorari is not taken by them, or on the final determination of the same if it be not sustained, for execution of sentence.

Section 279. Certain Costs to Be Paid by Commission.—(a) Whenever any fish warden or other peace officer makes a complaint before any alderman, magistrate or justice of the peace, and secures a search warrant to search for fish caught, taken, killed or possessed contrary to the provisions of this act or for any device used for catching fish contrary to the provisions of this act, and no such fish or device is found during such search, all costs in such proceeding shall be paid by the Commission.

(b) Whenever a defendant shall be imprisoned one day for each dollar of fine imposed under the provisions of this act, the Commission shall pay one dollar (\$1.00) per day for each day of such imprisonment to the county operating the jail in which such defendant is imprisoned, for cost of his maintenance.

Section 280. Acknowledgment of Guilt; Receipts.—A person charged with violating any provisions of this act other than a misdemeanor may sign an acknowledgment of the offense committed either before or after the beginning of prosecution and pay to any salaried officer of the Commission the penalty in full as fixed by this act together with costs accrued to that date. The printed receipt therefor, which shall in every instance bear the signature of the Executive Director, shall be full evidence of full satisfaction of the offense committed.

Section 281. Sale, Destruction or Use of Confiscated Devices.—All boats or devices used unlawfully and forfeited to the Commission under any of the provisions of this act shall be sold by the Executive Director or destroyed by his order if not useful for Commission purposes. Records shall be made of all such sales or destruction on the books of the Commission.

Section 282. Limitation for Prosecutions.—All actions for violation of any provisions of this act shall be taken within one year from the time the offense is committed.

Section 283. Fines to Be Forwarded to the Executive Director.—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, within five days, shall forward or deliver such fines and penalties to the Executive Director. 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 to the Executive Director 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 (50¢) and made a part of the costs of prosecution. All fines received by the Executive Director 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 Executive Director 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 (\$100.00) and costs of prosecution, or undergo imprisonment for not more than sixty days, or suffer both such fine and imprisonment.

Section 284. Return of Fees, Fines or Other Moneys Erroneously or Unjustly Paid into Treasury.—Whenever the Commission is satisfied that any fee, fine or any other money paid into the State Treasury under any of the provisions of this act was erroneously or unjustly collected and deposited, the Commission, within six years after such deposit, may, by resolution, direct the Executive Director to draw a requisition upon The Fish Fund for the amount involved. Upon the receipt of such requisition and an extract of the minutes of the Commission, the Auditor General shall draw his warrant upon the State Treasurer in favor of the person from whom such fee, fine or other money was erroneously or unjustly collected.

CHAPTER XV. THE FISH FUND.

Section 290. Fish License Fund Established.—All fees, fines, penalties and other moneys paid, received and collected (i) 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 (ii) that may be hereafter paid, recovered, received and collected under the provisions of any act repealed and replaced by this act, or (iii) 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 nonresident fishing licenses, and under the direction of the Commission for the following purposes:

(a) The payment of the salaries, wages or other compensation of the Executive Director, 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 Commission, and such special deputy attorneys general, assistant deputy attorneys general, as may be assigned by the Attorney General to the Commission 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 Commission;

(c) The purchase, through the Department of Property and Supplies as purchasing agency, of such furniture, furnishing, stationery, supplies, materials, equipment, fuel, motor vehicles and printing and binding, as may be necessary in the conduct of the work of the Commission, and the payment of premiums on surety bonds for such officers or employes of the Commission 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 Commission;

(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 Commission;

(f) The propagation, protection, management 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 Commission.

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

(i) The maintenance and operation of such boats as may be required for the Commission's business;

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

(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 Commission.

(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;

(m) For the refund of fees, fines or other moneys heretofore or hereafter erroneously or unjustly paid into the fish fund; and

(n) The sum of one dollar (\$1.00) from each resident and nonresident fishing license fee shall be used exclusively for (i) the acquisition, leasing, development, management and maintenance of public fishing waters and of areas for providing access to fishing waters and the carrying out of lake and stream reclamation and improvement, (ii) the rebuilding of torn out dams, and (iii) the study of problems related to better fishing but in no event shall any of the funds be used for propagation of trout. All moneys received under the provisions of this clause, and all expenditures made from such moneys, shall be shown in detail by the Commission in every annual report or annual statement rendered by it.

(o) The Commission is specifically authorized to enter into cooperative agreements with agencies of the United States Government, interstate compact agencies, other agencies of the Commonwealth and subdivisions of the Commonwealth, including authorities and soil conservation agencies, singly or in concert, for impounding, managing, using, maintaining and operating waters for public fishing and is authorized to expend moneys from The Fish Fund for the Commission's agreed upon pro rata share of the cost of the acquisition, construction, operation and maintenance of the same. The Commission is further authorized to enter into similar agreements and undertake similar expenditures in conjunction with private or commercial interests for the same purposes.

All moneys in such separate fund, from time to time, are hereby specifically appropriated to the Department of Revenue and the Commission, and may be expended for the purposes hereinbefore enumerated. All printing 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 Commission, 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 Commission in excess of the estimates approved by the Governor. Subject to the foregoing provisions, the Auditor General shall, from time to time, upon requisition of the Secretary of Revenue or of the Executive Director, draw his warrant on the State Treasurer for

the amount specified in such requisition not exceeding, however, the amount in such fund available for the purposes for which such requisition was made at the time of making such requisition.

Section 291. Acceptance of Donations.—The Commission shall have the right to accept donations from any person, firm, corporation or association, if in the form of money or securities, which shall be placed in The Fish Fund, and used for the purposes set forth in section 290 of this act, and, if in the form of real or personal *property which shall be utilized or disposed of as provided by law.

Section 292. Acquisition of Lands.—(a) The Commission may acquire title to, or control of, lands or buildings within the Commonwealth or the fishing rights or other rights on lands suitable for the protection, propagation and management of fish life or for public fishing or administrative purposes or to be used as hereinafter provided, by purchase, gift, lease or otherwise.

(b) The Commission may also purchase tax delinquent lands from the commissioners of the respective counties or from the county treasurers of the respective counties, as provided by law.

(c) The Commission may exchange timber which should be cut from lands for which title has been acquired for suitable lands having an equal or greater value than the estimated value thereof: Provided, That when the estimated value of, or the value placed upon, such timber in any such agreement for exchange exceeds three hundred dollars (\$300.00), the proposed exchange shall be advertised at least once a week for three successive weeks in two newspapers of general circulation, if so many be published in the county where the said timber may be situate.

(d) Lands for which titles are acquired may be designated State Fish Hatcheries or State Fish Farms or State Fish Propagation Areas or Public Fishing Grounds, depending upon the purpose for which they are to be used. Other lands for which the Commission secures title control or partial control may be given such designation as the Commission may decide.

(e) All acquisitions of lands shall be made only with the consent of the Governor and a majority of the Commission. The Executive Director shall represent the Commission in the execution of land purchase contracts and in the execution of leases and other similar agreements approved by the Commission.

* "property" not in original.

(f) The Commission may lease or otherwise secure rights of way on and across either publicly-owned or privately-owned lands or waters, or other rights which may be required to conduct its proper functions.

(g) The Commission may be lessor as well as lessee of lands or waters or both.

Section 293. Title and Control.—The title to any lands to be acquired by purchase, gift, exchange or otherwise, shall be taken in the name of the Commonwealth, for use of the Commission.

The title records for such lands shall first be carefully searched and examined by the Commission through its employes or agents and when satisfied a valid title can be secured, a brief of the title shall be submitted to the Attorney General or a deputy attorney general whom he may designate for such review as he may deem necessary, and if he considers said title valid, he shall approve it and so notify the Commission.

The deed to any such lands shall be deposited with the Secretary of Internal Affairs.

The entire control of all such lands shall be under the direction of the Commission.

Section 294. Purchase Price.—For land to be used as State Fish Hatcheries, State Fish Farms, State Fish Propagation Areas or Public Fishing Grounds, the Commission may pay what it considers a fair and reasonable price.

Buildings for administration, management or other purposes, with or without land, may be purchased or constructed, and land may be purchased upon which to construct such buildings, at prices which the Commission considers fair and reasonable, consistent with the purpose for which intended: Provided, That the contract for and the construction of any such building shall be in accordance with the provisions of existing law governing the erection of buildings for other departments of the State government and for independent administrative boards and commissions.

The Commission may expend for lands or buildings or other improvements or for leases, during any year, such amount as, in its opinion, can be allotted for such purposes.

Section 295. Exchange or Sale.—(a) The Commission may, by resolution adopted by unanimous vote at a meeting when at least a majority of the members are present and voting, authorize the exchange or sale of any lands for which title has been acquired, or part thereof, or buildings or other improvements and appurtenances thereto, for privately-owned lands or buildings having an

equal or greater value of suitable purposes, when the Commission deems such exchange or sale for the best interests of the Commonwealth.

The necessary deeds or records to consummate such sale or exchange shall be subject to approval of the Attorney General, or a Deputy Attorney General whom he may designate, and shall be executed by the Executive Director acting for the Commonwealth. The proceeds of any such sale shall be deposited in The Fish Fund.

(b) Lands or buildings to which title has been taken in the name of the Commonwealth for the use of the Commission by purchase, gift, or otherwise, shall be exempt from the payment of all taxes, except such fixed charges as apply to and are imposed upon State forests.

(c) Lands for which title has been acquired for use of the Commission or which have been leased, or any part thereof, may be used for the purpose of creating and maintaining State Fish Hatcheries, State Fish Farms, State Fish Propagation Areas and Public Fishing Grounds, either for the propagation of fish or for fish propagation experiments or for special preserves as hereinafter provided, and as much thereof as deemed necessary may be used for the administration, development and management of such lands, and the Commission may permit its employes or agents to reside thereon.

(d) The Commission may cut, or cut and remove, and sell or otherwise dispose of, or permit the cutting, removing and selling of, timber on lands for which title has been acquired.

(e) The Commission may grant rights of way or licenses for rights of way for roads, pipe lines, electric lines, telephone lines and telegraph lines on and across lands for which title has been acquired for its use, when such grants will not, in the opinion of the Commission, adversely affect fish protection and propagation, and shall charge for such licenses such remuneration and damages as the Commission deems the conditions and circumstances warrant.

(f) The Commission may grant water rights or rights to maintain airway beacon lights or forest fire observation towers on lands acquired for its use, when such grants will not adversely affect fish protection and propagation, and may charge for such licenses such rental and damages as the Commission deems the conditions and circumstances warrant.

(g) No camp site lease may be issued to any person, but camping may be permitted on State Fish Commission owned or controlled lands, under such regulations as the Commission may establish. No camping shall be permitted on State hatchery properties.

(h) All net proceeds from the sale of timber or for licenses or other rights granted by the Commission shall be deposited in The Fish Fund.

(i) The Commission may purchase, erect or otherwise acquire or secure the use of, and repair and maintain, such buildings or other improvements on lands acquired for its use or under its control as may be deemed necessary for their proper utilization, maintenance, protection, development, administration, propagation of fish experimental activities or any other purpose incident to the Commission's functions.

(j) All net proceeds from oil, gas or other mineral leases on Commission owned lands, or royalty or other revenue from the production or sale of such minerals shall be deposited in The Fish Fund.

CHAPTER XVI. CONSTRUCTION; REPEALER AND EFFECTIVE DATE.

Section 300. Construction.—It is the intent of this act to prescribe an exclusive system for the angling, catching and taking of fish, and for their propagation, management and protection in waters within, bounding on, or adjacent to, this Commonwealth, but this act shall not repeal any law relating to the taking and catching or for the protection of frogs, tadpoles and turtles.

Section 301. Repealer.—The act of May 2, 1925 (P. L. 448), 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," is repealed.

Section 302. Effective Date.—This act shall take effect immediately, except as to the provisions concerning fees and licenses which shall take effect January 1, 1960.

APPROVED—The 15th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 674

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further *regulating reimbursements made by the Commonwealth to union and merged districts and jointures.

* "regulating" in original.