

STATUTES AT LARGE
OF THE
STATE OF NEW YORK,

CONTAINING
THE GENERAL STATUTES PASSED IN THE YEARS
1871, 1872, 1873 AND 1874,
WITH A
REFERENCE TO ALL THE DECISIONS UPON THEM.

ALSO,
THE CONSTITUTION OF THE STATE OF NEW YORK
AS AMENDED IN 1875.

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AN ACT to amend and consolidate the several acts relating to the preservation of moose, wild deer, birds and fish.

PASSED April 26, 1871 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. No person shall kill or pursue, in the counties of Kings, Queens and Suffolk, any deer, during a period of five years from the passage of this act. No person shall kill or pursue in any other part of this state, any moose, elk, cariboo or wild deer, save only during the months of August, September, October and November. No person shall have in his possession, or offer for sale, or transport, any moose, cariboo, elk or wild deer, or fresh vension, save only during the months of August, September, October, November and December. No person shall at any time kill any fawn during the time when it is in its spotted coat, or have the fresh skin of such fawn in his possession. No person shall pursue any wild deer with dogs in any county of this state lying north of the Mohawk river, or shall kill in the water any deer or fawn which has been driven into such water by dogs. No person shall in any part of this state still-hunt or set any trap or other device at any artificial salt-lick or other place, for the purpose of trapping any deer or fawn and kill the same, excepting for consumption in his own family. Any person offending against any of the preceding provisions of this section shall be liable to a penalty of fifty dollars for each moose, elk, cariboo, deer or fawn so killed or pursued or trapped ; or moose, elk, deer, cariboo or fawn skin had in his possession, and may be proceeded against in any county of the state ; provided, however, that any person may sell or have in possession the moose, elk, cariboo or deer aforesaid, between the first day of January and the first day of March, without liability to the penalties herein provided, in case he shall prove that such game was killed outside the limits of this state, and at some place where the law did not prohibit such killing. Dogs pursuing moose, elk, cariboo and deer may be killed by any person, and the game constable or other town official may kill any dog that habitually pursues moose, elk, cariboo or deer, and the owner of such dog shall be liable to a penalty of ten dollars for such moose, elk, cariboo or deer killed by such dog.

§ 2. No person shall kill, or expose for sale, or have in his or her possession, after the same has been killed, any wild duck, goose or brant, between the first day of May and the first day of September, under a penalty of twenty-five dollars for each bird killed or had in possession.

Killing of deer on Long Island prohibited.

Killing of moose, deer, elk and fawn in other parts of state.

Pursuit of wild deer, north of Mohawk.

Trapping of deer prohibited

Penalty for violation of act.

Proviso as to sale of deer, elk, etc., killed outside of state.

Killing of dogs pursuing deer, etc.

Killing of wild duck, goose or brant.

Use of
swivel gun
pro-
hibited.

§ 3. No person shall at any time kill any wild duck, goose or brant, with any device or instrument known as a swivel or punt gun, or with any gun other than such guns as are habitually raised at arms' length and fired from the shoulder, or shall use any net, device or instrument, or gun other than such gun as aforesaid, with intent to capture or kill any such wild duck, goose or brant, under a penalty of one hundred dollars.

Shooting
at wild
geese, etc.,
from ves-
sels, pro-
hibited.

§ 4. No person shall sail for any wild fowl, or shoot at any wild goose, brant or duck, from any vessel propelled by steam or sails, or from any boat or other structure attached to the same, under a penalty of ten dollars.

Use of
floating
battery
pro-
hibited.

§ 5. No person shall use any floating battery or machine for the purpose of killing wild fowl, or shoot out of any such floating battery or machine at any wild goose, brant or duck, under a penalty of one hundred dollars for each offense.

Wood-
cock.

§ 6. No person shall kill or expose for sale, or have in his or her possession after the same has been killed, any woodcock, between the first day of February and the fifteenth day of July, under a penalty of fifty dollars for each bird.

Quail.

§ 7. No person shall kill or expose for sale, or have in his or her possession after the same has been killed, any quail, between the first day of January and the twentieth day of October, under penalty of twenty-five dollars for each bird.

Partridges
or prairie
chickens.

§ 8. No person shall kill or expose for sale, or have in his or her possession after the same has been killed, any ruffed grouse, commonly called partridge; or pinnated grouse, commonly called prairie chicken, between the first day of January and the first day of September, under a penalty of twenty-five dollars for each bird.

Eagles,
sparrows,
oriole and
other
song
birds.

§ 9. No person shall at any time within this state, kill or expose for sale, or have in his or her possession after the same is killed, any eagle, woodpecker, night-hawk, sparrow, yellow-bird, wren, martin, oriole or bobolink or other song-bird, under a penalty of five dollars for each bird.

Robins,
starlings,
etc.

§ 10. No person shall kill or expose for sale, or have in his possession after the same has been killed, any robin, brown thrasher, meadow lark or starling, save only during the months of August, September, October, November and December, under a penalty of five dollars for each bird.

Ornitholo-
gists pro-
tected.

§ 11. The last two sections shall not apply to any person who shall kill any bird for the purpose of studying its habits or history, or having the same stuffed and set up as a specimen; or to any person who shall kill on his own premises any robins in the act of destroying fruits or grapes.

Protec-
tion of
fruits.
Robbing
nests pro-
hibited.

§ 12. No person shall destroy or rob the nest of any wild birds whatever under a penalty of twenty-five dollars for each offense.

Protec-
tion of
wild
pigeons
on nest-
ing
ground.

§ 13. No person shall kill, catch or discharge any fire arms at any wild pigeon while on its nesting ground, or break up, or in any manner disturb such nesting ground, or the birds therein, or discharge any fire-arm at any distance within one-fourth of a mile of such nesting place at any pigeon, under a penalty of twenty-five dollars for each offense.

§ 14. No person shall, at any time or place within this state, take any ruffed grouse, commonly called partridge, or any quail, with any trap or snare, under a penalty of twenty-five dollars for each bird, except upon his own grounds. Penalty for taking partridge or quail in traps.

§ 15. There shall be no shooting or hunting, or having in possession in the open air the implements for shooting, on the first day of the week called Sunday, and any person violating the provision of this section shall be liable to a penalty of not more than twenty-five dollars, nor less than ten dollars for each offense. Hunting or shooting on Sunday prohibited.

§ 16. Any person who shall knowingly trespass upon lands for the purpose of shooting, hunting or fishing thereon, after public notice by the owner or occupant thereof, as provided in the following section, shall be liable to such owner or occupant in exemplary damages to an amount not exceeding one hundred dollars, and shall also be liable to such owner or occupant for the value of the game killed or taken. The possession of implements of shooting or fishing shall be presumptive evidence of the purpose of the trespass. Penalty for trespass upon lands, after notice.

§ 17. The notice referred to in the preceding section shall be given by erecting and maintaining sign-boards, at least one foot square, in at least two conspicuous places on the premises; such notices to have appended thereto the name of the owner or occupant, and any person who shall tear down, or in any way deface or injure any such sign-board, shall be liable to a penalty of one hundred dollars. Notice, how given by land owners.

§ 18. No person or corporation shall throw or deposit, or permit the same to be thrown or deposited, any coal tar, refuse from gas-houses, or other deleterious substance, or cause the same to run or flow into or upon any of the rivers, lakes, ponds, or streams of this state, under a penalty of fifty dollars for each offense, in addition to liability for all damage he may have done; but this section shall not apply to streams of flowing water which constitutes the motive power of the machinery of manufacturing establishments, where it is necessary for the manufacturing purposes carried on in such establishment, to throw from, or run the refuse matter and material thereof into such stream. Proviso as to deposit of coal tar, etc., in certain streams.

§ 19. No person shall at any time catch any speckled trout with any device save with a hook and line, except for the purpose of propagation, as hereinafter provided, or place any set lines in waters inhabited by them, under a penalty of fifty dollars for each offense. Speckled trout.

§ 20. No person shall kill or expose for sale, or have in his or her possession after the same has been killed, any speckled trout, save only from the fifteenth day of March to the fifteenth day of September, under a penalty of twenty-five dollars for each fish. But this section shall not prevent any person from catching trout with nets in waters owned by them, to stock other waters. Period of time for taking or selling trout.

§ 21. No person shall kill or expose for sale, or have in his or her possession, after the same has been killed, any salmon trout, or lake trout, in the months of October, November, Salmon or lake trout.

December, January and February, under a penalty of ten dollars for each fish, except that in Otsego lake fish may be caught or killed by hook and line only, but they may be had alive for artificial propagation, or the stocking of other waters. Nor shall fish be taken from the lakes in Westchester and Putnam, from the first day of November to the first day of April.

§ 22. No person shall kill or expose for sale, or have in his or her possession after the same has been killed, any black bass, Oswego bass, or muscalonge, between the first day of January and the twentieth day of May, except alive, for artificial propagation or the stocking of other waters, under a penalty of ten dollars for each offense.

§ 23. No person shall catch any bass, trout or other fish, in any of the waters of this state, by shutting or drawing off any portion of said waters, or by dragging or drawing small nets or seines therein, when the water shall be wholly or in part drawn off in any of the ponds, lakes, rivers, streams and the waters surrounding Staten Island, under a penalty of twenty-five dollars for each offense.

§ 24. No person shall set or use, or assist in setting or using, any pound, weir, seine, trap-net or set-net in the waters of Oneida and Onondaga lakes, or Keuka, commonly called Crooked lake, or in any of their outlets, inlets or tributaries, at any time during the term of ten years from the passage of this act, under a penalty of fifty dollars for each offense.

§ 25. No person shall kill or catch any fish in the Mohawk or Clyde rivers, Irondequoit bay, in the county of Monroe, or in the inlets thereof, or the lakes in the counties of Westchester, Rockland, Wyoming, Columbia, Ulster, Genesee, Orange, Putnam, Herkimer, Rensselaer, Sullivan, Tioga, Cortland, Broome and Livingston, by any trap, dam, weir, net, seine, or by any device whatever, other than that of angling with hook and line or with a spear, under a penalty of twenty-five dollars for each offense.

§ 26. It shall not be lawful for any person or persons to take or catch fish of any kind or in any manner, after the passage of this act, in the waters of the Oil creek reservoir, in the counties of Allegany and Cattaraugus, or from the streams tributary thereto, at any place within the distance of one mile from the inlet of such streams into said reservoir at high-water mark, under a penalty of ten dollars for each fish so caught or taken, but such fish may be caught and taken after the expiration of two years from the passage of this act in any other manner than by nets, baskets or seines.

§ 27. It shall be unlawful for any person to use any purse net for the catching of fish in any of the waters within the jurisdiction of this state, lying easterly of the boundary line between the counties of Queens and Suffolk, excepting the waters of Long Island sound, Garner's bay and little Peconic bay, under a penalty of two hundred dollars for each offense.

§ 28. No person shall at any time take any fish with a net, spear or trap of any kind, or set any trap, net, weir or pot

Proviso as to Otsego lake, and lakes of Putnam and Westchester counties.

Black or Oswego bass.

Catching fish by draining off waters, or dragging seines prohibited.

Proviso as to Oneida, Onondaga and Keuka lakes.

Use of traps, dams, weirs, etc., in certain streams, prohibited

Fishing in Oil creek reservoir.

Fishing with purse nets in Suffolk county waters.

Fishing in canals, etc., with

with intent to catch fish in any of the fresh waters or canals of this state, except as hereinbefore or hereinafter provided ; nor shall it be lawful at any time, to draw any seine or net for the taking of fish in any portion of Flushing bay or its branches, nor in Lake Canandaigua, Cayuga, Champlain or the inlets thereof ; and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall likewise be liable to a penalty of twenty-five dollars for each offense ; but suckers, catfish, bullheads, bony fish, or moss bunkers, eels, white fish, shad, herring and minnows are exempted from the operation of this section, also pike, in all waters save those lying in Columbia county and Cayuga lake ; provided, however, that nothing in this section shall be so construed as to legalize the use of gill nets in any of the inland waters or canals of this state, nor seines or nets of any kind in the waters of Otsego lake, except from the first day of March to the last day of August, and no gill nets except during the months of July and August. But no such seine or net shall have meshes less than two inches in size, and, in the Hudson river, the meshes of all gill nets and set nets shall not be less than four and one-half inches in size each, and those of fykes set in any of the waters surrounding Long Island, Fire Island, Staten Island, and the bays and salt water estuaries and rivers approaching thereto, to be not less than four and one-half inches in size ; and any person who shall willfully injure or destroy, by grappling or otherwise, any nets used in the Hudson or East rivers for the purpose of catching shad, shall be liable to a penalty of twenty-five dollars for each offense, and, in default of payment thereof, shall be imprisoned in the county jail of the county within whose jurisdiction the offense may be committed for not more than thirty days. All drawing of seines in the Susquehanna river is prohibited.

§ 29. It shall be unlawful for any person or persons to take, catch or procure in or from Conesus lake, Hemlock lake and Silver lake, or the inlets or outlets thereof lying within the counties of Livingston, Ontario and Wyoming, any fish, except minnows, with or by any means or device other than a hook and line. And no person shall, in any manner whatever, take or catch from the waters of said lakes, or the inlets or outlets thereof, any pike, pickerel, muscalonge, salmon trout, black bass or rock bass between the first day of January and the first day of May. No person shall knowingly sell, or offer for sale, any fish caught from said lakes, or the inlets or outlets thereof, contrary to the provisions of this section ; and it shall be unlawful for any person knowingly to purchase any fish so taken in or from said lakes, or inlets or outlets. Whoever shall violate any foregoing provisions of this section shall be deemed guilty of misdemeanor, and shall also be subject to a penalty for each offense of not less than fifteen nor more than fifty dollars, to be recovered in a civil action with costs, as hereinafter provided. All fines or penalties imposed under the provisions of this section may be recovered, with

traps and
nets pro-
hibited.

Uses of
nets in
Flushing
bay, Lakes
Cham-
plain,
Cayuga
and Can-
andaigua
prohibited
Proviso as
to suck-
ers, moss
bunkers,
etc.

Use of
gill nets
in inland
waters
pro-
hibited.

Size of
meshes of
nets and
fykes in
Hudson
river, etc.

Injury of
shad nets
by grap-
pling pro-
hibited.

Susque-
hanna
river.

Fishing in
Conesus,
Hemlock
and Silver
lakes.

Penalty-
for
violation
hereof.

How re-
covered

and ap-
plied.

costs of suit, by any person or persons, in his or their own names, by an action of the supreme court or any court of record of this state, which action shall be governed by the same rules as other actions in said supreme court or other court of record, except that, in a recovery by the plaintiff or plaintiffs in such suits in said court of less than fifty dollars, the plaintiff shall be entitled to costs not exceeding the amount of such recovery. On the non-payment of any judgment recovered in pursuance hereof, the defendant shall be committed to the common jail of the county in which such action shall be brought, for the period which shall be computed at the rate of one day for each dollar of the amount of judgment, not to exceed thirty days. Any penalties, when collected, shall be paid by the court before which recovery shall be had, one-half to the commissioners of fisheries of the state of New York, and the remainder to the plaintiff or plaintiffs.

Dams
upon
fluvial
waters to
have
sluice-way
and apron.

Penalty
for viola-
tion here-
of.

§ 30. Every person building or maintaining a dam upon any of the fluvial waters of this state, which dam is higher than two feet, shall likewise build and maintain during the months of March, April, May, September, October and November, for the purpose of the passage of fish, a sluice-way in the said channel at least one foot in depth at the edge of the dam and of proper width, with four inch square cross pieces upon the bottom of the sluice-way three feet apart, which sluice-way shall be placed at an angle of not more than seven degrees, and extending entirely to the running water below the dam, and which sluice-way shall be protected on each side by an apron at least one foot in height, to confine the water therein. Every person violating the provisions of this section shall, for each month's violation thereof, forfeit the sum of twenty-five dollars, to be recovered by and in the name of the overseer of the poor of any town adjoining the stream upon which such neglect shall happen.

Boards of
super-
visors may
authorize
election of
game con-
stable.

How
elected,
his pow-
ers and
duties.

§ 31. It shall be lawful for the boards of supervisors of the several counties of the state, by the affirmative vote of a majority of the members elected, at a regular meeting of such boards respectively, to authorize the election in each or any of the towns of their respective counties, of an officer to be designated the game constable, who shall be chosen at town-meetings as other town officers are chosen, and hold office for the term of one year; and he shall take the oath of office the same, and be vested with, and have the same powers in serving process under this act, that town constables now possess in serving civil process. It shall be the duty of the game constable, after reliable information, to prosecute all violations of this act, and he shall receive such compensation for his services as is allowed by law for like services to constables of towns, and also one-half of all penalties recovered by him for violations of this act. In case of neglect or refusal of any game constable to prosecute any such violation, he shall forfeit the penalty of twenty-five dollars, to be sued for and recovered as specified in this act. Whenever any game constable shall fail to recover the penalty in any prosecution commenced by him pursuant to

this section, the costs of suit incurred by him shall be a charge against the county, and it shall be the duty of the board of supervisors of the county to audit and allow the same, as other county charges are audited and allowed.

§ 32. It shall be lawful for the board of supervisors of any county to make any regulations protecting other birds, fish or game than those mentioned in this act, and such ordinance shall be published in the papers in such county in which the Session Laws are published, and in the state paper before going into effect.

§ 33. Any person may sell or have in his or her possession any pinnated grouse, commonly called prairie chicken, ruffed grouse, commonly called partridge, or quail, from the first day of January to the first day of March, and shall not be liable to any penalty under this act, provided he proves that such birds or game were killed within the period provided by this act, or were killed outside the limits of this state, at some place where the law did not prohibit such killing.

§ 34. Nothing in this act contained shall apply to fish caught or to the taking of fish in the waters of Lake Ontario, or any of its bays or estuaries within the counties of Oswego, Wayne, Jefferson and St. Lawrence, nor to the catching of fish in any way in the St. Lawrence river.

§ 35. In all prosecutions under this act, against common carriers or express companies, it shall be competent for them to show that the prohibited article in his or her possession, came into such possession in another state, or from beyond the United States, at some place where the law did not prohibit the possession; and such evidence shall be a valid defense to the prosecution.

§ 36. Any justice of the marine or district court of the city of New York, or any justice of the peace, police or other magistrate, upon receiving sufficient security for costs on the part of the complainant, and sufficient proof by affidavit that any of the provisions of this act have been violated by any person being temporarily within his jurisdiction, but not residing there permanently, or by any person whose name and residence are unknown, is hereby authorized to issue his warrant for the arrest of such offender, and to cause him to be committed or held to bail to answer the charge against him; and any such justice or magistrate, upon receiving proof of probable cause for believing in the concealment of any game or fish mentioned in this act during any of the periods prohibited, shall issue his search warrant and cause search to be made in any house, market, boat, car or other building, and for that end may cause any apartment, chest, box, locker, crate or basket to be broken open and the contents examined. Any court of special sessions is hereby invested with jurisdiction to try and dispose of all and any of the offenses against the provisions of this act occurring in the same county.

§ 37. In case of failure by any person to pay the penalty imposed upon him pursuant to this act, he shall be committed to the common jail of the county for a period of not less than

Supervisors may pass ordinance to protect game.

Sale of prairie chickens, partridge, etc., during certain months.

Act, not to apply to Lake Ontario, St. Lawrence river and certain counties.

Proof by express companies, as to possession of game from beyond state.

Issue of warrants for arrest of persons violating act.

Right of search.

Imprisonment for non-payment of fines.

five days, and at the rate of one day for every dollar of the judgment when the same exceeds five dollars.

Penalties
under this
act, how
recovered.

In N. Y.
city.

Actions,
how
brought
by district
attorney.

§ 38. All penalties imposed by this act may be recovered, with costs of suit, by any person in his own name, before a justice of the peace, in the county where the offense was committed, or where the defendant resides, where the amount recovered does not exceed the jurisdiction of such justice, or when such suit shall be brought in the city of New York, before any justice of the district court or of the marine court of said city; and such penalties may be recovered in the like manner in any court of record in the state, but on a recovery by the plaintiff in such case for a less sum than fifty dollars, the plaintiff shall only be entitled to costs to an amount equal to the amount of such recovery; and it shall be the duty of any district attorney in this state, and he is hereby required, to commence actions for the recovery of the penalties allowed hereby, upon receiving proper information, and in all actions brought by such district attorney, one-half of the penalty recovered shall belong to the person giving information on which the action is brought, and the other half shall be paid to the treasurer of the county for the support of the poor.

State
bounty for
killing
wolves
and pan-
thers.

Proof to
be pre-
sented.

§ 39. A state bounty of thirty dollars for a grown wolf, fifteen dollars for a pup wolf, and twenty dollars for a panther, shall be paid to any person or persons who shall kill any of said animals within the boundaries of this state. The person or persons claiming said bounty shall prove the death of the animal so killed by him or them, by producing satisfactory affidavits and the skull and skin of said animal, before the supervisor and one of the justices of the peace of the town within the boundaries of which the said animal was killed. Whereupon said supervisor and justice of the peace, in the presence of each other, shall burn and destroy the said skull, and brand the said skin so that it may be thereafter identified, and issue to the person or persons claiming and entitled to the same, an order on the treasurer of the county to which said town belongs, stating the kind of animal killed, the date of the killing of the same, and the amount of the bounty to be paid in virtue of the within section of this act; and the county treasurers of this state are hereby authorized and directed to pay all orders issued as aforesaid; and all orders issued in the manner aforesaid, and paid by the treasurer of any county in this state, shall be a charge of said county against the state, the amount of which charge, on delivery of the proper vouchers, the comptroller is hereby authorized and directed to allow in the settlement of taxes due from said county to the state.

How paid.

Penalty
for keep-
ing snares,
nets, etc.,
on banks
of certain
waters.

§ 40. Any person having in his or her possession on the shores of any lake, or on the banks of, or upon any waters inhabited by salmon, salmon-trout, lake-trout, or brook-trout, black or Oswego bass or muscalonge, during the closed season, without the permission of the commissioners of fisheries, any snares, nets, stake poles or other devices used in unlawfully taking such fish, shall be liable to a penalty of fifty dollars, but nothing herein contained shall apply to that portion of the Hudson river south of the dam at Troy.

§ 41. No person shall place in any fresh water stream, lake or pond, without the consent of the owner, any lime or other deleterious substance, or any drug or medicated bait, with intent thereby to injure, poison or catch fish, nor place in any pond or lake stocked with or inhabited by trout, bass, pike, pickerel or sunfish, any drug or other deleterious substance, with intent to destroy such trout or other fish. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, in addition thereto, and in addition to any damage he may have done, be liable to a penalty of one hundred dollars.

Placing of lime or drugs in streams prohibited.

Penalty

§ 42. All acts and parts of acts, the provisions of which are superseded by this act, or related to the same subject, or which are inconsistent with the same, are hereby repealed.

Repeal.

§ 43. The counties of Delaware and Chenango are exempted from the operation of sections sixteen, seventeen and thirty-one.

Exemption.

§ 44. The fourth section of chapter five hundred and sixty-seven of the laws of eighteen hundred and seventy, entitled "An act to amend act entitled 'An act to appoint commissioners of fisheries for the state of New York,'" passed April twenty-second, eighteen hundred and sixty-eight, is hereby amended by adding thereto the words or the waters of Gravesend bay and those lying easterly from the line drawn from the extreme west point of Coney Island to Fort Lafayette, nor to the county of Suffolk.

Proviso as to size of meshes, etc., of pounds or weirs in certain waters.

§ 45. Nothing in chapter five hundred and sixty-seven of the laws of eighteen hundred and seventy shall apply to or affect the setting or using of any pound, weir, set or fly-net, by any person in any of the salt waters within the jurisdiction of this state, lying easterly of the boundary line between the counties of Queens and Suffolk.

Use of pounds or weirs, etc. in Suffolk county waters.

§ 46. It shall not be lawful for any person to take eels in fikes or pots at any time between the first day of October and the first day of March in any year, in the waters of Jamaica bay.

Taking of eels in Jamaica bay regulated.

§ 47. This act shall take effect on the first day of May, eighteen hundred and seventy-one, except as herein otherwise provided.

Act, when to take effect.