

L A W S

PASSED AT THE

Twelfth Session of the General Assembly
of the State of Colorado,

CONVENED AT DENVER,
ON THE FOURTH DAY OF JANUARY, A. D. 1899.

PUBLISHED BY AUTHORITY.

DENVER, COLORADO:
THE SMITH-BROOKS PRINTING COMPANY, STATE PRINTERS.
1899.

CHAPTER 98.

GAME AND FISH.

(S. B. No. 148, by Senator Smith.)

AN ACT

TO PROTECT GAME AND FISH.

Be it Enacted by the General Assembly of the State of Colorado :

Division A. Department Created—Commissioner and Wardens—Powers and Duties—Ownership of Game and Fish—General Provisions.

Section 1. The department of game and fish is hereby created. Immediately upon the passage of this act, and every two years thereafter, the governor shall, by and with the consent of the senate, appoint some person skilled in matters relating to game and fish, to be the state game and fish commissioner, who shall be the head of the department. The governor may at any time remove the commissioner for cause, and in vacation of the senate may fill any vacancy in the office by appointment in writing, filed with the secretary of state. The commissioner shall be a resident and citizen of this state, and shall hold his office for the term of two years, or until his successor shall be appointed and qualified. All such appointments shall expire on February 1. The commissioner shall receive a salary of \$1,800 per annum, together with his reasonable and necessary traveling expenses, not exceeding \$600 per annum.

Governor
appoint com-
missioner.

May remove for
cause and fill
vacancy.

Term two
years, expires
February 1.

Salary.
Traveling
expenses not
exceed.

Bond.

Sec. 2. Before entering upon the duties of his office, the commissioner shall give a bond to the State of Colo-

rado in the sum of \$5,000, for the faithful performance of such duties, with sureties to be approved by the auditor of state, the same to be filed with the secretary of state, and he shall also take and file an oath similar to that required of other state officers.

Sec. 3. The commissioner shall be provided with an office at the state capitol, and with suitable furniture, stationery and other facilities for the transaction of the business of his department. He may appoint a clerk at a salary not exceeding \$1000. per annum, and may at any time remove said clerk and appoint a successor.

Sec. 4. The commissioner may in writing appoint and keep in service not more than five chief game wardens, who shall be residents and citizens of this state, such appointments to be filed with the state auditor. Each chief warden shall receive a salary of \$900 per annum, and his reasonable and necessary traveling expenses, not exceeding \$300 per annum. If deemed necessary for the proper enforcement of this act, the commissioner may, with the approval of the governor, appoint deputy game wardens for a limited time, and not exceeding ten in number at any one time, at a compensation not exceeding \$100 per month, each, while actually engaged in duty, which shall be in full for services and ordinary expenses. The commissioner may also appoint special game wardens, to serve without pay, who shall have the same powers as deputy wardens. The commissioner may revoke the commission of any warden, and appoint his successor at pleasure.

Sec. 5. The commissioner shall publish in pamphlet form, for general distribution, the laws relating to game and fish, at an expense not exceeding \$200.

Sec. 6. The commissioner may also by writing file in the office of the secretary of state, appoint a superintendent of state fish hatcheries, who shall be skilled in fish culture, and who shall hold his office for the term of two years, subject to the power of the commissioner to remove him at any time, and to appoint a successor in like manner. The superintendent shall receive a salary

Auditor
approve.

Office at capitol.

Appoint clerk.

Appoint game
wardens.

Salary.

Deputy
wardens.

Compensation.

Commissioner
may revoke
commission.

Publish laws.

Superintendent
fish hatcheries.

- Compensation. of \$1,200. per annum, and his reasonable and necessary traveling expenses, not exceeding \$400 per annum. The
- Assistant superintendents. commissioner may also appoint an assistant superintendent at each of the operative fish hatcheries of the state, at a salary of \$900 per annum, each; Provided, That the salary of the assistant at the Denver hatchery shall be \$1,200 per annum.
- Rules. Sec. 7. The commissioner shall have power to prescribe such rules, regulations and forms as may be required to carry out the true intent of this act, and not inconsistent herewith.
- Moneys received constitute a game fund. Sec. 8. Except as herein otherwise specially provided, all moneys received under this act by a warden shall be paid over to the commissioner. Those received by the commissioner shall be paid over monthly to the state treasurer, and those received by the state treasurer, from whatever source, under the provisions hereof, shall constitute a game fund, and be used exclusively for the payment of the salaries and expenses incurred as provided herein, and in the event such fund shall at any time prove insufficient, the deficiency shall be paid out of any moneys in the state treasury, in the same manner as those of other state officers, and such appropriations
- Deficiency, how paid. shall be made as may be necessary therefor. Payments of salaries and expenses shall be made monthly upon verified accounts in detail, approved by the commissioner and governor, and warrants drawn by the auditor of state.
- Payments made monthly.
- Duty of commissioner and wardens. Sec. 9. It shall be the duty of the commissioner and chief wardens to devote their entire time to the performance of the duties specified in this act, and to cause prosecutions to be instituted and conducted for the punishment of violations thereof. In the performance of their duties the commissioner and wardens shall have all the rights and powers, throughout the state, of sheriffs and constables in their respective counties, except as herein otherwise provided.
- Commissioner make report. Sec. 10. The commissioner shall biennially make to the governor a report of the transactions of his depart-

ment which shall contain an account of the work done, of moneys expended and recommendations for future work, the cost of said report not to exceed \$200.

Sec. 11. The commissioner and every warden Officers shall enforce. throughout the state, and every sheriff and constable in his respective county, is authorized and required to enforce this act and seize any game or fish taken or held in violation of this act, and he shall have full power and authority, and it shall be the duty of every such officer, with or without a warrant, to arrest any person whom he has reason to believe guilty of a violation thereof; and with or without a warrant, to open, enter and examine all camps, wagons, cars, stages, tents, packs, warehouses, stores, outhouses, stables, barns, and other places, boxes, barrels, and packages where he has reason to believe any game or fish taken or held in violation of this act, is to be found, and to seize the same; Provided, That a dwelling house actually occupied can be entered for examination only in pursuance of a warrant.

Sec. 12. Where game or fish while being transported, is seized under this act, the officer making such seizure shall have authority, upon payment of reasonable compensation therefor, to also take possession of and use any animals and vehicles used in such transportation for the purpose of conveying the game or fish seized to a convenient railroad station or place of safe keeping or sale, and also for conveying any person arrested for the unlawful possession of such game or fish to a place of hearing or trial, and no liability shall attach to such officer by Officers may use animals and vehicles for conveyance. reason thereof, but this section shall not apply to any animal or vehicle while being used as a public conveyance for passengers or mails, or to any railroad car. No liability shall attach.

Sec. 13. In case Indians or other persons shall engage in the hunting or killing of game or fish in violation of this act, in such number as to be beyond the reasonable power of the commissioner or any chief warden to control, or in case of forcible resistance to the enforcement thereof, it shall be the duty of the sheriff of the county in which such violation exists, upon demand of Persons called on shall assist commissioner to enforce.

the commissioner or any chief warden, to aid him in the enforcement of this act, and to call to his assistance at once a sufficient number of persons to enforce the same, promptly and effectually, or, if by him deemed necessary, said commissioner or chief warden may, call such assistance without the intervention of the sheriff. The failure, without good cause, of any person called to assist in such enforcement, to respond and render such assistance shall be deemed a violation of this act.

Failure.

Fires.

Timber officers
may arrest.

Commissioner
bring civil
action.

Costs.

Shall not bar.

Game and fish
property of
state.

Sec. 14. No person shall set fire to any timber or grass on land belonging to this state or to the United States, or set fire in any place where it is liable to spread to such timber or grass, nor leave any camp fire unextinguished, and every officer having authority in relation to timber or timber reserves of the United States shall have the same authority under this act as a deputy warden.

Sec. 15. The commissioner may, if he so elect, bring and maintain a civil action in the name of the people of the state for the possession of any game or fish taken, killed or held in violation of this act, or for the value thereof, against any person in possession or exercising control over the same, and if required by the commissioner, a writ of replevin shall issue therein without bond. No previous demand for possession shall be necessary. In case costs or damages are adjudged in favor of the defendant, the same shall be paid out of the game fund. Neither the pendency of such action nor of a criminal prosecution for the same taking, killing or possession, shall be a bar to the other, nor shall anything in this section affect the right of seizure under the other provisions of this act.

Sec. 16. All game and fish now or hereafter within this state not held by private ownership, legally acquired, and which for the purposes of this act shall include all the quadrupeds, birds and fish mentioned in this act, are hereby declared to be the property of the state, and no right, title, interest or property therein can be acquired or transferred, or possession thereof had or maintained except as herein expressly provided.

Sec. 17. As used in this act, and unless otherwise specifically restricted or enlarged, the word game includes all the quadrupeds and birds, and the word fish includes all the fish (except white salmon, suckers, carp and squaw fish) mentioned herein, and now or hereafter within this state and not held by private ownership legally acquired. Definition game and fish.

Sec. 18. As used in this act, unless otherwise specifically restricted or enlarged, the words herein and hereof refer to the whole act; the words person, owner, proprietor, grantee, lessee or licensee include a firm, association, corporation or municipality; the word commissioner means the state game and fish commissioner; the word warden or wardens includes the chief wardens, deputy wardens and special wardens provided for herein; the word officer includes every person authorized to enforce this act; and whenever the possession, use, importation, transportation, storage, taxidermy, sale, offering or exposing for sale of game or fish is prohibited or restricted, the prohibition and restriction shall, where not specifically otherwise provided, extend to and include every part of such game or fish, and a violation as to each individual animal or part thereof shall be a separate offense, and two or more offenses may be charged in the same complaint, information or indictment, and proof as to a part of an animal shall be sufficient to sustain a charge as to the whole of it; and violations as to any number of animals of the same kind may be charged in the same count and punished as a separate offense as to each animal. Terms defined.

Sec. 19. The possession at any time of game or fish unaccompanied by a proper and valid license, certificate, permit or invoice, as herein provided, shall be prima facie evidence that such game or fish was unlawfully taken and is unlawfully held in possession, and it shall be the duty of every person having the possession or control of game or fish to produce the proper license, certificate, permit or invoice, when one is required by this act, on demand of any officer, and to permit the same to be inspected and copied by him. Possession as evidence.

Commissioner
may remove,
when.

Sec. 20. Nothing in this act shall prevent the commissioner from taking or authorizing the taking from any of the waters of this state, at any time, and in any manner, and fish or spawn belonging to the state for the purpose of propagation or stocking other waters, or exchanging with the fish commissioners of other states or of the United States, but no such fish or spawn shall be taken or used for propagation in or stocking of any private lake except on payment therefor to the commissioner, nor shall anything herein prohibit the purchase, sale and use of small fry and fish eggs for stocking waters in this state, but no small fry or eggs of fish destructive of trout shall be placed in public waters without the consent of the commissioner.

Warrant.

Sec. 21. In case of a violation of this act by a corporation, the warrant of arrest may be read to the president, secretary or manager in this state, or any general or local agent thereof in the county where the action is pending, and upon the return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation, but this section shall not be deemed to exempt any agent or employe from prosecution.

Fine collected.

Commissioner
notify warden
of revocation.

Sec. 22. In case the commissioner shall revoke the commission of a warden he shall immediately notify him in writing, and it shall be the duty of the person whose commission is revoked immediately on receipt of such notice to mail such commission to the commissioner at Denver, and to refrain thereafter from acting or assuming to act as a warden.

Penalty for
violation.

Sec. 23. If the holder of any license, certificate or permit shall persistently or flagrantly and knowingly violate or countenance the violation of any provision of this act, such license, certificate or permit shall be revoked by the commissioner after due notice given of the alleged violation and an opportunity afforded to appear and show cause against the same.

Division B. General Regulations—Open Seasons—
Number—Quantity.

Section 1. No person shall at any time of the year, or in any manner, pursue, take, wound or kill any bison, buffalo, elk, deer, antelope, mountain sheep or beaver, or any of the following wild birds, viz: Turkey, prairie chicken, sage chicken, grouse, quail, pheasant, partridge, ptarmigan, duck, goose, brant, swan, crane, water fowl, pigeon, dove, snipe or curlew, or any trout, white fish, grayling, sunfish, bass, catfish, wall-eyed pike or other food fish, or sell, offer or expose for sale or have the same in possession, except as permitted by this act; Provided, The prohibition in this section as to beaver shall not extend to such beaver as interfere with the operation or maintenance of any canal, ditch or lawful dam. Regulation taking of game and fish.
Beaver excepted.

Sec. 2. No person shall shoot from a public highway at game, or fish or hunt game in any enclosure not public land, without the consent of the owner or person in charge of the same, nor fish or hunt in any park, lake or preserve licensed under this act without the consent of the proprietor or person in charge of the same, and no question of ownership, proprietorship or charge shall defeat a prosecution unless it appears that the accused in good faith has theretofore claimed and at the time of the commission of the act complained of, claimed to be such owner, proprietor, or to have such charge, or to have had the consent of the owner, proprietor or person in charge, and shall establish such claim. Must obtain permission to hunt or fish on private domain.
Except.

Sec. 3. No person shall have in possession or transport the carcass of any game quadruped or any considerable portion of such carcass unless the same has thereon the natural evidence of its sex sufficient to enable such sex to be readily determined by ordinary inspection. Must show evidence of sex.

Sec. 4. Every person lawfully taking any fish alive and desiring and entitled lawfully to retain the same, shall immediately kill it, unless it is intended to be kept alive, in which case it shall be immediately placed in a suitable receptacle containing sufficient water and given proper care and attention. Must kill fish.
Receptacle for live fish.

Baiting with
game or fish,
unlawful.

Sec. 5. No game or fish shall be used for baiting any trap, device or deadfall, nor shall any edible portion of game or fish be abandoned or permitted to go to waste, nor shall the nest or eggs of any game bird be disturbed, destroyed or held in possession.

Shall not
disturb.

Pollution of
water unlawful.

Sec. 6. No dynamite or other explosive or poisonous or stupefying substance whatever shall be used in the taking or killing of any fish, nor placed in any waters containing fish, except when done by public authority for public improvement, nor shall any ties or timber be driven or floated down any stream containing fish.

Open season.

Sec. 7. It shall be lawful to pursue, take or kill, during the open season therefor, in the manner, of the kind, for the purpose and to the number and extent in this section provided, the following game and fish, and the open seasons therefor in each year shall begin and end as follows, namely:

(1) The open season for deer having horns and antelopes having horns, shall begin August 15 and end November 5 next ensuing.

(2) The open season for elk having horns, shall begin October 25 and end November 5 next ensuing.

(3) The open season for wild turkeys, prairie chickens, sage chickens and grouse shall begin August 15 and end October 31 next ensuing.

(4) The open season for wild ducks, geese, snipes, curlews, brants, swans, cranes and water fowls shall begin September 1 and end April 15 next ensuing, except in altitudes exceeding 7,000 feet above sea level, where the open season shall begin September 15.

(5) The open season for wild pigeons and doves shall begin July 15 and end September 30 next ensuing.

(6) The open season for trout not less than eight inches in length and other fish shall begin June 1 and end October 31 next ensuing.

Right to take
limited to food
purposes.

(7) The right given by this section to take or kill game and fish is limited to food purposes, and to fifty ducks and twenty-five other birds, and twenty pounds of

trout and fifty pounds of other fish for each person in any one calender (calendar) day, and no person shall take, kill or have in possession in any one season more than one elk, and one deer and one antelope; or, instead of one deer and one antelope, he may have either two deer or two antelope. Nor shall any person have in possession at any one time more than 100 ducks and fifty other birds, nor more than 70 pounds of fish. Maximum game and fish.

(8) No game or fish shall be held in possession by any person for more than five days after the close of the season for killing the same, except as in this act otherwise provided.

(9) No game shall be pursued, taken, wounded or killed in the night, nor with a steel or hard pointed bullet, nor with any weapon other than an ordinary shoulder gun or pistol, nor shall any fish be taken or killed except in the ordinary manner with a line and rod held in the hand, and the hook or hooks baited with natural or artificial bait; and fishing with snag hooks or trot lines, or lines having more than five hooks thereon, shall not be deemed the ordinary manner of fishing; nor shall any person fish within two hundred feet of any fishway, nor dispose of to another, except by actual donation, any edible part of game or fish taken or killed under the provisions of this section; Unlawful to kill or pursue, when. May donate. Devices used. Provided, That dogs, blinds, sinks and decoys may be used for hunting birds, and that the provisions of this section in relation to game quadrupeds and fish shall not apply to those in parks and lakes of class A licensed under this act for the keeping and propagation of the same.

Sec. 8. In waters where white salmon, suckers, carp or squaw fish abound, the commissioner may in his discretion grant to any responsible person a permit to take the same at a designated time and place, with nets or seines, and to dispose of them for food purposes. Any other fish so taken must be immediately returned to the stream alive. Commissioner grant permit.

Such permit shall expire with the calender [calendar] year, and be substantially in the following form: