



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 617

H.P. 436

House of Representatives, February 21, 2013

An Act To Protect the State's Native and Wild Brook Trout and Discourage Illegal Fish Introduction

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McCABE of Skowhegan.
Cosponsored by Senator CAIN of Penobscot and
Representatives: KUSIAK of Fairfield, MARKS of Pittston, SAUCIER of Presque Isle,
SHORT of Pittsfield.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §12461, sub-§1**, as amended by PL 2007, c. 21, §2, is further
3 amended to read:

4 **1. Adoption of state heritage fish waters.** The commissioner shall adopt by rule
5 for each state heritage fish under Title 1, section 212-A a list of state heritage fish waters
6 composed of lakes and ponds that contain that state heritage fish and have never been
7 stocked according to any reliable records or that contain eastern brook trout and have not
8 been stocked since January 1, 1988 according to any reliable records. ~~The~~ Until amended
9 in accordance with this subsection, the list of native brook trout waters authorized for
10 adoption by Resolve 2005, chapter 172 is a list of state heritage fish waters for purposes
11 of this section. Rules adopted pursuant to this subsection are major substantive rules as
12 defined in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 2. 12 MRSA §12461, sub-§5**, as amended by PL 2007, c. 21, §2, is further
14 amended to read:

15 **5. Fishing restrictions.** A person may not use live fish as bait or possess live fish to
16 be used as bait on a lake or pond listed as a state heritage fish water under this section. A
17 person who violates this subsection commits a Class E crime. Violation of this
18 subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

19 **Sec. 3. 12 MRSA §12461, sub-§§7 and 8** are enacted to read:

20 **7. Additional protections for waters that contain brook trout.** In accordance with
21 this subsection, the commissioner shall protect eastern brook trout in lakes and ponds that
22 the commissioner by rule identifies as containing eastern brook trout and not containing
23 any nonnative species, including waters not designated as state heritage fish waters
24 pursuant to this section. Rules adopted pursuant to this subsection are routine technical
25 rules as defined in Title 5, chapter 375, subchapter 2-A.

26 A. The commissioner shall annually produce an inventory of all lakes and ponds
27 identified pursuant to this subsection. The inventory must include identification of
28 any nonnative species that has been introduced into the lake or pond.

29 B. The commissioner shall take all actions within the commissioner's authority under
30 this Part to ensure that nonnative species are not introduced into any lake or pond
31 identified pursuant to this subsection and that any nonnative species that is introduced
32 is removed.

33 C. A person may not use live fish as bait or possess live fish to be used as bait on a
34 lake or pond identified pursuant to this subsection. A person who violates this
35 paragraph commits a Class E crime. Violation of this paragraph is a strict liability
36 crime as defined in Title 17-A, section 34, subsection 4-A.

37 **8. Required action.** The commissioner shall deploy necessary staff and other
38 resources to ensure that state heritage fish waters designated pursuant to this section that
39 contain eastern brook trout and were stocked prior to January 1, 1988 are protected in

1 accordance with this section to the same extent as state heritage fish waters composed of
2 lakes and ponds that contain eastern brook trout and have never been stocked.

3 **Sec. 4. 12 MRSA §12462** is enacted to read:

4 **§12462. Illegally introduced fish; rules**

5 Notwithstanding any other provision of this Part, there are no closed seasons and no
6 number, amount, weight or size limits for the taking or possession of any species of fish
7 identified by the commissioner by rule as having been illegally introduced into any inland
8 waters after the effective date of this section. The commissioner may not actively
9 promote fishing for fish identified pursuant to this section, but the commissioner shall
10 encourage persons who catch fish identified pursuant to this section to kill those fish.
11 The commissioner shall adopt rules implementing this section. Rules adopted pursuant to
12 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13 **SUMMARY**

14 This bill does the following.

15 1. It requires the Commissioner of Inland Fisheries and Wildlife to include in the
16 listing of state heritage fish waters those waters that contain eastern brook trout and that
17 have not been stocked since January 1, 1988. It also requires the commissioner to ensure
18 these waters are protected to the same extent as state heritage fish waters composed of
19 lakes and ponds that contain eastern brook trout that have never been stocked.

20 2. It establishes additional protections for lakes and ponds containing eastern brook
21 trout that do not contain any nonnative species, including waters not designated as state
22 heritage fish waters. The commissioner is required to annually inventory these waters
23 and identify any nonnative species introduced into the waters. The commissioner is also
24 required to take any actions within the commissioner's authority to ensure that nonnative
25 species are not introduced into these waters and that any nonnative species that is
26 introduced is removed. It prohibits a person from using live fish as bait or possessing live
27 fish to be used as bait in any of these waters.

28 3. It eliminates all closed seasons and number, amount, weight and size limits for the
29 taking or possession of any species of fish identified as having been illegally introduced.
30 The commissioner may not actively promote fishing for these fish, but the commissioner
31 is required to encourage persons who do catch these fish to kill them.