

HOUSE....No. 183.

[Senate 112, as amended,]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-
Six.

AN ACT

For the Protection of Fish and to regulate the taking of
the same.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—

1 SECT. 1. The proprietors or lessees of the entire
2 shore of any pond, not exceeding ten acres, and the
3 owners or lessees of any pond hereafter created, or
4 now existing by grant, license or authority in writing
5 from the parties whose estates are thereby affected,
6 shall have the exclusive right to the use of the same,
7 for the purpose of propagating, preserving and taking
8 fish therein: *provided*, they shall file in the office of
9 the clerk of the town or city in which such pond may
10 be situated, a written notice of their intention so to

11 hold and use the same, and said notice shall be
12 recorded in a book kept for that purpose.

1 SECT. 2. No person, other than such proprietors
2 or lessees, or persons licensed by them, shall take or
3 catch any fish from any pond thus held or owned,
4 after the expiration of thirty days from the filing and
5 recording of such notice, nor shall any person take
6 fish during spawning time from such ponds.

1 SECT. 3. No person shall take or catch any fish
2 called smelts, by using any hook or line, net, spear
3 or other implement on or in any of the waters within
4 the limits of this Commonwealth, from the first
5 day of April to the first day of June in the year next
6 ensuing.

1 SECT. 4. No person shall take or catch any fish
2 called black bass in any of the ponds within the
3 limits of this Commonwealth, from the first day of
4 December to the first day of June in the year next
5 ensuing, nor at any time except with hook and line.

1 SECT. 5. No person shall take or catch any pick-
2 erel in any of the waters within the limits of this
3 Commonwealth, from the first day of December to the
4 first day of April in the year next ensuing, nor at any
5 time except with hook and line.

1 SECT. 6. The mayor and aldermen of any city and
2 the selectmen of any town in this Commonwealth, are
3 hereby empowered to authorize in writing any three
4 or more persons and their associates to organize a cor-
5 poration with a capital stock of not less than one

6 thousand, and not exceeding five thousand dollars, for
7 the purpose of introducing, catching and propagating
8 herring, alewives and other fish, in the ponds, creeks,
9 bays, rivers, within the limits of any town or city as
10 aforesaid; and they shall have all the powers and
11 privileges, and be subject to all the duties, liabilities
12 and restrictions set forth in the sixty-first chapter of
13 the General Statutes, and in all general laws which
14 now are, or may hereafter be, in force, relating to
15 such corporations.

1 SECT. 7. Said corporation, when created, may use
2 the land of any person for the purpose of opening
3 outlets, canals, sluiceways, ditches for the passage of
4 fish to and from ponds and other waters: *provided*, the
5 consent of the owners of such land is first obtained.

1 SECT. 8. Any fishery created by a corporation
2 under this act, shall be its property, and no person,
3 without the permission of said corporation, shall
4 take, catch, kill or haul on shore any fish in any
5 canal or outlet constructed by said corporation for the
6 passage of fish.

1 SECT. 9. The mayor and aldermen of any city and
2 the selectmen of any town in this Commonwealth, are
3 hereby empowered to authorize in writing any person
4 or persons to construct fish-weirs in waters within the
5 limits of such city or town: *provided*, such weirs shall
6 cause no obstruction to navigation nor encroach upon
7 the rights of any person.

1 SECT. 10. No person shall take any trout from any
2 of the waters in this Commonwealth, from the first
3 day of September in each year to the first day of April

4 in the year next ensuing, nor shall any person take
5 trout at any time except by hook and line, nor shall
6 any person enter upon improved or cultivated lands
7 bordering upon said waters for the purpose of taking
8 trout, without the permission of the owner of said
9 land.

1 SECT. 11. The cities and towns within this Com-
2 monwealth shall have sole and exclusive control over
3 the planting, propagating and taking of shell-fish in
4 the waters or flats within their respective limits ; and
5 no person shall take shell-fish from the waters or flats
6 aforesaid without permission is first obtained from the
7 selectmen of said towns, or the mayor and aldermen of
8 said cities ; and said cities and towns shall have power
9 to make by-laws in regard to the same.

1 SECT. 12. Whoever violates any of the provisions
2 of this act shall forfeit and pay a sum not less than
3 two nor more than twenty dollars for each offence, to
4 be recovered by prosecution before any court com-
5 petent to try the same.

1 SECT. 13. All prosecutions under the preceding
2 section shall be instituted within ninety days from the
3 time the offence was committed.

SENATE, February 27, 1866.

Passed to be engrossed.

Sent down for concurrence.

S. N. GIFFORD, *Clerk.*