

AN ACT

To amend sections 1531.10, 1533.41, 1533.55, and 1533.63 of the Revised Code to authorize the Chief of the Division of Wildlife in the Department of Natural Resources to adopt commercial fishing rules that are effective for a period longer than five years, to establish fishing season dates and length limits for certain commercial fish, to continue in effect commercial fishing rules until amended or rescinded, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1531.10, 1533.41, 1533.55, and 1533.63 of the Revised Code be amended to read as follows:

Sec. 1531.10. In accordance with Chapter 119. of the Revised Code, the chief of the division of wildlife shall adopt, and may amend and rescind, rules that are necessary for the administration and enforcement of this chapter and Chapter 1533. of the Revised Code. Each such rule shall be filed with the clerk of the court of common pleas of each county where the rule is effective and shall be given such additional publicity by advertising or otherwise as the chief considers necessary or expedient. As long as a rule of the division of wildlife remains in effect, a copy of it shall be included and printed in any authorized compilation of the division lawbook. All such rules shall be under the seal of the division and shall bear the signature, or a facsimile thereof, of the chief.

~~Any rule adopted by the chief under this section for the purpose of regulating the taking of commercial fish shall remain in effect for not more than five years after the date of adoption regardless of whether the rule subsequently is amended under this section.~~

Sec. 1533.41. For the Lake Erie fishing district, and in such other waters wherein fishing with nets is licensed by law, there shall be not more than two fishing seasons for residents and nonresidents. Except as otherwise provided by division rule, those seasons are the spring fishing season,

beginning on the first day of ~~March~~ May and including and closing on the thirty-first day of August, and the fall fishing season, beginning on the first day of September and including and closing on the thirty-first day of December.

No person shall draw, set, place, locate, or maintain any fish net whatever except a minnow net in the Lake Erie fishing district, or in any other waters of this state wherein fishing with nets is licensed by law, between the first day of January and the first day of ~~March~~ May next following, both dates inclusive, except as otherwise provided by division rule.

No person shall draw, set, place, locate, use, maintain, or possess a gill net in this state except as provided in section 1533.61 of the Revised Code.

In addition to any other penalty provided in the Revised Code, the license or permit of any person who is convicted of a violation relating to drawing, setting, placing, using, maintaining, or possessing a gill net is revoked by operation of law, and the person is permanently barred from obtaining another license or permit of the type revoked.

Sec. 1533.55. Except as otherwise provided by division rule, no person shall draw, set, place, locate, or maintain any net, except a seine, within one-fourth of a mile of any reef in Lake Erie between the first day of ~~March~~ May and the tenth day of May, both dates inclusive, and within one-fourth mile of any island or the mainland bordering Lake Erie between the fifteenth day of June and the fifteenth day of September, both dates inclusive. No seine or net of any kind except a minnow net shall be placed, located, pulled, or maintained in Sandusky bay from one hour after sunset on Saturday until one hour before sunrise on the following Monday, or from one hour before sunset on the day before Memorial Day, Independence Day, and Labor Day until one hour before sunrise on the day following Memorial Day, Independence Day, and Labor Day. No seine shall be set, placed, located, or maintained in Sandusky bay and the inland fishing district during the nighttime from one hour after sunset until one hour before sunrise. No person shall place, set, locate, pull, or maintain a seine, except a minnow seine, in the Lake Erie fishing district during the time from one-half hour after sunset until one-half hour before sunrise, except that a licensee may place, set, locate, pull, or maintain a seine other than a minnow seine in any waters of the Lake Erie fishing district other than Sandusky bay at those times, upon prior notification to the chief of the division of wildlife, or ~~his~~ the chief's designated agent, during not more than one week per notification. The notification shall be in writing and shall state the licensee's name and address, date and time of fishing, and location of fishing grounds.

No trap net, crib net, fyke net, or other fishing devices, except a seine which has been authorized to be hauled during the nighttime, shall be lifted, pulled, hauled, or set, nor shall fish be removed therefrom, except during the time from one-half hour before sunrise to one-half hour after sunset. Each net or other device set, maintained, placed, pulled, lifted, or hauled in violation of this section constitutes a separate offense.

All fish taken from a net or other fishing device, except a seine that has been authorized to be hauled during the nighttime, shall be brought ashore during the time from one-half hour before sunrise to one-half hour after sunset.

The chief may adopt rules under section 1531.10 of the Revised Code providing that no person shall lay out, pull, lift, draw, set, place, locate, or maintain any net or seine at any other place or places in the Lake Erie fishing district and in other waters wherein fishing with nets or seines is licensed by law wherein such a prohibition is needed for the protection, preservation, or propagation of fish.

No person shall leave a commercial fishing device in a slack manner, or torn parts thereof, in the waters of the Lake Erie fishing district for more than five consecutive days. For the purposes of this section, a fishing device is slack when the anchors to various parts of the device are not holding it in the normal extended manner.

No person shall set or use a net, trotline, or other fishing device, except a trap net or fyke net, in the Lake Erie fishing district without removing all of the fish therefrom at least once during a period of five consecutive days. A trap or fyke net shall have all of the fish removed from the crib or car at least once during such time.

Any net, gill net, or other fishing device set, lifted, pulled, hauled, or used in violation of this chapter or Chapter 1531. of the Revised Code or division rule is a public nuisance and each wildlife officer, or other officer with like authority, may seize and safely keep such a fishing device or part thereof, and the illegal results therefrom, for evidence or forfeiture proceedings unless otherwise ordered by the chief.

No person shall fail to comply with any provision of this section or division rule adopted pursuant to it.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license

of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension, no person shall use or engage in fishing within commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.

Sec. 1533.63. Except as otherwise provided by division rule, no person shall take, catch, buy, sell, transport, or possess a whitefish less than seventeen inches in length, a sturgeon less than forty-eight inches in length, a catfish less than ~~fifteen~~ fourteen and one-half inches in length, a yellow perch less than eight and one-half inches in length, a yellow perch fillet or part fillet of not less than five and ~~three-eighths~~ five-eighths inches in length, a headless yellow perch less than six and seven-eighths inches in length, a white bass or white bass hybrid less than eleven inches in length, a headless white bass or white bass hybrid less than eight and three-fourths inches in length, a white bass or white bass hybrid fillet or part thereof less than six and one-half inches in length, a bullhead less than nine inches in length, a cisco less than eleven inches in length, a buffalo fish less than fifteen inches in length, a sucker less than ten inches in length, or a coho less than twenty-five inches in round length or twenty-one and one-half inches when headless. All such fish caught or taken of a weight or length less than that prescribed in this section or as may be provided by the chief of the division of wildlife immediately shall be released with as little injury as possible while the net, seine, trotline, dip net, or other fishing device is being lifted, pulled, or hauled.

No person shall release such undersized fish or species protected by this chapter and Chapter 1531. of the Revised Code or division rule into a privately owned pond, lake, live car, or other enclosure. No person shall bring ashore, or possess aboard a boat used in commercial fishing when going to or returning from nets or other fishing devices, a fish with its head or tail removed or in such condition that its length, weight, or species cannot be determined.

This section does not prohibit the catching, taking, or possession of such undersized fish when caught or taken with hook and line, other than a commercially licensed trotline, but when such fish are so taken, they cannot be bought or sold.

No licensed commercial ~~fishermen~~ fishers, or person required to have a commercial fishing license under section 1533.34 of the Revised Code, shall take walleye, sauger, whitefish, mooneye, cisco, burbot, sturgeon, and blue

pike; brook, brown, rainbow, and lake trout; coho, chinook, and kokanee salmon; or other species protected by this chapter and Chapter 1531. of the Revised Code or division rule, from Lake Erie or its tributaries or possess such fish aboard a boat used in commercial fishing when going to or returning from nets or other fishing devices. All such fish caught or taken from a commercial fishing device immediately shall be released with as little injury as possible while the fishing device is being lifted, pulled, or hauled.

No person shall take, buy, sell, barter, give away, deliver, ship, transport, or possess any package, container, or quantity with more than ten per cent by weight of undersized fish or any other species either round or filleted mentioned in this section or division ~~order~~ rule. The entire quantity of fish containing more than ten per cent by weight of undersized fish shall be confiscated along with its containers. No person shall buy, sell, offer for sale, transport, give away, barter, or possess a fish caught or taken out of season or in any manner prohibited or a fish caught or taken unlawfully from waters in or outside the state. All fish brought into the state from another state or country shall be subject to the laws of this state.

All fish taken or caught from Ohio waters shall be brought into an Ohio port for inspection. No person shall ship, carry, transport, or cause to be transported any fish taken or caught from Ohio waters directly to a point outside the state.

Walleye or sauger originating from outside of this state may be possessed for sale, bought, or sold subject to division rule.

No person shall trade, buy, sell, possess, or transport for sale walleye or sauger taken from waters in this state.

Each person who holds a permit under section 1533.301 or 1533.631 of the Revised Code shall keep accurate written records in the English language of all sales and purchases of freshwater fish. The records shall include the name and address of the buyer and seller, the name of fish, the amount of fish in pounds, and the date of sale or purchase. Records for trout, bullhead, herring, whitefish, sauger, walleye, yellow perch, white bass, sturgeon, and channel catfish shall be kept on forms provided by the chief. In lieu of keeping the written records concerning sales of freshwater fish as required under this section, a permit holder, upon applying to and receiving the approval of the chief, may keep the sales information required under this section on normal business records, including, but not limited to, receipts and invoices. All records shall be maintained for at least one year and shall be open to inspection to all division of wildlife officers at all reasonable hours. A buyer who purchases fish for ~~his~~ the buyer's own consumption

shall not be required to keep records, and persons selling fish for personal consumption shall not be required to record the names and addresses of persons purchasing the fish.

No person shall fail to comply with any provision of this section or division rule adopted pursuant thereto.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section, other than those relating to ten per cent by weight of undersized fish, that occurred within a twelve-month period, is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section, other than those relating to ten per cent by weight of undersized fish, that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license or permit of any person who is convicted of two violations of this section relating to walleye or sauger is suspended upon the second such conviction by operation of law for a period of twenty days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license or permit of any person who is convicted of three violations of this section relating to walleye or sauger is suspended upon the third such conviction by operation of law for a period of sixty days immediately following that conviction.

In addition to other penalties provided in the Revised Code, any person who is convicted of four violations of this section relating to walleye or sauger imported from without the state that occurred within a period of thirty-six months is prohibited upon the fourth such conviction by operation of law from transporting, buying, selling, or dealing in walleye and sauger for a period of sixty months immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license or permit of any person who is convicted of four violations of this section relating to walleye or sauger, other than walleye or sauger imported from without the state, is revoked upon the fourth such conviction by operation of law, and the person is permanently barred from obtaining another license or permit of the type revoked.

In addition to other penalties provided in the Revised Code, the license

of any person who is convicted of three or more violations of this section relating to ten per cent by weight of undersized fish that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension or revocation, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license or permit has been suspended or revoked.

As used in this section, "sale of fish" includes, but is not limited to, fish sold in the round or part thereof and fish sold as part of a meal or service, but does not include canned fish.

For purposes of determining any license or permit suspension or revocation required by this section, multiple convictions resulting from violations of this section that occurred at the same time, on the same day, and at the same location, are deemed to be a single conviction of one violation.

SECTION 2. That existing sections 1531.10, 1533.41, 1533.55, and 1533.63 of the Revised Code are hereby repealed.

SECTION 3. The following rules of the Administrative Code, as adopted by the Division of Wildlife in the Department of Natural Resources, are ratified and continue in effect until amended or rescinded by the Division: 1501:31-3-01, 1501:31-3-02, 1501:31-3-03, 1501:31-3-04, 1501:31-3-05, 1501:31-3-06, 1501:31-3-07, 1501:31-3-08, 1501:31-3-09, 1501:31-3-10, 1501:31-3-11, 1501:31-3-12, 1501:31-3-13, and 1501:31-3-14.

An expiration date stated in any of the aforementioned rules is void.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to ensure that fishing rules are in effect in time for the 2000 fishing season because the rules are necessary for the proper management of Ohio's fisheries. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 241

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____