

23:2A-10 et al

LEGISLATIVE HISTORY CHECKLIST

HJSA 23:2A-10 et al. (Fish and game statutes--increase penalties - for certain violations)

LAWS OF 1979 CHAPTER 385

Bill No. A3427

Sponsor(s) McConnell

Date Introduced June 14, 1979

Committee: Assembly Agriculture and Environment

Senate Energy and Environment

Amended during passage Yes  Amendments during passage denoted by asterisks

Date of Passage: Assembly Dec. 6, 1979

Senate Jan. 5, 1980

Date of approval Feb. 5, 1980

Following statements are attached if available:

Sponsor statement Yes  (Below)

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note Yes

Veto message Yes

Message on signing Yes

Following were printed:

Reports Yes

Hearings Yes

Sponsor's statement:

This bill would raise the penalties for the violation of certain fish and game statutes to a level designed to promote compliance with the law.

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## ASSEMBLY, No. 3427

## STATE OF NEW JERSEY

INTRODUCED JUNE 14, 1979

By Assemblywoman McCONNELL

Referred to Committee on Agriculture and Environment

AN ACT concerning fish and game penalties and amending parts of  
the statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 10 of P. L. 1973, c. 309 (C. 23:2A-10) is amended to  
2 read as follows:

3 10. a. If any person violates any of the provisions of this act or  
4 any rule, regulation or order promulgated pursuant to the pro-  
5 visions of this act, the department may institute a civil action in a  
6 court of competent jurisdiction for injunctive relief to prohibit  
7 and prevent such violation or violations and the said court may  
8 proceed in the action in a summary manner.

9 b. Any person who violates the provisions of this act or any rule,  
10 regulation or order promulgated pursuant to this act shall be liable  
11 to a penalty of not *less than \$100.00 and not* more than \$3,000.00  
12 for each offense, to be collected in a civil action by a summary  
13 proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1  
14 et seq.) or in any case before a court of competent jurisdiction  
15 wherein injunctive relief has been requested. Penalties recovered  
16 for violations hereof shall be remitted as provided in R. S. 23:10-19.  
17 The Superior Court**], County Court**]**, *municipal court\** and county  
18 district court shall have jurisdiction to enforce said Penalty En-  
19 forcement Law. If the violation is of a continuing nature, each day  
20 during which it continues shall constitute an additional, separate  
21 and distinct offense.**

22 c. The department is hereby authorized and empowered to  
23 compromise and settle any claim for a penalty under this section  
24 in such amount in the discretion of the department as may appear  
25 appropriate and equitable under all of the circumstances.

**EXPLANATION**—Matter enclosed in bold-faced brackets **[thus]** in the above bill  
is not enacted and is intended to be omitted in the law.

1 2. R. S. 23:3-1 is amended to read as follows:

2 23:3-1. No person shall at any time hunt, take or attempt to  
3 take, kill or pursue, with a gun or any firearms of any kind or  
4 character, or with longbow and arrow, a wild bird, animal or fowl,  
5 or take or attempt to take any skunk, mink, muskrat, or other  
6 fur-bearing animal by means of a trap, or set a trap for any fur-  
7 bearing animal, and no person above the age of 14 years shall at  
8 any time take or attempt to take fish in any of the fresh waters of  
9 this State by the method commonly known as angling with a hand  
10 line or rod and line, or with longbow and arrow unless he has first  
11 procured a proper license. Nor shall any person engage in hunting,  
12 fishing or trapping unless the appropriate license or tag as pre-  
13 scribed hereunder is visibly displayed in a holder in a conspicuous  
14 place on the outer clothing at the time of such hunting, fishing or  
15 trapping. A licensee shall exhibit his license and tag for inspection  
16 to any conservation officer, deputy conservation officer, police officer  
17 or other person requesting to see it. No person under 12 years of  
18 age shall be issued a trapping license.

19 Any person found hunting, fishing or trapping without the  
20 proper license tag as may be required conspicuously displayed  
21 shall be liable to a penalty of \$10.00 and costs to be recovered pur-  
22 suant to the provisions of Title 23, chapter 10, of the Revised  
23 Statutes.

24 A person who is on active duty with any branch or department  
25 of the armed service of the United States, shall be entitled to hunt  
26 or fish upon obtaining the proper resident license therefor.

27 Nothing in this section shall prevent the occupant of a farm in  
28 this State, who actually resides thereon, or the immediate members  
29 of his family who also reside thereon, from hunting for, taking,  
30 killing or pursuing with a gun or firearm or a longbow and arrow  
31 on the farm a wild bird, animal or fowl, from taking any skunk,  
32 mink, muskrat, or other fur-bearing animal by means of a trap or  
33 from setting a trap for a fur-bearing animal on the farm, or from  
34 taking fish on the farm with hand line or rod and line, or a longbow  
35 and arrow in the manner provided by law during the time when it  
36 is lawful so to do, without being licensed hereunder. The exemp-  
37 tion of this paragraph shall not apply to a person residing on the  
38 farm or in a tenant house thereon who is not a member of the  
39 occupant's family, nor to a servant of the occupant. Any person  
40 who violates any provision of this section for which a penalty is  
41 not otherwise expressly provided, shall be liable to a penalty of  
42 not less than \$25.00 nor more than ~~[\$50.00]~~ \$100.00 for each offense.

1 3. R. S. 23:4-1 is amended to read as follows:

2 23:4-1. No person shall capture, kill, injure, destroy or have in  
3 possession or hunt, hunt for, or attempt to capture, kill, injure or  
4 destroy any reedbird, wild swans, wood duck, wild geese, brant,  
5 wild ducks, rails or marsh hens, gallinules, coot (commonly known  
6 as crow duck), upland plover, black-bellied plover, golden plover,  
7 greater or lesser yellowlegs, willets, sandpipers, dowitchers or  
8 robin snipe, brown backs, curlews, turnstones or calico backs, god-  
9 wits or marlin, tattlers, Wilson snipe or jacksnipe, woodcock or  
10 any other birds commonly known as shore birds, surf snipe or bay  
11 snipe, unless an open season is prescribed therefor by the regula-  
12 tions of the United States Department of the Interior, made under  
13 the provisions of an Act of Congress relating to migratory birds,  
14 and then only during the respective open seasons fixed for such  
15 birds by such regulations.

16 No person shall capture, kill, injure, destroy or have in possession  
17 any quail, rabbit, hare, gray, black or fox squirrel, raccoon, wood-  
18 chuck, English or ring-necked pheasant, ruffed grouse, wild turkey,  
19 partridge, or any other game bird or game animal, other than those  
20 mentioned in the first paragraph of this section, unless an open  
21 season is prescribed therefor by the State Fish and Game Code,  
22 and then only during the respective open seasons fixed by such  
23 code; or, in the absence of such provision in said code, unless an  
24 open season is prescribed therefor by law, and then only during  
25 the respective open seasons fixed by this section.

26 Unless otherwise prescribed by the State Fish and Game Code,  
27 the open season for quail, rabbit, hare, gray, black or fox squirrel,  
28 male English or ring-necked pheasant, ruffed grouse, or partridge,  
29 except as hereinafter in this article is restricted, shall be from  
30 November 10 to December 10; provided, however, no person shall  
31 capture, kill, injure, destroy or have in his possession any of the  
32 birds or animals mentioned in this paragraph on the first day of  
33 any open season for such birds and animals before 9 a. m.

34 Unless otherwise prescribed by the State Fish and Game Code,  
35 the open season for woodchuck shall be from May 1 to September  
36 30; between sunrise and sunset only.

37 Unless otherwise prescribed by the State Fish and Game Code,  
38 the open season for raccoon shall be from November 1 to January  
39 15, between sunset and sunrise only, except during the open season  
40 for deer.

41 Unless otherwise provided by the State Fish and Game Code,  
42 the birds and animals for which an open season is prescribed by  
43 this section may be possessed during the respective open seasons

44 therefor and for the additional period of 10 days immediately  
45 succeeding the open seasons.

46 Except as otherwise specifically provided by this act or any  
47 other law, for capturing, killing, injuring, destroying, or having  
48 in possession or hunting, hunting for, or attempting to capture, kill,  
49 injure or destroy any of the game birds or game animals mentioned  
50 in this section, or any other game bird or game animal, other than  
51 during the respective open seasons, if any, and at the times, if  
52 any, fixed therefor by the respective provisions of the State Fish  
53 and Game Code, or, in the absence of any such provisions in said  
54 code, fixed therefor by this section, or for violating any other  
55 provision of this section, a person shall be liable to a penalty of  
56 *not less than \$20.00 and not more than \$100.00* for each bird or  
57 animal or part thereof unlawfully captured, killed, injured, des-  
58 troyed, had in possession, or hunted, hunted for, attempted to be  
58A captured, killed, injured or destroyed; *provided, however, that a*  
58B *person shall be liable to a penalty of not less than \$100.00 and not*  
59 *more than \$300.00 for each wild turkey, black bear, coyote, bobcat,*  
60 *otter, or part thereof, unlawfully captured, killed, injured, des-*  
61 *troyed, possessed, or hunted, hunted for, attempted to be captured,*  
62 *killed, injured or destroyed.*

1 4. R. S. 23:4-16 is amended to read as follows:

2 23:4-16. No person, either in an automobile or vehicle of any  
3 kind whatsoever, or by the aid or use of a light carried on or  
4 attached to a vehicle of any kind, shall hunt for, pursue, shoot,  
5 shoot at, kill, capture, injure or destroy a bird or animal in this  
6 State, and no person shall use any portable light or lights for the  
7 purpose of hunting for any game bird or animal excepting raccoon,  
8 and no person shall, for the purpose of hunting, taking or killing  
9 any bird or animal, cast an arrow or discharge any firearm upon or  
10 across any State, county or municipal road or highway, and no  
11 person, except the owner or lessee of the property and persons  
12 specifically authorized by him in writing, shall, for the purpose of  
13 hunting, taking or killing any bird or animal, have in his possession  
14 a loaded gun while within 450 feet of any occupied dwelling in this  
15 State, or of a school playground, under a penalty of *not less than*  
16 *\$50.00 and not more than \$100.00* for each offense.

1 5. R. S. 23:4-27 is amended to read as follows:

2 23:4-7. No person shall sell, offer for sale or possess for sale  
3 in this State, whether killed or taken within or without the State,  
4 a dead body, or part thereof, of any species of squirrel, wild rabbit,  
5 wild hare, or wild deer, or of a game bird or song bird belonging  
6 to a species or subspecies native to this State and protected by the

7 provisions of the State Fish and Game Code, or, in the absence of  
 8 any provision in said code to the contrary protected by law or  
 9 belonging to a family, any species or subspecies of which is native  
 10 to this State and protected by the provisions of the State Fish  
 11 and Game Code, or, in the absence of any provision in said code to  
 12 the contrary, protected by law, under a penalty of \$20.00 for each  
 13 such squirrel, wild rabbit, wild hare, wild deer or bird so sold,  
 14 offered for sale or possessed for sale; *and under a penalty of not*  
 15 *less than \$100.00 and not more than \$300.00 for each such wild*  
 16 *deer so sold, offered for sale or possessed for sale;* provided, how-  
 17 ever, that wild rabbits or wild hares legally killed in another State  
 18 may be brought into this State at any time for possession, sale  
 19 and consumption; *and* provided, further, however, that nothing  
 20 herein contained shall prohibit the sale of commercially raised wild  
 21 rabbits and wild hares. The carcasses of deer and the unplucked  
 22 carcasses of mallard, black and wood ducks, Canada geese, ruffed  
 23 grouse, squirrels, rabbits, hares, quails and pheasants of all species  
 24 raised on licensed game preserves and properly tagged, and the  
 25 unplucked carcasses of Scotch grouse, European black grouse,  
 26 European black plover, red-legged partridge and Egyptian quail  
 27 coming from a foreign country, which are properly tagged by the  
 28 State authorities, may be sold at any time for food purposes.

1 \***[**6. R. S. 23:4-50 is amended to read as follows:

2 23:4-50. Any provision of law or of the State Fish and Game  
 3 Code to the contrary notwithstanding, no person shall, within this  
 4 State, kill or catch, or have in his possession, living or dead, a wild  
 5 bird other than a game bird as defined in section 23:4-49 of this  
 6 Title, or purchase, offer or expose for sale any such wild bird after  
 7 it has been killed or caught. No part of plumage, skin or body of a  
 8 bird protected by this section shall be sold or had in possession for  
 9 sale. Plumage, as used in this section, cludes any part of the  
 10 feathers, head, wings, or tail of a bird, and when the word occurs in  
 11 this section reference is had equally to plumage of birds coming  
 12 from without the State as to birds obtained within the State, but it  
 13 shall not be construed to apply to the feathers of ostriches, do-  
 14 mestic fowl or domestic pigeons. The fact that a bird belongs to a  
 15 different species from that native in this State shall constitute  
 16 no defense to the possession thereof if it belongs to the same  
 17 family as any bird protected by this section.

18 The English or European house sparrow (*passer domesticus*),  
 19 European starling, blackbird, crow, grackle and cowbird are not  
 20 included among the birds protected by this section; provided  
 21 however, that nothing herein contained shall be deemed to make

22 it unlawful for the owner or occupant of land or his regular em-  
 23 ployees to kill hawks or owls when in the act of destroying poultry  
 24 or livestock or when found in the immediate vicinity of a poultry or  
 25 livestock range of said landowner or occupant.

26 Nothing herein contained shall prohibit the control of animals or  
 27 birds which have become obnoxious in nature and habit or that are  
 28 doing damage to wildlife or agricultural crops, by the Division of  
 29 Fish **[and]** Game, *and Shell Fisheries* or its employees on any  
 30 lands in the State; provided, however, that nothing herein contained  
 31 shall be deemed to make lawful any act with respect to all grackles,  
 32 yellow-headed red-wing, bi-colored red-wing, tri-colored red-wing  
 33 and Brewer's blackbirds, which is made unlawful by the laws of the  
 34 United States or any regulation issued pursuant thereto.

35 A person violating this section shall be subject to a fine of *not*  
 36 *less than \$20.00 and not more than \$100.00 for the first offense,*  
 37 *and not less than \$100.00 and not more than \$300.00 for each sub-*  
 38 *sequent offense* for each bird or part thereof killed, caught or had  
 39 in possession. **]**\*

1 \***[7.]**\* \*6.\* Section 2 of P. L. 1964, c. 37 (C. 23:4-63.6) is amended  
 2 to read as follows:

3 2. The Division of Fish, Game and Shell Fisheries is authorized  
 4 to issue permits to the owners of lands used for agricultural pur-  
 5 poses for the use of said devices and no such device shall be used  
 6 by any person without first obtaining such permit. *Any person*  
 7 *who violates this section shall be liable to a penalty of \$20.00 for*  
 8 *each such offense.* Whenever the governing body of any munici-  
 9 pality adopts a resolution pointing to undue hardship on nearby  
 10 residents as a result of the use of any such device, and requests  
 11 that the division deny or cancel the right to use such device, the  
 12 Director of the Division of Fish, Game and Shell Fisheries, after  
 13 review of all available evidence, may deny or cancel a permit to  
 14 use such device when he determines that the use thereof creates  
 15 an undue hardship on nearby residents. In arriving at any such  
 16 decision, the director may consult with any county or Statewide  
 17 advisory group he may designate to advise him on such matters.  
 18 The division shall promulgate rules and regulations governing the  
 19 types and use of such devices as will insure the safety of the public.

1 \***[8.]**\* \*7.\* This act shall take effect immediately.

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**ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE**

STATEMENT TO  
**ASSEMBLY, No. 3427**  
with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: NOVEMBER 26, 1979

This bill would raise the penalties for violations of certain fish and game statutes to a level that would provide compliance with the law.

The committee amended the bill to 1.) permit the municipal courts as well as the Superior and county district courts, to have jurisdiction, thus strengthening enforcement of the laws, and 2.) enactment of P. L. 1979, c. 212, which accomplishes a similar purpose.