

2018 -- H 8028

LC005377

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO FISH AND WILDLIFE -- GENERAL PROVISIONS

Introduced By: Representatives Price, Nardolillo, Filippi, Roberts, and Giarrusso

Date Introduced: March 30, 2018

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 20-1-8 of the General Laws in Chapter 20-1 entitled "General  
2 Provisions" is hereby amended to read as follows:

3 **20-1-8. Enforcement powers of director and conservation officers.**

4 (a) The director and each conservation officer shall have the power:

5 (1) To enforce all laws, rules, and regulations of this state pertaining to:

6 (i) Fish, wildlife, and all vertebrates, invertebrates, and plants;

7 (ii) Freshwater wetlands, dams, and resources;

8 (iii) Areas and activities subject to the jurisdiction of the coastal resources management  
9 council;

10 (iv) State parks, reservations, management areas, hatcheries, game preserves, any law of  
11 the state within state parks, lands cooperatively managed, facilities that host official department  
12 events, and properties leased by the department;

13 (v) Solid and hazardous waste transportation, storage, and disposal and any other laws of  
14 the state regarding solid and/or hazardous wastes;

15 (vi) Boating safety, water safety, and drowning prevention;

16 (vii) Water and air pollution and open burning;

17 (viii) Firearms;

18 (ix) Littering;

19 (x) Trees and forests, forestry, and protection of forests from fire hazards and trespass;

- 1 (xi) Agriculture, farmland, and pest control; and
- 2 (xii) All-terrain vehicles, as defined in § 31-3.2-1(8).
- 3 (2) To issue summonses and to execute all warrants and search warrants for the violation
- 4 of the laws, rules, and regulations enumerated in subsections (a)(1) or (a)(9);
- 5 (3) To serve subpoenas issued for the trial or hearing of all offenses against the law, rules,
- 6 and regulations enumerated in subsections (a)(1) or (a)(9);
- 7 (4) To arrest, without a warrant, any person found violating any law, rule, or regulation
- 8 enumerated in subsection (a)(1), take that person before a court of competent jurisdiction, and
- 9 detain that person in custody at the expense of the state until arraignment, except when a
- 10 summons can be issued in accordance with § 12-7-11;
- 11 (5) To seize and take possession of all fish, shellfish, crustaceans, marine mammals,
- 12 amphibians, reptiles, birds, and mammals in possession, or under control of, any person or that
- 13 have been shipped, or are about to be shipped, at any time, in any manner, or for any purpose
- 14 contrary to the laws of this state, and dispose of them at the discretion of the director;
- 15 (6) To seize all fishing tackle, firearms, shooting and hunting paraphernalia, hunting,
- 16 fishing, or trapping licenses, traps, decoys, tongs, bullrakes, dredges, or other implements or
- 17 appliances used in violation of any law, rule, or regulation relating to fish, shellfish, crustaceans,
- 18 marine mammals, amphibians, reptiles, birds, and mammals, or any equipment, materials, tools,
- 19 implements, samples of substances, or any other item used in the violation of any other law, rule,
- 20 or regulation enumerated in subsection (a)(9), when making an arrest as found in the execution of
- 21 a search warrant, and hold the seized item or items at the owner's expense until the fine and costs
- 22 imposed for the violation have been paid in full;
- 23 (7) (i) To go on board any boat or vessel engaged, or believed to be engaged, in fishing
- 24 and examine any fishing, shellfish, scallop, lobster, multipurpose, or other license issued under
- 25 this title;
- 26 (ii) To go on board any boat or vessel engaged, or believed to be engaged, in fishing and
- 27 to inspect that boat or vessel for compliance with the provisions of this title and any rules relative
- 28 to the taking of fish, shellfish, crustaceans, marine mammals, amphibians, and reptiles. In the
- 29 absence of probable cause to believe that a crime relative to the taking of these marine species has
- 30 been, or is being, committed, any evidence obtained as the result of a boarding (other than for the
- 31 purpose of examining a license) or of an inspection may not be used in a criminal prosecution;
- 32 (8) To carry firearms or other weapons, concealed or otherwise, in the course of, and in
- 33 performance of, the duties of office; and
- 34 (9) To arrest without a warrant, to execute all warrants and search warrants, and to make

1 and execute complaints within any district to the justice or clerk of the district court without  
2 recognizance or surety against any person for the following criminal offenses:

- 3 (i) Assault;
- 4 (ii) Assault with a dangerous weapon;
- 5 (iii) Larceny;
- 6 (iv) Vandalism;
- 7 (v) Obstructing officer in execution of duty.

8 (b) Conservation officers shall be deemed "officer" within the meaning of § 11-32-1.

9 (c) It shall be a misdemeanor punishable by a fine of not more than five hundred dollars  
10 (\$500) or imprisonment for not more than thirty (30) days, or both, for any person to refuse to  
11 move or to stop on an oral command or order of a conservation officer when the officer is acting  
12 in the performance of the officer's duties.

13 (d) Notwithstanding any provision to the contrary contained in §§ 20-1-8(a)(5) and (6) or  
14 in § 20-1-8.1, any individual or entity licensed pursuant to the provisions of chapter 2.1 of title 20  
15 may file a petition in the superior court seeking actual, resulting, and compensatory damages for  
16 the seizing and taking possession of the items described in §§ 20-1-8(a)(5) and (6) or in § 20-1-  
17 8.1, for violations of the laws of this state which the court shall determine not to be substantial or  
18 significant violations of law. Upon the filing of such a petition in the superior court, the petitioner  
19 shall be entitled to the return of any items seized upon the filing of a bond in an amount to be  
20 determined by the court in an ex parte proceeding. In the event the court after hearing determines  
21 that the violation of law is not significant or substantial, the petitioner shall be entitled to the  
22 value of the items seized which were not returned to the petitioner. A violation of law shall not be  
23 deemed substantial or significant if the measures or remedies undertaken by the department to  
24 correct an alleged violation are determined by the court to be excessive in view of the violation  
25 being alleged. If the petitioner is the prevailing party the petitioner shall be entitled to costs and  
26 reasonable attorneys' fees.

27 (e) The exercise of the enforcement powers granted to the department herein shall not be  
28 deemed to raise any presumption of a violation on the part of any person or entity affected  
29 thereby.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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- 1           This act would enable fishermen aggrieved by confiscation of their gear and/or catch to
- 2 retrieve their gear on posting a bond, and to be compensated if the violation, if any, is found not
- 3 to be significant or substantial.
- 4           This act would take effect upon passage.

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