§ 71-0915. Abatement of nuisances.

1. The following are declared to be nuisances which may be abated as provided in this section:

a. Any trap, snare or net, set or used without permit from the Department for taking a wild bird;

b. Any trap set or used in violation of section 11-1101;

c. Any net, bait-line, set line, eel weir or pot, tip-up, baitfish trap, or other device for taking fish or crustacea, and any device for taking insects, set or used in violation of any law or regulation under which use of the device is prohibited, or its use is prohibited at the time or place, or in the manner or circumstances in which it is used, except where the violation consists only in the fact that the device was set or used without first obtaining a license and, under laws and regulations in effect at the time the device is set or used, such license is issuable upon application therefor and payment of the fee, if any, applicable thereto.

2. Nuisances defined in paragraph a of subdivision 1 may be abated summarily by any person. Nuisances defined in paragraph a, b or c of subdivision 1 may be abated by any conservation officer.

3. Upon abatement of such nuisance, the conservation officer shall take into custody the net or device so used in any case where the person guilty of the violation is not present or cannot be identified at the time the nuisance is abated. If the net or device is thereafter forfeited as provided in section 71-0909, or, not being so forfeited, shall remain unclaimed by the owner for thirty days, it shall be disposed of as the department shall direct.

4. In any case where the person guilty of the violation is arrested or served with a summons at the time of the abatement of the nuisance, the conservation officer may seize the net or other device as evidence.

5. Upon abatement of any nuisance defined in this section, any fish, crustacea, wildlife or protected insect trapped, confined, hooked or caught shall be:

a. Released, permitted to escape, or returned to the water or other habitat; or

b. Destroyed; or

c. Seized as evidence; or

d. Taken into custody for future disposition pursuant to section 11-0519, as may be appropriate to the circumstances, the kind of animal involved and its condition.

6. Action taken by an enforcement officer as provided in this section or pursuant to this section and section 11-0519 shall not subject him or the state to liability, even though it is subsequently determined that the trap, net or other device involved was not in violation of law, if it is established that the enforcement officer had reasonable grounds to believe that it constituted a nuisance as provided in this section.