

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1464
Agriculture/Environment/Natural Resources Committee Substitute Adopted
5/22/07

Short Title: Amend Wildlife Resources Management Laws.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE WILDLIFE RESOURCES MANAGEMENT LAWS BY
AUTHORIZING THE WILDLIFE RESOURCES COMMISSION TO RESPOND
TO DISEASE THREATS; BY ALLOWING THE TAKING OF BEAVER WITH
BOW AND ARROW; BY AMENDING CERTAIN LAWS GOVERNING THE
TAKING OF DEER; BY PROVIDING FOR THE SAFETY OF BOW HUNTERS
DURING FIREARMS SEASON; AND BY PROHIBITING THE FEEDING OF
ALLIGATORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-306 reads as rewritten:

"§ 113-306. **Administrative authority of Wildlife Resources Commission;
disposition of license funds; delegation of powers; injunctive relief; relief;
emergency powers.**

(a) In the overall best interests of the conservation of wildlife resources, the Wildlife Resources Commission may lease or purchase lands, equipment, and other property; accept gifts and grants on behalf of the State; establish wildlife refuges, management areas, and boating and fishing access areas, either alone or in cooperation with others; provide matching funds for entering into projects with some other governmental agency or with some scientific, educational, or charitable foundation or institution; condemn lands in accordance with the provisions of Chapter 40A of the General Statutes and other governing provisions of law; and sell, lease, or give away property acquired by it. Provided, that any private person selected to receive gifts or benefits by the Wildlife Resources Commission be selected:

(1) With regard to the overall public interest that may result; and

(2) From a defined class upon such a rational basis open to all within the class as to prevent constitutional infirmity with respect to requirements of equal protection of the laws or prohibitions against granting exclusive privileges or emoluments.

1 (b) Except as otherwise specifically provided by law, all money credited to, held
2 by, or to be received by the Wildlife Resources Commission from the sale of licenses
3 authorized by this Subchapter must be consolidated and placed in the Wildlife
4 Resources Fund.

5 (c) The Wildlife Resources Commission may, within the terms of policies set by
6 rule, delegate to the Executive Director all administrative powers granted to it.

7 (d) The Wildlife Resources Commission is hereby authorized and directed to
8 develop a plan and policy of wildlife management for all lands owned by the State of
9 North Carolina which are suitable for this purpose. The Division of State Property and
10 Construction of the Department of Administration shall determine which lands are
11 suitable for the purpose of wildlife management. Nothing in the wildlife management
12 plan shall prohibit, restrict, or require the change in use of State property which is
13 presently being used or will in the future be used to carry out the goals and objectives of
14 the State agency utilizing such land. Each plan of wildlife management developed by
15 the Wildlife Resources Commission shall consider the question of public hunting; and
16 whenever and wherever possible and consistent with the primary land use of the
17 controlling agency, public hunting shall be allowed under cooperative agreement with
18 the Wildlife Resources Commission. Any dispute over the question of public hunting
19 shall be resolved by the Division of State Property and Construction.

20 (e) Subject to any policy directives adopted by the members of the Wildlife
21 Resources Commission, the Executive Director in his discretion may institute an action
22 in the name of the Wildlife Resources Commission in the appropriate court for
23 injunctive relief to prevent irreparable injury to wildlife resources or to prevent or
24 regulate any activity within the jurisdiction of the Wildlife Resources Commission
25 which constitutes a public nuisance or presents a threat to public health or safety.

26 (f) The Wildlife Resources Commission may adopt rules governing the exercise
27 of emergency powers by the Executive Director when the Commission determines that
28 such powers are necessary to respond to a wildlife disease that threatens irreparable
29 injury to wildlife or the public. The rules shall provide that the Executive Director must
30 consult with the Commission, the State Veterinarian, and the Governor prior to
31 implementing the emergency powers. The rules shall also specify the method by which
32 the public will be notified of the exercise of emergency powers. The exercise of
33 emergency powers shall not extend for more than 90 days after the Commission's
34 determination that a disease outbreak has occurred, unless a temporary rule is adopted
35 by the Commission in accordance with G.S. 150B-21.1 to replace the emergency
36 powers. If a temporary rule is adopted prior to the expiration of the 90 days, the
37 Executive Director may continue to exercise emergency powers until either a permanent
38 rule to replace the temporary rule becomes effective or the temporary rule expires as
39 provided by G.S. 150B-21.1(d). The Commission's determination that a disease
40 outbreak has occurred shall constitute a basis for adoption of a temporary rule. The
41 emergency powers that may be authorized by rules adopted pursuant to this subsection
42 include:

- 43 (1) Prohibiting activities that aid in the transmission or movement of the
44 disease.

1 (2) Implementing activities that aid in the transmission of the disease.

2 (3) Implementing requirements to assist in the detection and isolation of
3 the disease."

4 **SECTION 2.** G.S. 113-291.9(a) reads as rewritten:

5 "(a) Notwithstanding any other law, there is an open season for taking beaver with
6 firearms or bow and arrow during any open season for the taking of wild animals,
7 provided that permission has been obtained from the owner or lessee of the land on
8 which the beaver is being taken."

9 **SECTION 3.** G.S. 113-291.2 reads as rewritten:

10 "**§ 113-291.2. Seasons and bag limits on wild animals and birds; including animals**
11 **and birds taken in bag; possession and transportation of wildlife after**
12 **taking.**

13 (a) In accordance with the supply of wildlife and other factors it determines to be
14 of public importance, the Wildlife Resources Commission may fix seasons and bag
15 limits upon the wild animals and wild birds authorized to be taken that it deems
16 necessary or desirable in the interests of the conservation of wildlife resources. The
17 authority to fix seasons includes the closing of seasons completely when necessary and
18 fixing the hours of hunting. The authority to fix bag limits includes the setting of season
19 and possession limits. Different seasons and bag limits may be set in differing areas;
20 early or extended seasons and different or unlimited bag limits may be authorized on
21 controlled shooting preserves, game lands, and public hunting grounds; and special or
22 extended seasons may be fixed for those engaging in falconry, using primitive weapons,
23 or taking wildlife under other special conditions.

24 Unless modified by rules of the Wildlife Resources Commission, the seasons,
25 shooting hours, bag limits, and possession limits fixed by the United States Department
26 of Interior or any successor agency for migratory game birds in North Carolina must be
27 followed, and a violation of the applicable federal rules is hereby made unlawful. When
28 the applicable federal rules require that the State limit participation in seasons and/or
29 bag limits for migratory game birds, the Wildlife Resources Commission may schedule
30 managed hunts for migratory game birds. Participants in such hunts shall be selected at
31 random by computer, and each applicant 16 years of age or older shall have the required
32 general hunting license and the waterfowl hunting license prior to the drawing for the
33 managed hunt. Each applicant under 16 years of age shall either have the required
34 general hunting license and the waterfowl hunting license or shall apply as a member of
35 a party that includes a properly licensed adult. All applications for managed waterfowl
36 hunts shall be screened prior to the drawing for compliance with these requirements. A
37 nonrefundable fee of ten dollars (\$10.00) shall be required of each applicant to defray
38 the cost of processing the applications.

39 ~~Where there is a muzzle loading firearm season for deer, with a bag limit of five or~~
40 ~~more, one antlerless deer may be taken. Dogs may not be used for hunting deer during~~
41 ~~such season.~~

42 (a1) When the Executive Director of the Wildlife Resources Commission receives
43 a petition from the State Health Director declaring a rabies emergency for a particular
44 county or district pursuant to G.S. 130A-201, the Executive Director of the Wildlife

1 Resources Commission shall develop a plan to reduce the threat of rabies exposure to
2 humans and domestic animals by foxes, raccoons, skunks, or bobcats in the county or
3 district. The plan shall be based upon the best veterinary and wildlife management
4 information and techniques available. The plan may involve a suspension or
5 liberalization of any regulatory restriction on the taking of foxes, raccoons, skunks, or
6 bobcats, except that the use of poisons, other than those used with dart guns, shall not be
7 permitted under any circumstance. If the plan involves a suspension or liberalization of
8 any regulatory restriction on the taking of foxes, raccoons, skunks, or bobcats, the
9 Executive Director of the Wildlife Resources Commission shall prepare and adopt
10 temporary rules setting out the suspension or liberalization pursuant to
11 G.S. 150B-21.1(a)(1). The Executive Director shall publicize the plan and the
12 temporary rules in the major news outlets that serve the county or district to inform the
13 public of the actions being taken and the reasons for them. Upon notification by the
14 State Health Director that the rabies emergency no longer exists, the Executive Director
15 of the Wildlife Resources Commission shall cancel the plan and repeal any rules
16 adopted to implement the plan. The Executive Director of the Wildlife Resources
17 Commission shall publicize the cancellation of the plan and the repeal of any rules in
18 the major news outlets that serve the county or district.

19 (b) Any individual hunter or trapper who in taking a wild animal or bird has
20 wounded or otherwise disabled it must make a reasonable effort to capture and kill the
21 animal or bird. All animals and birds taken that can be retrieved must be retrieved and
22 counted with respect to any applicable bag limits governing the individual taking the
23 animal or bird.

24 (c) An individual who has lawfully taken game within applicable bag,
25 possession, and season limits may, except as limited by rules adopted pursuant to
26 subsection (c1) of this section, after the game is dead, possess and personally transport it
27 for his own use by virtue of his hunting license, and without any additional permit,
28 subject to tagging and reporting requirements that may apply to the fox and big game, as
29 follows:

- 30 (1) In an area in which the season is open for the species, the game may be
31 possessed and transported without restriction.
- 32 (2) The individual may possess and transport the game lawfully taken on a
33 trip:
 - 34 a. To his residence;
 - 35 b. To a preservation or processing facility that keeps adequate
36 records as prescribed in G.S. 113-291.3(b)(3) or a licensed
37 taxidermist;
 - 38 c. From a place authorized in subparagraph b to his residence.
- 39 (3) The individual may possess the game indefinitely at his residence, and
40 may there accumulate lawfully-acquired game up to the greater of:
 - 41 a. The applicable possession limit for each species; or
 - 42 b. One half of the applicable season limit for each species.

43 The above subdivisions apply to an individual hunter under 16 years of age covered
44 by the license issued to his parent or guardian, if he is using that license, or by the

1 license of an adult accompanying him. An individual who has lawfully taken game as a
2 landholder without a license may possess and transport the dead game, taken within
3 applicable bag, possession, and season limits, to his residence. He may indefinitely
4 retain possession of such game, within aggregate possession limits for the species in
5 question, in his residence.

6 (c1) In the event that the Executive Director finds that game carcasses or parts of
7 game carcasses are known or suspected to carry an infectious or contagious disease that
8 poses an imminent threat to the health or habitat of wildlife species, the Wildlife
9 Resources Commission shall adopt rules to regulate the importation, transportation, or
10 possession of those carcasses or parts of carcasses that, according to wildlife disease
11 experts, may transmit such a disease.

12 (d) Except in the situations specifically provided for above, the Wildlife
13 Resources Commission may by rule impose reporting, permit, and tagging requirements
14 that may be necessary upon persons:

- 15 (1) Possessing dead wildlife taken in open season after the close of that
16 season.
- 17 (2) Transporting dead wildlife from an area having an open season to an
18 area with a closed season.
- 19 (3) Transporting dead wildlife lawfully taken in another state into this
20 State.
- 21 (4) Possessing dead wildlife after such transportation.

22 The Wildlife Resources Commission in its discretion may substitute written declarations
23 to be filed with agents of the Commission for permit and tagging requirements.

24 (e) Upon application of any landholder or agent of a landholder accompanied by
25 a fee of fifty dollars (\$50.00), the Executive Director ~~may require a survey of the deer~~
26 ~~population on the land of such landholder. If as a result of the survey it is determined~~
27 ~~that there is an overpopulation of deer in relation to the carrying capacity of the land,~~
28 ~~that the herd is substantially dependent on such land for its food and cover, and that the~~
29 ~~imbalance in the deer population is not readily correctable by an either sex deer season~~
30 ~~of reasonable length, the Executive Director may issue to such landholder or agent a~~
31 special license and a number of special antlerless or antlered deer tags that in the
32 judgment of the Executive Director is sufficient to correct or alleviate the population
33 imbalance. accommodate the landholder or the landholder's agent's deer population
34 management objectives or correct any deer population imbalance that may occur on the
35 property. Subject to applicable hunting license requirements, the special deer tags may
36 be used by any person or persons selected by the landholder or his agent as authority to
37 take antlerless deer, including male deer with "buttons" or spikes not readily visible, or
38 antlered deer on the tract of land concerned during any established deer hunting season.
39 ~~Each antlerless deer killed~~ The Executive Director or designee may stipulate on the
40 license that special deer tags for antlered deer, if applicable, may only be valid for deer
41 that meet certain minimum harvest criteria. The Executive Director or designee may
42 also define on the license valid hunt dates that fall outside of the general deer hunting
43 season. Harvested antlerless or antlered deer for which special tags are issued shall be
44 affixed immediately with a special antlerless deer tag and shall be reported immediately

1 in the wildlife cooperator tagging book supplied with the special ~~antlerless~~-deer tags.
2 This tagging book and any unused tags shall be returned to the Commission within 15
3 days of the close of the season. The Wildlife Resources Commission may offer an
4 alternate reporting system when the Commission determines that such an alternate
5 system is appropriate. Antlerless or antlered deer taken under this program and tagged
6 with the special ~~antlerless~~ tags provided shall not count as part of the daily bag,
7 possession, and season limits of the person taking the deer."

8 **SECTION 4.** G.S. 113-291.8(a) reads as rewritten:

9 "(a) Any person hunting game animals other than foxes, bobcats, raccoons, and
10 opossum, or hunting upland game birds other than wild turkeys, with the use of
11 firearms, must wear a cap or hat on his head made of hunter orange material or an outer
12 garment of hunter orange visible from all sides. Any person hunting deer during a
13 firearms season shall wear hunter orange. Hunter orange material is a material that is a
14 daylight fluorescent orange color."

15 **SECTION 5.** Article 22 of Chapter 113 of the General Statutes is amended
16 by adding a new section to read:

17 "**§ 113-291.11. Feeding of alligators prohibited.**

18 It is unlawful to intentionally feed alligators outside of captivity."

19 **SECTION 6.** This act becomes effective October 1, 2007, and applies to acts
20 committed on or after that date.