

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1464
Agriculture/Environment/Natural Resources Committee Substitute Adopted
5/22/07
House Committee Substitute Favorable 6/28/07

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; BY PROHIBITING THE FEEDING OF
ALLIGATORS; BY ALLOWING THE USE OF ELECTRONIC CALLING
DEVICES FOR SNOW GEESE; AND ALLOWING THE TRACKING OF
WOUNDED DEER AFTER LEGAL HUNTING HOURS.

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

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

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

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

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

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

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

1 emergency powers that may be authorized by rules adopted pursuant to this subsection
2 include:

- 3 (1) Prohibiting activities that aid in the transmission or movement of the
4 disease.
- 5 (2) Implementing activities that aid in the transmission of the disease.
- 6 (3) Implementing requirements to assist in the detection and isolation of
7 the disease."

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

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

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

14 "**§ 113-291.2. Seasons and bag limits on wild animals and birds; including animals**
15 **and birds taken in bag; possession and transportation of wildlife after**
16 **taking.**

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

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

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

4 (a1) When the Executive Director of the Wildlife Resources Commission receives
5 a petition from the State Health Director declaring a rabies emergency for a particular
6 county or district pursuant to G.S. 130A-201, the Executive Director of the Wildlife
7 Resources Commission shall develop a plan to reduce the threat of rabies exposure to
8 humans and domestic animals by foxes, raccoons, skunks, or bobcats in the county or
9 district. The plan shall be based upon the best veterinary and wildlife management
10 information and techniques available. The plan may involve a suspension or
11 liberalization of any regulatory restriction on the taking of foxes, raccoons, skunks, or
12 bobcats, except that the use of poisons, other than those used with dart guns, shall not be
13 permitted under any circumstance. If the plan involves a suspension or liberalization of
14 any regulatory restriction on the taking of foxes, raccoons, skunks, or bobcats, the
15 Executive Director of the Wildlife Resources Commission shall prepare and adopt
16 temporary rules setting out the suspension or liberalization pursuant to
17 G.S. 150B-21.1(a)(1). The Executive Director shall publicize the plan and the
18 temporary rules in the major news outlets that serve the county or district to inform the
19 public of the actions being taken and the reasons for them. Upon notification by the
20 State Health Director that the rabies emergency no longer exists, the Executive Director
21 of the Wildlife Resources Commission shall cancel the plan and repeal any rules
22 adopted to implement the plan. The Executive Director of the Wildlife Resources
23 Commission shall publicize the cancellation of the plan and the repeal of any rules in
24 the major news outlets that serve the county or district.

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

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

- 36 (1) In an area in which the season is open for the species, the game may be
37 possessed and transported without restriction.
- 38 (2) The individual may possess and transport the game lawfully taken on a
39 trip:
- 40 a. To his residence;
 - 41 b. To a preservation or processing facility that keeps adequate
42 records as prescribed in G.S. 113-291.3(b)(3) or a licensed
43 taxidermist;
 - 44 c. From a place authorized in subparagraph b to his residence.

- 1 (3) The individual may possess the game indefinitely at his residence, and
2 may there accumulate lawfully-acquired game up to the greater of:
3 a. The applicable possession limit for each species; or
4 b. One half of the applicable season limit for each species.

5 The above subdivisions apply to an individual hunter under 16 years of age covered
6 by the license issued to his parent or guardian, if he is using that license, or by the
7 license of an adult accompanying him. An individual who has lawfully taken game as a
8 landholder without a license may possess and transport the dead game, taken within
9 applicable bag, possession, and season limits, to his residence. He may indefinitely
10 retain possession of such game, within aggregate possession limits for the species in
11 question, in his residence.

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

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

- 21 (1) Possessing dead wildlife taken in open season after the close of that
22 season.
23 (2) Transporting dead wildlife from an area having an open season to an
24 area with a closed season.
25 (3) Transporting dead wildlife lawfully taken in another state into this
26 State.
27 (4) Possessing dead wildlife after such transportation.

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

30 (e) Upon application of any landholder or agent of a landholder accompanied by
31 a fee of fifty dollars (\$50.00), the Executive Director ~~may require a survey of the deer~~
32 ~~population on the land of such landholder. If as a result of the survey it is determined~~
33 ~~that there is an overpopulation of deer in relation to the carrying capacity of the land,~~
34 ~~that the herd is substantially dependent on such land for its food and cover, and that the~~
35 ~~imbalance in the deer population is not readily correctable by an either sex deer season~~
36 ~~of reasonable length, the Executive Director may issue to such landholder or agent a~~
37 special license and a number of special antlerless or antlered deer tags that in the
38 judgment of the Executive Director is sufficient to correct or alleviate the population
39 ~~imbalance. accommodate the landholder or the landholder's agent's deer population~~
40 management objectives or correct any deer population imbalance that may occur on the
41 property. Subject to applicable hunting license requirements, the special deer tags may
42 be used by any person or persons selected by the landholder or his agent as authority to
43 take antlerless deer, including male deer with "buttons" or spikes not readily visible, or
44 antlered deer on the tract of land concerned during any established deer hunting season.

1 ~~Each antlerless deer killed~~ The Executive Director or designee may stipulate on the
2 license that special deer tags for antlered deer, if applicable, may only be valid for deer
3 that meet certain minimum harvest criteria. The Executive Director or designee may
4 also define on the license valid hunt dates that fall outside of the general deer hunting
5 season. Harvested antlerless or antlered deer for which special tags are issued shall be
6 affixed immediately with a special antlerless-deer tag and shall be reported immediately
7 in the wildlife cooperator tagging book supplied with the special antlerless-deer tags.
8 This tagging book and any unused tags shall be returned to the Commission within 15
9 days of the close of the season. The Wildlife Resources Commission may offer an
10 alternate reporting system when the Commission determines that such an alternate
11 system is appropriate. Antlerless or antlered deer taken under this program and tagged
12 with the special antlerless tags provided shall not count as part of the daily bag,
13 possession, and season limits of the person taking the deer."

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

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

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

23 "**§ 113-291.11. Feeding of alligators prohibited.**

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

25 **SECTION 6.** G.S. 113-291.1(f) reads as rewritten:

26 "(f) To keep North Carolina provisions respecting migratory birds in substantial
27 conformity with applicable federal law and rules, the Wildlife Resources Commission
28 may by rule expand or modify provisions of this Article if necessary to achieve such
29 ~~conformity~~ conformity, including allowing the use of electronic calls. In particular, the
30 Commission may prohibit the use of rifles, unplugged shotguns, live decoys, and
31 sinkboxes in the taking of migratory game birds; vary shooting hours; adopt specific
32 distances, not less than 300 yards, hunters must maintain from areas that have been
33 baited, and fix the number of days afterwards during which it is still unlawful to take
34 migratory game birds in the area; and adopt similar provisions with regard to the use of
35 live decoys. In the absence of rules of the Wildlife Resources Commission to the
36 contrary, the rules of the United States Department of the Interior prohibiting the use of
37 rifles, unplugged shotguns, toxic shot and sinkboxes in taking migratory game birds in
38 North Carolina shall apply, and any violation of such federal rules is unlawful."

39 **SECTION 7.** G.S. 113-291.1 is amended by adding a new subsection to
40 read:

41 "**(b1) Notwithstanding any other provision of law, if a hunter wounds a deer during**
42 legal hunting hours, the hunter may use a flashlight and a single dog on a leash to
43 pursue and retrieve the wounded deer. The pursuit, retrieval, and dispatch of a wounded
44 deer may occur after legal shooting hours if necessary."

1 **SECTION 8.** This act becomes effective October 1, 2007, and applies to acts
2 committed on or after that date.