

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-401
SENATE BILL 1464

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 STUDYING THE TRACKING OF WOUNDED WILDLIFE 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
- (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.

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

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

(d) The Wildlife Resources Commission is hereby authorized and directed to develop a plan and policy of wildlife management for all lands owned by the State of North Carolina which are suitable for this purpose. The Division of State Property and Construction of the Department of Administration shall determine which lands are suitable for the purpose of wildlife management. Nothing in the wildlife management plan shall prohibit, restrict, or require the change in use of State property which is presently being used or will in the future be used to carry out the goals and objectives of the State agency utilizing such land. Each plan of wildlife management developed by the Wildlife Resources Commission shall consider the question of public hunting; and

whenever and wherever possible and consistent with the primary land use of the controlling agency, public hunting shall be allowed under cooperative agreement with the Wildlife Resources Commission. Any dispute over the question of public hunting shall be resolved by the Division of State Property and Construction.

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

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

- (1) Prohibiting activities that aid in the transmission or movement of the disease.
- (2) Implementing activities to reduce infection opportunities.
- (3) Implementing requirements to assist in the detection and isolation of the disease."

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

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

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

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

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

Unless modified by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag limits, and possession limits fixed by the United States Department of Interior or any successor agency for migratory game birds in North Carolina must be

followed, and a violation of the applicable federal rules is hereby made unlawful. When the applicable federal rules require that the State limit participation in seasons and/or bag limits for migratory game birds, the Wildlife Resources Commission may schedule managed hunts for migratory game birds. Participants in such hunts shall be selected at random by computer, and each applicant 16 years of age or older shall have the required general hunting license and the waterfowl hunting license prior to the drawing for the managed hunt. Each applicant under 16 years of age shall either have the required general hunting license and the waterfowl hunting license or shall apply as a member of a party that includes a properly licensed adult. All applications for managed waterfowl hunts shall be screened prior to the drawing for compliance with these requirements. A nonrefundable fee of ten dollars (\$10.00) shall be required of each applicant to defray the cost of processing the applications.

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

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

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

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

- (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
- (2) The individual may possess and transport the game lawfully taken on a trip:
 - a. To his residence;
 - b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;

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

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

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

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

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

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

(e) Upon application of any landholder or agent of a landholder accompanied by a fee of fifty dollars (\$50.00), the Executive Director ~~may require a survey of the deer population on the land of such landholder. If as a result of the survey it is determined that there is an overpopulation of deer in relation to the carrying capacity of the land, that the herd is substantially dependent on such land for its food and cover, and that the imbalance in the deer population is not readily correctable by an either sex deer season of reasonable length, the Executive Director may issue to such landholder or agent a special license and a number of special antlerless or antlered deer tags that in the judgment of the Executive Director is sufficient to correct or alleviate the population imbalance.~~ accommodate the landholder or the landholder's agent's deer population management objectives or correct any deer population imbalance that may occur on the property. Subject to applicable hunting license requirements, the special deer tags may be used by any person or persons selected by the landholder or his agent as authority to take antlerless deer, including male deer with "buttons" or spikes not readily visible, or antlered deer on the tract of land concerned during any established deer hunting season. Each antlerless deer killed. The Executive Director or designee may stipulate on the license that special deer tags for antlered deer, if applicable, may only be valid for deer that meet certain minimum harvest criteria. The Executive Director or designee may also define on the license valid hunt dates that fall outside of the general deer hunting season. Harvested antlerless or antlered deer for which special tags are issued shall be affixed immediately with a special antlerless deer tag and shall be reported immediately in the wildlife cooperator tagging book supplied with the special antlerless deer tags. This tagging book and any unused tags shall be returned to the Commission within 15 days of the close of the season. The Wildlife Resources Commission may offer an alternate reporting system when the Commission determines that such an alternate

system is appropriate. Antlerless or antlered deer taken under this program and tagged with the special antlerless tags provided shall not count as part of the daily bag, possession, and season limits of the person taking the deer."

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

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

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

"§ 113-291.11. Feeding of alligators prohibited.

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

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

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

SECTION 7. The Wildlife Resources Commission shall study issues related to retrieval of wildlife wounded by hunters. The study shall include consideration of the types of weapons allowed for use, the use of lights, and the use of tracking dogs for retrieval of wounded wildlife without reducing current restrictions preventing illegal hunting. The Commission shall review current State wildlife statutes and the statutes of other jurisdictions and shall seek input from interested parties in conducting the study.

The Commission shall submit a report of its findings and any recommendations for legislation to the 2008 Regular Session of the 2007 General Assembly and to the Chairs of the House Wildlife Resources Committee and the Senate Agriculture and Natural Resources Committee no later than May 1, 2008.

SECTION 8. Section 7 is effective when it becomes law. The remainder of this act becomes effective October 1, 2007, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:12 a.m. this 21st day of August, 2007