

LEGISLATIVE BILL 107

Approved by the Governor March 26, 1997

Introduced by Hudkins, 21; Jones, 43; D. Pederson, 42; Preister, 5

AN ACT relating to the Game Law; to amend section 37-308, Reissue Revised Statutes of Nebraska, and sections 37-105, 37-215, 37-215.03, and 37-505, Revised Statutes Supplement, 1996; to provide for permits to hunt and kill mountain sheep; to provide for fees and an auction; to provide a penalty; to change limited elk permit provisions; to change provisions relating to the purchase, sale, or barter of game animals, game birds, and game fish as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 37-105, Revised Statutes Supplement, 1996, is amended to read:

37-105. (1) The Game and Parks Commission shall establish and administer a bow hunter education program consisting of a minimum of ten hours of instruction in the safe use of bow hunting equipment, the fundamentals of bow hunting, shooting and hunting techniques, and hunter ethics. When establishing such a program, the commission shall train volunteers as bow hunter education training instructors. The commission shall issue a certificate of successful completion to any person who satisfactorily completes a bow hunter education program established by the commission and shall print, purchase, or otherwise acquire materials necessary for effective program operation. The commission shall adopt and promulgate rules and regulations for carrying out and administering such program.

(2) A person born on or after January 1, 1977, who is hunting antelope, deer, elk, mountain sheep, or wild turkey with a bow and arrow pursuant to section 37-215, 37-215.02, or 37-227 shall have on his or her person a bow hunter education certificate of successful completion issued by his or her state or province of residence or a bow hunter education certificate issued by an accredited program recognized by the commission.

Sec. 2. Section 37-215, Revised Statutes Supplement, 1996, is amended to read:

37-215. (1)(a) The commission may issue permits for the hunting and killing of deer and prescribe and establish regulations and limitations for the hunting, killing, transportation, and possession of deer. The commission may specify by regulation the information to be required on applications for such permits. Regulations and limitations for the hunting, killing, transportation, and possession of deer may include, but not be limited to, regulations and limitations as to the type, caliber, and other specifications of firearms and ammunition used and specifications for bows and arrows used. Such regulations and limitations may further specify and limit the method of hunting deer and may provide for dividing the state into management units or areas, and the commission may enact different deer harvest regulations for the different management units pertaining to sex, species, and age of the deer harvested.

(b) The number of such permits may be limited, as provided by the rules and regulations of the commission, and except as provided in section 37-215.04 the permits shall be disposed of in an impartial manner. Whenever the commission deems it advisable to limit the number of permits issued for any or all management units, the commission shall, by rules and regulations, determine who shall be eligible to apply for such permits. In establishing eligibility, the commission shall give preference to persons who did not receive a permit during the previous year or years.

(c) Such permits may be issued to allow killing of deer in the Nebraska National Forest and other game reserves and such other areas in the State of Nebraska as the commission may designate whenever the commission deems that permitting such killing will not be detrimental to the proper preservation of wildlife in Nebraska in such forest, reserves, or areas.

(d) The commission shall, pursuant to section 81-814.02, establish and charge a fee of not less than twenty dollars and not more than twenty-five dollars for residents and not less than one hundred fifty dollars and not more than two hundred dollars for nonresidents for each permit issued under this subsection.

(e) The commission may issue nonresident permits only after a reasonable period has first been provided solely for issuance of resident permits, and if the commission issues nonresident permits, the issuance of

resident permits shall continue until permit quotas have been filled or a reasonable cutoff date reached. No permit shall be issued until after a reasonable period for making application, as established by the commission, has expired. When more valid applications are received for any management unit than there are permits available, such permits shall be allocated on the basis of a public drawing. All valid applications received during the predetermined application period shall be considered equally in any such public drawing without regard to time of receipt of such applications by the commission.

(f) No person shall be issued a permit to kill deer, antelope, or elk unless such person is at least twelve years of age, except that any person who is twelve through fifteen years of age shall only hunt deer, antelope, or elk when accompanied by a person twenty-one years of age or over.

(2) The commission may issue permits for the hunting and killing of antelope and may establish separate and, when necessary, different regulations therefor within the limitations prescribed in subsection (1) of this section for the taking of deer. The commission shall, pursuant to section 81-814.02, establish and charge a fee of not less than twenty dollars and not more than twenty-five dollars for residents and not less than one hundred dollars and not more than one hundred thirty dollars for nonresidents for each permit issued under this subsection. The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in subsection (1) of this section shall also apply to the distribution of antelope permits.

(3) The commission may issue permits for the hunting and killing of elk and may establish separate and, when necessary, different regulations therefor within the limitations prescribed in subsection (1) of this section for the taking of deer. Permits to hunt and kill elk issued pursuant to this subsection shall not be issued to nonresidents. The commission shall, pursuant to section 81-814.02, establish and charge a nonrefundable application fee of not less than five dollars and not more than seven dollars and a fee of not less than one hundred dollars and not more than one hundred thirty dollars for each elk permit issued. A person may obtain only one elk permit in his or her lifetime except for a limited permit to hunt elk pursuant to section 37-215.03. The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in subsection (1) of this section shall also apply to elk permits.

(4) The commission may issue permits for the hunting and killing of mountain sheep and may establish separate and, when necessary, different regulations therefor within the limitations prescribed in subdivisions (1)(a) and (f) of this section for the taking of deer. Such regulations shall include provisions allowing persons who find dead mountain sheep, or any part of a mountain sheep, to turn over to the commission such mountain sheep or part of a mountain sheep. The commission may dispose of such mountain sheep or part of a mountain sheep as it deems reasonable and prudent. Except as otherwise provided in this subsection, the permits shall be issued to residents of Nebraska. The commission shall, pursuant to section 81-814.02, establish and charge a nonrefundable application fee of not less than twenty dollars and not more than twenty-five dollars for permits issued only to residents. Any number of resident-only permits, as authorized by the commission, shall be awarded by random drawing to eligible applicants. No permit fee shall be charged in addition to the nonrefundable application fee. No more than one additional permit may be authorized and issued pursuant to an auction open to residents and nonresidents. The auction shall be conducted according to rules and regulations prescribed by the commission. Any money derived from the sale of permits by auction shall be used only for perpetuation and management of mountain sheep, elk, and deer. If the commission determines to limit the number of permits issued for any or all management units, the commission shall by rule and regulation determine eligibility requirements for the permits. A person may obtain only one mountain sheep permit in his or her lifetime.

(5)(a) (4)(a) Subject to rules and regulations adopted and promulgated by the commission, the secretary of the commission may designate special deer depredation seasons by executive order. The secretary may designate a depredation season whenever he or she determines that deer are causing excessive property damage. The secretary shall specify the number of permits to be issued, shooting hours, the length of the depredation season, and the geographic area in which hunting will be permitted. Each such permit shall give the holder the right to take one deer. Hunting during a special depredation season shall be limited to residents and shall be restricted to firearms which are permissible for use during the regular deer season.

(b) The depredation season may commence not less than five days after the first public announcement that the depredation season has been established. Permits shall be issued beginning not less than three days after the first public announcement of the depredation season and shall be issued in an impartial manner at a location determined by the secretary. The commission shall, pursuant to section 81-814.02, establish and charge a fee of not less than twenty dollars and not more than twenty-five dollars for a special depredation season permit. Fifty percent of the fee shall be paid by the commission to a landowner or operator within the designated area upon satisfactory proof a deer was killed upon his or her farm or ranch during the special depredation season. Receipt of a depredation season permit shall not in any way affect a person's eligibility for a regular season permit.

Sec. 3. Section 37-215.03, Revised Statutes Supplement, 1996, is amended to read:

37-215.03. (1) A Nebraska resident who owns or leases eighty acres or more of farm or ranch land for agricultural purposes or a member of such person's immediate family residing in the same household may apply for a limited deer, antelope, wild turkey, or elk permit. The limited permit is valid during the predetermined period established by the commission pursuant to section 37-215 or 37-227. To qualify for a limited elk permit the farm or ranch land of the applicant must be within an area designated as an elk zone management unit by the commission in its regulations. Only one limited permit for each species shall be issued annually for the farm or ranch land described in the application, except that both a spring and a fall turkey permit may be issued. Upon receipt of an application in proper form as prescribed by the commission, the commission may issue a limited permit which shall restrict (a) the limited deer, antelope, or wild turkey permit to hunting only on the farm or ranch land included in the application and shall not apply to the land of other persons and (b) the limited elk permit to hunting on the entire elk zone management unit of which the farm or ranch land included in the application is a part. For purposes of this section, immediate family shall mean and be limited to husband and wife and their children. The conditions applicable to permits issued pursuant to section 37-215 or 37-227, whichever is appropriate, shall apply to limited permits issued pursuant to this section, except that the commission may adopt regulations for species harvest allocation pertaining to the sex and age of the species harvested which are different for this permit than for other hunting permits.

(2) Except as provided in subsection (3) of this section, receipt of a limited permit or a permit issued pursuant to section 37-215 or 37-227 for any one-year or open season shall not bar receipt of a limited permit in any subsequent year or for any subsequent open season.

(3) A limited elk permit issued pursuant to this section shall not be issued to any applicant more than once every three years.

(4) The fee for a limited permit to hunt elk shall be one-fifth the fee for the regular permit to hunt elk. The fee for a limited permit to hunt deer, antelope, or wild turkey shall be one-half the fee for the regular permit for these species.

(5) The commission may by rule and regulation prescribe forms to be filled out by the applicant for a limited permit as prescribed in this section to determine whether the applicant is a Nebraska resident and is the owner or lessee of the described property or is a member of the family or household of such person.

Sec. 4. Section 37-308, Reissue Revised Statutes of Nebraska, is amended to read:

37-308. (1) Any person who shall at any time, except during an open season ordered by the commission as authorized in the Game Law, unlawfully take, kill, trap, destroy, attempt to take, kill, trap, or destroy, or have in his or her possession any buffalo, elk, deer, antelope, swan, whooping crane, or wild turkey shall be guilty of a Class III misdemeanor. Any person who shall at any time, except during an open season ordered by the commission as authorized in the Game Law, unlawfully take, kill, trap, destroy, attempt to take, kill, trap, or destroy, or have in his or her possession any mountain sheep shall be guilty of a Class II misdemeanor. Any person who shall at any time, except during an open season ordered by the commission as authorized in the Game Law, unlawfully take, kill, trap, destroy, attempt to take, kill, trap, or destroy, or have in his or her possession any quail, pheasant, partridge, Hungarian partridge, wood duck, eider duck, curlew, grouse, mourning dove, or sandhill crane shall be guilty of a Class III misdemeanor. Any person who shall unlawfully take, kill, catch, trap, harvest, destroy, or attempt to take, kill, catch, trap, harvest, or destroy any other game bird, game or fur-bearing animal, or game fish or unlawfully have in his or her possession any such game, fish, or raw fur shall be guilty of a Class V

misdeemeanor. Any person who shall, in violation of the Game Law, take, kill, trap, destroy, attempt to take, kill, trap, or destroy, or shoot at any mourning dove that is not flying, or have in his or her possession any nongame, song, or insectivorous bird, or destroy or take the eggs or nest of any such bird, shall be guilty of a Class V misdemeanor.

(2) The provisions of subsection (1) of this section shall not render it unlawful for anyone operating a game, fur, or fish farm, pursuant to the laws of this state, to at any time kill game or fish actually raised thereon or lawfully placed thereon by such person. Persons holding special permits, pursuant to the laws of this state, for the taking or killing of game or other birds or game animals shall not be liable under subsection (1) of this section while acting under the authority of such permits.

Sec. 5. Section 37-505, Revised Statutes Supplement, 1996, is amended to read:

37-505. It shall be unlawful to buy, sell, or barter (1) any game bird or part thereof, except the feathers or skins from legally taken upland game birds; (2) any antelope, cottontail rabbit, deer, elk, squirrel, or bullfrog, except that deer, antelope, or elk hides from legally taken animals may be sold and any domesticated cervine animal as defined in section 54-701-03, or any part thereof, may be bought, sold, or bartered if such animal or parts thereof are appropriately marked for proof of ownership according to rules and regulations adopted and promulgated by the Department of Agriculture, or (3) any game fish protected by the Game Law at any time except as provided in section 37-503-05, whether such bird, animal, or (1) it shall be unlawful to buy, sell, or barter the meat or flesh of game animals or game birds whether such animals or birds were killed or taken within or outside this state. Except as otherwise provided in this section, it shall be unlawful to buy, sell, or barter other parts of game animals or game birds.

(2) It shall be lawful to buy, sell, or barter only the following parts of legally taken antelope, deer, elk, rabbits, squirrels, and upland game birds: The hides, hair, hooves, bones, antlers, and horns of antelope, deer, or elk, the skins, tails, or feet of rabbits and squirrels, and the feathers or skins of upland game birds.

(3) It shall be lawful to pick up, possess, buy, sell, or barter antlers or horns which have been dropped or shed by antelope, deer, or elk. It shall be unlawful to pick up, possess, buy, sell, or barter mountain sheep or any part of a mountain sheep except (a) as permitted by law or rule or regulation of the commission and (b) for possession of mountain sheep or any part of a mountain sheep lawfully obtained in this state or another state or country.

(4) The commission may provide by rules and regulations for allowing, restricting, or prohibiting the acquisition, possession, purchase, sale, or barter of discarded parts, including, but not limited to, horns and antlers, or parts of dead game animals and upland game birds which have died from natural causes or causes which were not associated with any known illegal acts, which parts are discovered by individuals.

(5) Any domesticated cervine animal as defined in section 54-701.03 or any part of such an animal may be bought, sold, or bartered if the animal or parts are appropriately marked for proof of ownership according to rules and regulations adopted and promulgated by the Department of Agriculture.

(6) Game lawfully acquired from a licensed game farm may be sold in this state. The burden of proof is upon the buyer, seller, or possessor to show by competent and satisfactory evidence that game in his or her possession or sold by him or her was lawfully acquired from a licensed game farm.

(7) It shall be unlawful to buy, sell, or barter any game fish protected by the Game Law at any time whether the fish was killed or taken within or outside this state, except that game fish lawfully shipped in from outside this state by residents of this state or game or fish lawfully acquired from a licensed game farm, from a person having an aquaculture permit, or, in the case of bullheads, pursuant to section 37-503.05 may be sold in this state. The burden of proof shall be upon any such buyer, seller, or possessor to show by competent and satisfactory evidence that any game or game fish in his or her possession or sold by him or her was lawfully shipped in from outside this state or was lawfully acquired from one of such sources. Nonresidents holding a valid nonresident fish dealer's permit may possess, buy, sell, transport, and ship live bait minnows, live fish, all frogs, and crayfish legally obtained from outside this state or from a licensed aquaculture facility in accordance with rules and regulations adopted and promulgated by the commission. The fee for a nonresident fish dealer's permit shall be not less than fifty dollars and not more than sixty-five dollars, as established by the commission pursuant to section 81-814.02.

Sec. 6. Original section 37-308, Reissue Revised Statutes of Nebraska, and sections 37-105, 37-215, 37-215.03, and 37-505, Revised Statutes Supplement, 1996, are repealed.