

LEGISLATIVE BILL 777

Approved by the Governor February 14, 1972

Introduced by Loran Schmit, 23rd District; Walter H. Ekpe, 24th District; Willard H. Waldo, 31st District

AN ACT to amend sections 37-213 and 37-301, Reissue Revised Statutes of Nebraska, 1943, and sections 37-204 and 37-215, Revised Statutes Supplement, 1969, relating to the Game and Parks Commission; to increase nonresident annual fishing permit fees; to define an offense of hunting without a waterfowl stamp; to provide additional regulations of deer and turkey hunting; to increase a penalty; to reduce the minimum age for certain permits; to enlarge regulatory powers of the commission; to provide for emergency closings and openings of seasons on game birds and animals; and to repeal the original sections.

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

Section 1. That section 37-204, Revised Statutes Supplement, 1969, be amended to read as follows:

37-204. There shall be paid to the state, for permits issued under the provisions of this act, the following fees:

(1) ~~By residents of this state, until January 4, 1970, for hunting, four dollars; for fishing, three dollars and fifty cents; for both hunting and fishing, seven dollars; for trapping or otherwise taking fur-bearing animals, two dollars and fifty cents during the open season pursuant to the regulations of the Game and Parks Commission; and beginning Beginning January 1, 1970, such resident fees shall be four dollars and fifty cents for hunting, four dollars for fishing, eight dollars for both fishing and hunting, and three dollars and fifty cents for trapping or otherwise taking fur-bearing animals pursuant to the regulations of the Game and Parks Commission;~~

(2) By nonresidents, fishing, two dollars for five days or five dollars per year; hunting, twenty dollars; for trapping or otherwise taking one thousand or less fur-bearing animals, one hundred dollars for a period of time specified by the commission and five dollars additional for each one hundred or part of one

hundred fur-bearing animals taken or trapped; the commission may limit the number of days for which such a permit is issued and the number of fish or game birds taken on one permit, and is authorized to issue coupons attached to nonresident permits for the purpose of tagging and identification. No hunting permit shall be required of any nonresident entering this state solely to participate in scheduled dog trials for which an entry fee is charged. For purposes of this subdivision, scheduled dog trials shall mean events wherein hunting dogs and their owners or handlers compete and are judged under controlled conditions in various feats of skill and performance in the hunting or retrieving of birds and animals when such events are conducted under the written authorization of the Game and Parks Commission. Commencing January 1, 1968, the fee for the nonresident hunting permit shall be twenty-five dollars, the fee for the nonresident fishing permit shall be ~~two--dollars--and~~ fifty-cents-for-five three dollars for three days or six dollars per year, and all other nonresident permits shall be at the rate above stated, and commencing January 1, 1973, the fee for a nonresident annual fishing permit shall be ten dollars per year; and

(3) No person, except a resident and citizen of the United States who has resided in this state continuously for a period of ninety days before making an application for a permit under this act and who has a bona fide intention of becoming a legal resident of this state, supported by documentary proof, shall be deemed to be a resident or be issued a permit as such under this act. The issuance of a hunter's permit to anyone known to be physically or mentally unfit to carry or use firearms is hereby prohibited. All nonresident hunters regardless of age shall be required to obtain a permit, and all nonresident anglers under sixteen years of age must be accompanied by a parent or guardian possessing the required nonresident fishing permit.

Sec. 2. That section 37-213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-213. Unless holding a permit as in this act required, it shall be unlawful (1) for any person to trap or otherwise take or attempt to take, or have in possession any fur-bearing animal or raw fur, (2) for any person who is a resident of the State of Nebraska and is sixteen years old or older or who is a nonresident of this state to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds or game animals, or (3) for any person of the age of sixteen years or older to hunt or take or attempt to hunt or take any migratory

waterfowl without first obtaining and affixing to his hunting permit a federal migratory bird hunting stamp. All such stamps affixed to hunting permits must be signed by the holder of the hunting permit. The term migratory waterfowl shall mean any ducks, geese, coots, or brandt upon which an open season has been established by the Game and Parks Commission, or (3) (4) for any person who is sixteen years of age or older to take, angle for, or attempt to take any kind of fish or minnow from the waters of this state or possess the same except that the owner or invitee of the owner of any body of water (a) located entirely upon privately-owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside said land, and (d) when such owner does not operate such body of water on a commercial basis for profit shall not be required to hold a permit before fishing from or possessing fish or minnows taken from such waters; Provided, that no fishing permit shall be required for fishing in any duly licensed commercial put and take fishery operating under rules and regulations prescribed by the Game and Parks Commission. The fee for licensing such put and take commercial fishery shall be fifty dollars per year, payable in advance, and no person shall operate such an establishment without first obtaining such permit from the commission. Before issuing such permit the commission shall investigate each such establishment annually and be satisfied that the same is a bona fide commercial put and take fishery operating within all applicable state and federal laws. It shall be unlawful for a nonresident to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds or game animals, mussel, turtle, or amphibian or to angle for or take or attempt to angle for or take any kind of fish while in the possession of a resident permit illegally obtained. It shall also be unlawful for anyone to do or attempt to do any other thing for which a permit is herein provided without first obtaining such permit and paying the fee required. Any violation of the provisions of this section shall constitute a misdemeanor, and upon conviction thereof shall subject the offender to the following penalties:

If the offense shall be failure to hold a hunting, fishing, deer, turkey, or antelope permit as required, the penalty shall be a fine of not less than ten twenty dollars or twice the original cost of the required permit, whichever is greater, nor more than one hundred dollars, and in addition, unless issuance of the required permit is restricted so that permits are not available, the court shall require the offender to purchase the required permit and exhibit the same to the court.

If the offense be for trapping in violation of this section, the penalty shall be a fine of not less than ten dollars nor more than five hundred dollars or imprisonment not exceeding six months, or both such fine and imprisonment.

Any other violation of this section shall subject the offender, upon conviction, to a fine of not less than ten nor more than fifty dollars.

Sec. 3. That section 37-215, Revised Statutes Supplement, 1969, be amended to read as follows:

37-215. (1) The Game and Parks Commission is authorized to issue permits for the killing of deer and to 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 and 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 as pertains to sex, species and age of the deer harvested. The number of such permits may be limited, as provided by the regulations of the commission, but the permits shall be disposed of in an impartial manner. 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 shall deem that permitting such killing will not be detrimental to the proper preservation of wildlife in Nebraska in such forest, reserves, or areas. The commission shall charge a fee for each permit so issued in the sum of ten dollars for residents and thirty dollars for nonresidents; Provided, that the commission may issue nonresident permits only after a reasonable period has first been provided solely for issuance of resident permits; and provided further, that should the commission issue 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 Game and Parks Commission. No person shall be issued a permit to kill deer or antelope unless he is at least sixteen ~~fourteen~~ years of age; Provided, that any person aged fourteen or fifteen shall only hunt deer with a person aged twenty-one years or over who also possesses a current deer permit for the management unit in which both hunters are hunting.

(2) The Game and Parks Commission may also issue permits for the 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 charge a fee for each antelope permit so issued in the sum of ten dollars for residents and thirty dollars for nonresidents. The provisions for the distribution of deer permits shall also apply to the distribution of antelope permits except that no person who applied for and received a Nebraska antelope permit in the preceding year may apply for an antelope permit until the predetermined period for making application for antelope permits described in subsection (1) of this section and established by the Game and Parks Commission has expired.

Sec. 4. That section 37-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-301. (1) The Game and Parks Commission is hereby authorized and empowered, in accordance with the provisions of this act, other provisions of law and lawful regulations, to fix, prescribe, and publish regulations as to open seasons and closed seasons, either permanent or temporary, and as to bag limits or the methods, or type, kind and specifications of hunting or fishing gear used in the taking, killing, hunting, or pursuing of any game, game fish, game animals, fur-bearing animals or game birds or as to the age, sex, species or area of the state in which any game, game fish, game animals, fur-bearing animals or game bird may be taken, hunted, killed or pursued, for or as to the taking, killing, hunting, or pursuing of any particular kinds, species, or sizes of game, game fish, game animals, fur-bearing animals, and game birds defined in this act, in any designated waters or areas of this state, after due investigation and having due regard to the distribution, abundance, economic value, breeding

habits, migratory habits, and causes of depletion or extermination of the same in such designated waters or areas, and having due regard to the volume of the hunting, trapping and fishing practiced therein and the climatic, seasonal, and other conditions affecting the protection, preservation, and propagation of the same in such waters or areas. Such regulations may be amended, modified, or repealed from time to time, subject to the above limitations and standards, and such regulations and all amendments, modifications, and repeals thereof shall be based upon investigation and available but reliable data relative to the above limitations and standards. Each regulation and each amendment, modification, or repeal thereof, when made and issued, shall be placed on file in the office of the commission, and a certified copy thereof shall be sent by either registered or certified mail to the clerk and sheriff of each county, the whole or any part of which is affected thereby, not less than fifteen days before the taking effect of such order. These officers shall immediately post such copy so received in a conspicuous place in his or her office.

(2) A copy of each such regulation, amendment, modification, and repeal may be published by the commission in a legal newspaper or newspapers of general circulation in the area affected thereby and shall also be included and printed in each official compilation of the Nebraska game and fish laws.

(3) Each such regulation, amendment, modification, and repeal shall specify the date when it shall become effective and while it remains in effect, shall have the force and effect of law.

~~(4) When any English pheasant, Chinese pheasant, Mongolian pheasant, or antelope is damaging or destroying crops on lands owned or occupied by any farmer, such farmer may destroy such pheasant or antelope, when a permit so to do has been granted to him by the commission. The commission shall have authority to grant such permits when convinced that conditions are such as to justify such action, the number of birds or animals to be destroyed to be designated by the commission.~~
Regardless of the provisions of this section, or of other sections of this chapter which empower the commission to set seasons on game birds or animals or provide the means and method by which such seasons are set or promulgated and regardless of the provisions of sections 84-901 to 84-916, the commission may close or reopen any open season previously set on game birds or animals in all or any specific portion of the state. The commission shall only close or reopen such seasons by majority vote at a valid special meeting called under the provisions of

section 81-803 and other provisions of statutes regarding the holding of public meetings. Any closing or reopening of an open season previously set by the commission shall not be effective for at least twenty-four hours after such action by the commission. The commission shall make every effort to make available to all forms of the news media the information on any opening or closing of any open season on game birds or animals previously set. The commission may only use this special provision allowing the commission to open or close game bird or animal seasons previously set in emergency situations in which the continuation of the open season would result in grave danger to human life or property.

Sec. 5. That original sections 37-213 and 37-301, Reissue Revised Statutes of Nebraska, 1943, and sections 37-204 and 37-215, Revised Statutes Supplement, 1969, are repealed.