

LEGISLATIVE BILL 142

Approved by the Governor May 22, 1975

Introduced by DeCamp, 40

AN ACT to amend sections 37-307 and 37-308, Reissue Revised Statutes of Nebraska, 1943, section 37-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 195, Eighty-fourth Legislature, First Session, 1975, and section 37-501, Revised Statutes Supplement, 1974, as amended by section 1, Legislative Bill 220, Eighty-fourth Legislature, First Session, 1975, relating to game and fish; to include the mourning dove as a game bird; to make certain acts unlawful; and to repeal the original sections.

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

Section 1. That section 37-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 195, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

37-101. As used in this act, unless otherwise specified or plainly intended, the word game shall include all game fish, bullfrogs, snapping turtles, tiger salamanders, mussels, crows, game animals, fur-bearing animals, game birds, and all other birds and other creatures protected by this act; the term game fish shall include all fish except buffalo, carp, gar, quillback, sucker, and gizzard shad; the term game animals shall include all antelope, cottontail rabbits, deer, elk, raccoon, opossum, and squirrels; the term fur-bearing animals shall include all beaver, martens, minks, except mutation minks, muskrats, raccoon, opossum, and otters; the term game birds shall include all migratory water fowl, coots, cranes, curlew, doves, ducks, geese, grouse, partridges, pheasants, plovers, prairie chickens, quail, snipes, swans, and wild turkeys; the word raptor shall include any bird of the Falconiformes or Strigiformes, except the golden and bald eagles; the words herein and hereof refer to this entire act; the words person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, associations, corporations, and municipalities; the words board and commission shall each mean the Game and Parks Commission; and the word officer includes every person authorized to enforce this act. Hunt when used in this section shall be construed to mean and include take, pursue, shoot, kill, capture, collect, trap, or attempt to take, pursue,

shoot, capture, collect, kill, or trap; and raw fur shall be construed to mean the green pelts of any game animal or fur-bearing animal except commercially reared mutations. Whenever the possession, use, importation, storage, taxidermy for millinery purposes, sale, or offering or exposing for sale of fish, game, or song, insectivorous, or other birds, ~~including mourning-doves;~~ is prohibited or restricted, the prohibition or restriction, when not specifically stated to be otherwise, shall mean any part of such fish, game, or song, insectivorous, or other birds; Provided, that any nonresident person who takes, hunts, kills or pursues or attempts to take, hunt, kill, or pursue, or has in his possession any wild mammal, bird, turtle, mussel, or amphibian shall first obtain and have in his possession a nonresident hunting permit as defined in subdivision (2) of section 37-204.

Sec. 2. That section 37-307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-307. It shall be unlawful (1) for any person to shoot, kill, destroy, catch, attempt to shoot, kill, destroy, catch, or have in his possession, living or dead, any song, insectivorous, or nongame bird, ~~including mourning-doves;~~ or part of any such bird, other than an English sparrow, or European starling; or (2) for any person to take or needlessly destroy the nests or eggs of any song, insectivorous, or nongame birds, or to have in his or her possession the nests or eggs thereof other than nests and eggs of the birds excepted in subdivision (1) hereof.

The provisions of this section shall not be construed to apply to the possession of species lawfully acquired prior to the effective date of protection of a given species or to prohibit importation into the state species which may be otherwise lawfully imported into the state or the United States or lawfully taken, acquired, or removed from another state if the person engaging therein demonstrates by substantial proof that such species was lawfully taken or removed from such state.

The Game and Parks Commission is authorized to fix, prescribe, and publish regulations for the control of individual nuisance birds as described in this section or populations of such birds to reduce or avert depredation upon ornamental or shade trees, agricultural crops, livestock, or wildlife or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Such regulations shall specify the species which may be controlled, the circumstances under

which control is to be permitted, and the control methods which may be employed.

Sec. 3. That section 37-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-308. (1) Any person who shall, at any time except during an open season ordered by the commission as herein authorized, unlawfully take, kill, trap, destroy, attempt to take, kill, trap, destroy, or have in his or her possession any buffalo, elk, deer, antelope, swan, whooping crane, or wild turkey shall, upon conviction, be fined one hundred dollars or be imprisoned for not to exceed thirty days. Any person who shall at any time, except during an open season ordered by the commission as herein authorized, unlawfully take, trap, kill, 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, upon conviction, be fined in the sum of twenty-five dollars or be imprisoned in the county jail for not to exceed thirty days. Any person who shall unlawfully take, catch, trap, kill, destroy, or attempt to take, catch, trap, kill, 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, except as specified and permitted by order of the commission, shall upon conviction thereof be fined in the sum of not less than ten dollars nor more than twenty-five dollars for each offense. Any person who shall, in violation of this act, kill, take, trap, destroy, attempt to take, kill, trap, or destroy, or shoot at any mourning dove that is not flying, or have in his possession any nongame, song, or insectivorous bird, including mourning doves, or destroy or take the eggs or nest of any such bird, shall upon conviction thereof be fined not less than ten dollars nor more than twenty-five dollars for each offense.

(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, under 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. 4. That section 37-501, Revised Statutes Supplement, 1974, as amended by section 1, Legislative

Bill 220, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

37-501. It shall be unlawful (1) to shoot ~~from any roadway, as defined in section 39-602,~~ at any bird or animal protected by this act, ~~or at any bird, from any highway or roadway, which shall include that area of land from the center of the traveled surface to the right-of-way on either side;~~ (2) except as provided in section 37-226, to hunt, shoot, or take or attempt to hunt, shoot, or take any bird or animal by projecting or casting the rays of a spotlight, headlight, or other artificial light attached to or used from a vehicle, in any field, pasture, woodland, forest, prairie, or other area which may be inhabited by wild animals or birds, while having in possession or control, either singly or as one of a group of persons, any firearm or bow and arrow. Nothing in this subdivision shall prohibit the hunting on foot of raccoon with the aid of a handlight, or the hunting, shooting, or taking of nonprotected species of wildlife in the protection of property by landowners or operators or their regular employees on land under their control on foot or from a motor vehicle with the aid of artificial light; (3) to hunt, kill or attempt to hunt or kill any protected species from any boat or watercraft while being propelled by sails or electric, gas or steam power or from an aeroplane or hydroplane; (4) to use any rifle, pistol, revolver, swivel gun, or shotgun larger than ten gauge, in hunting any game birds, or to trap, snare, net or attempt to trap, snare or net any game bird or birds; Provided, that game birds obtained from the holder of a game farm permit or otherwise legally obtained which have been transported and are tagged in accordance with commission regulations and which are being used for dog training purposes, may be reclaimed through the use of recall boxes or recall pens by the holder of a written permit issued by the commission, subject to regulations established by the commission. Such person owning or controlling any device used for reclaiming purposes shall, prior to the operation thereof, pay an annual fee of ten dollars to the commission for each such device under his ownership or control. The commission is hereby authorized to promulgate rules and regulations for the possession, use and licensing of such reclaim devices; (5) to take or needlessly destroy the nests or eggs of any game bird or birds; (6) to hunt, kill or attempt to hunt or kill any game bird or birds by attracting them to the place where hunted by the distribution of grain or other feed, commonly called baiting; (7) except as provided in section 37-214.03, to hunt, kill, take or attempt to hunt, kill or take any game bird or birds from a vehicle of any kind; (8) to hunt, kill, take, trap or attempt to

hunt, kill, take or trap any game birds with nets, traps or clubs, except as specified in subdivision (4) of this section; (9) to hunt, drive, or stir up game birds or game animals with or from any aircraft or boat propelled by sail or power; or (10) to have or carry, except as permitted by law, any shotgun having shells in either the chamber, receiver, or magazine in or on any vehicle on any highway.

Sec. 5. That original sections 37-307 and 37-308, Reissue Revised Statutes of Nebraska, 1943, section 37-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 195, Eighty-fourth Legislature, First Session, 1975, and section 37-501, Revised Statutes Supplement, 1974, as amended by section 1, Legislative Bill 220, Eighty-fourth Legislature, First Session, 1975, are repealed.