

LEGISLATIVE BILL 557

Approved by the Governor February 27, 1985

Introduced by Rupp, 22; Scofield, 49

AN ACT relating to game and parks; to amend sections 37-101, 37-215, 37-215.01 to 37-215.03, 37-215.06, 37-215.08, 37-216, and 37-505, Reissue Revised Statutes of Nebraska, 1943; to redefine a term; to provide for permits for the killing of elk as prescribed; to provide for fees; to harmonize provisions; to provide an operative date; 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, be amended to read as follows:

37-101. As used in Chapter 37 and this act, unless the context otherwise requires:

(1) Game shall mean 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 Chapter 37 and this act;

(2) Game fish shall mean all fish except buffalo, carp, gar, quillback, sucker, and gizzard shad;

(3) Game animals shall mean all antelope, cottontail rabbits, deer, elk, and squirrels;

(4) Fur-bearing animals shall mean all beaver, martens, minks, except mutation minks, muskrats, ~~raccoons~~ raccoons, ~~opossum~~ opossums, and otters;

(5) Game birds shall mean coots, cranes, curlew, doves, ducks, geese, grouse, partridges, pheasants, plovers, prairie chickens, quail, rails, snipes, swans, ~~woodcocks~~ woodcocks, wild ~~turkey~~ turkeys, and all migratory waterfowl;

(6) Upland game birds shall mean all species and subspecies of quail, partridges, pheasants, wild turkeys, and grouse, including prairie chickens, on which an open season is in effect;

(7) Raptor shall mean any bird of the Falconiformes or Strigiformes, except the golden and bald eagles;

(8) Person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, associations, corporations, and municipalities;

(9) Board and commission shall each mean the Game and Parks Commission;

(10) Officer shall mean every person authorized to enforce Chapter 37 and this act;

(11) Hunt shall mean take, pursue, shoot, kill, capture, collect, or attempt to take, pursue, shoot, capture, collect, or kill;

(12) Raw fur shall mean the green pelts of any ~~game animal or~~ fur-bearing animal except commercially reared mutations;

(13) Trapping shall mean to take or attempt to take any fur-bearing animal by any snare, steel-jawed spring trap, or box trap; and

(14) Fur harvesting shall mean taking or attempting to take any fur-bearing animal by any means as prescribed by rules and regulations of the Game and Parks Commission.

Sec. 2. That section 37-215, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215. (1) The Game and Parks Commission is authorized to issue permits for the hunting and 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. Whenever the commission shall deem 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. 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 twenty dollars for residents and one hundred dollars for nonresidents. The commission may issue

nonresident permits only after a reasonable period has first been provided solely for issuance of resident permits and 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, or elk unless such person is at least fourteen years of age, except that any person aged fourteen or fifteen shall only hunt deer, ~~or~~ antelope, or elk when accompanied by a person aged twenty-one years or over.

(2) The Game and Parks Commission may also 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 charge a fee for each antelope permit so issued in the sum of twenty dollars for residents and one hundred dollars for nonresidents. 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 Game and Parks Commission may also 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 or section 37-215.03 shall not be issued to nonresidents. The commission shall charge a five-dollar nonrefundable application fee and a fee in the sum of one hundred dollars for each elk permit issued. A person may obtain only one elk permit in his or her lifetime, except that an applicant for a limited permit to hunt elk pursuant to section 37-215.03 may obtain such limited permit once every five years. 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) ~~(3)~~ Subject to rules and regulations adopted and promulgated by the commission, the secretary of the Game and Parks 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.

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 fee for a special depredation season permit shall be twenty dollars and, of this amount, ten dollars shall be paid by the Game and Parks 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. That section 37-215.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215.01. The commission is authorized, when written request has been filed by the property owner, to remove by any means at any time any deer, ~~or~~ antelope, or elk causing damage to real or personal property. If it shall be necessary to kill any such deer, ~~or~~ antelope, or elk to remove the same, the carcass thereof shall first be offered to local hospitals or other local charitable institutions, or to the Department of Public Institutions for use in institutions under its jurisdiction. If ~~the~~ ~~said~~ institutions or department do not desire the same, such carcass may be sold or disposed of in any other manner.

Sec. 4. That section 37-215.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215.02. Applications for the special permits provided for in ~~either~~ subsection (1), ~~or~~ ~~subsection~~ (2), or (3) of section 37-215 shall be made individually or on a unit basis. If such application is made on a unit basis, not more than two applicants may apply for such permit in one application. If such application is granted as provided in section 37-215, such special permits shall be issued to the persons so applying. If any one of the persons so applying shall be ineligible to receive such special permit, the entire group so applying shall be disqualified. No person applying for such special permit on a unit basis shall also apply individually.

Sec. 5. That section 37-215.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215.03. (1) Except as provided in subsection (7) of this section, (a) A bona fide farmer or rancher who owns or leases farm or ranch land and actually resides on such land, or is the owner-operator of such land, or (b) a member of such farmer or rancher's immediate family also residing on such land or in the same household as the owner-operator may make application for a limited permit to kill deer, antelope, elk, or wild ~~turkey~~ turkeys during the predetermined period established by the commission pursuant to section 37-215 or 37-227. Upon receipt of an application in proper form as prescribed by the Game and Parks Commission, the commission may ~~shall~~ issue a limited permit which shall be restricted to killing of deer, antelope, elk, or wild ~~turkey~~ turkeys only on the farm or ranch lands included in the application, and shall not apply to the land of other persons. For the purposes of this section, the term immediate family shall mean and be limited to husband and wife and their children, and all 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. Only one such permit for each species shall be issued annually for each farm or ranch.

(2) Except as provided in subsection (3) of this section, receipt ~~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 permit to kill elk issued pursuant to this section shall not be issued to any applicant more than once every five years.

~~(3)~~ (4) For purposes of this section, bona fide farmer or rancher shall mean any person who materially participates in the business of farming or ranching. For purposes of this section, farming or ranching shall mean the cultivation of the soil or the harvesting of any agricultural or horticultural commodity, including, but not limited to, raising, shearing, feeding, or caring for livestock animals, for the production of income. In the case of an owner or tenant of land who makes an arrangement with another person or persons with respect to the farming or ranching of land which is owned or leased by the owner or tenant, material participation shall mean that the owner or tenant (a) furnishes a substantial portion of the machinery, implements, and livestock used in the production of the commodities or (b) assumes financial responsibility for a substantial part of the expense involved in the production of the commodities.

(5) The fee for the limited permit to hunt elk shall be fifty dollars, deer or antelope shall be ten

dollars, and the fee for the limited permit to hunt wild turkeys shall be seven dollars and fifty cents.

(4) (6) The Game and Parks Commission may by rule and regulation prescribe forms to be filled out by the applicant for a limited license as prescribed in this section to determine whether the applicant is a bona fide farmer or rancher. The applicant shall be a bona fide farmer or rancher with respect to each tract or parcel of land upon which the applicant proposes to harvest deer, antelope, elk, or wild turkey turkeys.

(7) No limited permit shall be issued under this section to a nonresident.

Sec. 6. That section 37-215.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215.06. Any person hunting deer, or antelope, or elk with a firearm in this state shall display on his or her head, chest, and back a total of not less than four hundred square inches of hunter orange material.

Sec. 7. That section 37-215.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-215.08. The provisions of section 37-215-03 shall apply to the hunting of antelope and wild turkeys. The issuance of limited antelope hunting permits pursuant to section 37-215.03 in any management unit shall not exceed twenty per cent of the regular permits authorized for such antelope management unit. The issuance of limited elk hunting permits pursuant to section 37-215.03 in any management unit shall not exceed thirty per cent of the regular permits authorized for such elk management unit.

Sec. 8. That section 37-216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-216. The Game and Parks Commission shall provide by regulations for the tagging and storage of the carcasses of deer, or antelope, or elk after the close of any such limited season in accordance with the provisions of section 37-305.

Sec. 9. That section 37-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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, - For the purposes of this section, upland game birds shall be defined as provided in subdivision (6) of section 37-101; (2) any antelope, cottontail rabbit, deer, elk, squirrel, or bullfrog, except, PROVIDED, that deer, and antelope, or elk hides from legally taken deer and antelope animals may be sold, when tagged by the licensed taker thereof; or (3) any game fish protected by this act at any time, whether killed or taken within or without this state. It shall be unlawful, or for any commercial institution, commission house, restaurant, or cafe keeper to have in its, his, or her possession at any time game birds or game animals protected by this act. Game fish lawfully shipped

in from without the state, by residents of this state, or game or fish lawfully acquired from a lawful game farm or a person having a fish culture permit, may be sold in this state. The burden of proof shall be upon every such dealer and keeper 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 imported from without the state or was lawfully acquired from a licensed game farm or a person having a fish culture permit. Nonresidents holding a valid nonresident fish dealer's permit may possess, buy, sell, transport, and ship live bait minnows, and live fish, all frogs, and crayfish, legally obtained from without this state, or from a licensed fish hatchery, in accordance with the regulations of the Game and Parks Commission. The fee for a nonresident fish dealer's permit shall be one hundred dollars.

Sec. 10. This act shall become operative on January 1, 1986.

Sec. 11. That original sections 37-101, 37-215, 37-215.01 to 37-215.03, 37-215.06, 37-215.08, 37-216, and 37-505, Reissue Revised Statutes of Nebraska, 1943, are repealed.