

## LEGISLATIVE BILL 154

Approved by the Governor February 12, 1987

Introduced by Pappas, 42

AN ACT relating to game and parks; to amend sections 37-720 to 37-726, Reissue Revised Statutes of Nebraska, 1943, and section 37-101, Revised Statutes Supplement, 1986; to define and redefine terms; to change provisions relating to possession of raptors; to provide for the issuance of falconry and captive propagation licenses; to provide powers and duties; to provide fees; to prohibit the transportation of raptors outside the state as prescribed; to prohibit the sale, barter, and purchase of raptors as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 37-101, Revised Statutes Supplement, 1986, 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, mountain sheep, and squirrels;

(4) Fur-bearing animals shall mean all beaver, martens, minks, except mutation minks, muskrats, raccoons, 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, wild 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 to 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 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;

(15) Falconry shall mean the sport of taking quarry by means of a trained raptor; and

(16) Captive propagation shall mean to hold live raptors in a controlled environment that is intensively manipulated by humans for the purpose of producing raptors of selected species and that has boundaries designed to prevent raptors, eggs, or gametes of the selected species from entering or leaving the controlled environment.

Sec. 2. That section 37-720, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-720. (1) The Game and Parks Commission ~~commission~~ is hereby authorized to take such steps as it deems necessary to provide for the protection and management of raptors as defined in section 37-101.

(2) The Game and Parks Commission ~~commission~~ is further authorized to issue falconry licenses to permit the taking and possession of raptors for the purpose of practicing falconry. No such license may be issued to an applicant unless he or she is a resident of the State of Nebraska ~~state~~, has paid the fees required in this section, and has passed a written and oral examination concerning raptors given by the commission or an authorized representative of the commission. The

commission shall charge a fee for each permit license so issued in the sum of five ten dollars for persons twelve fourteen to fifteen seventeen years of age, and fifteen thirty dollars for persons sixteen eighteen years of age and older. If the applicant fails to pass either examination, or both of them, he or she shall not be entitled to reapply for a falconry license for a period of six months after the date of the examination. A person less than twelve fourteen years of age shall not be issued a falconry license, and a person from twelve fourteen to fifteen seventeen years of age may be issued such a license only if he or she is sponsored by an adult person who has a valid falconry license. All such falconry licenses shall be nontransferable and shall expire on the last day of December 31 of the year in which issued, but if of issuance. If the commission is satisfied as to the competency and fitness of an applicant whose license has expired, a license may be renewed without requiring further examination, under such terms and conditions as may be established by the commission. Species of raptors which may be taken, captured, or held in possession shall include only those species authorized by the commission. The number of each species of raptors which may be taken, captured, or held in possession shall be subject to regulation by the commission.

(3) The commission is authorized to issue captive propagation licenses to permit the captive propagation of raptors. No such license may be issued to an applicant unless he or she is a resident of the state and has paid the fee required in this subsection. The commission shall charge a fee for each license of one hundred fifty dollars. All such licenses shall be nontransferable, shall expire on December 31 of the year of issuance, and may be renewed under terms and conditions as may be established by the commission. The commission shall authorize the species and the number of each such species which may be taken, captured, acquired, or held in possession. The commission shall adopt and promulgate rules and regulations governing the issuance and conditions of captive propagation licenses.

Sec. 3. That section 37-721, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-721. (1) It shall be unlawful for any person to take or attempt to take or maintain in captivity any raptor, except as otherwise provided by law or by rule or regulation of the commission, unless he or she shall first secure a falconry or captive

propagation license as required by the provisions of section 37-720.

(2) No person shall sell, barter, purchase, or offer for sale, to sell, barter, or purchase any raptor, raptor egg, or raptor semen, except as permitted under a falconry or captive propagation license issued under section 37-720 or the rules and regulations adopted and promulgated by the commission. Nothing in this section shall be construed to permit any sale, barter, purchase, or offer to sell, barter, or purchase any raptor, raptor egg, or raptor semen taken from the wild.

(3) No person shall transport any raptor out of this state for any purpose, except (a) for hunting, or exhibition, scientific use, or temporary medical or personal care when authorized by the commission in writing and (b) as permitted under a captive propagation license, but raptors may be removed from the state for scientific purposes only upon acquiring written permission from the Game and Parks Commission.

Sec. 4. That section 37-722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-722. Any person who has secured a falconry license, as required by the provisions of section 37-721 37-720, may possess no more than two raptors at any one time, except that persons between the ages of twelve fourteen and sixteen seventeen years may possess no more than one raptor at any one time.

Any person who has secured a captive propagation license may possess as many raptors as authorized under his or her license.

Sec. 5. That section 37-723, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-723. (1) Upon issuance of a falconry license permitting the possession of raptors, an authorized agent of the Game and Parks Commission shall inspect the licensee's facilities for keeping raptors and shall make a report as required by the commission.

(2) The commission may establish regulations governing the conditions under which captive birds may be kept. Upon issuance of a falconry license permitting possession of raptors, an authorized agent of the commission shall make an inspection at least every six months to determine the care of raptors, and conditions under which they are kept. After, and following each inspection a report shall indicate any mistreatment of any raptor, and if such mistreatment remains uncorrected

for a period of forty-eight hours, the commission may revoke the license of the owner of the raptors.

Sec. 6. That section 37-724, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-724. (1) A report, as required by the Game and Parks Commission ~~commission~~, shall be submitted by the ~~licensee~~ holder of a falconry license within thirty calendar days after acquiring a raptor.

(2) ~~Any person licensed under the provisions of sections 37-101, 37-713, and 37-720 to 37-726, holder of a falconry license~~ who loses a raptor through death, escape, destruction, or otherwise, shall notify the commission in writing of such loss, giving the circumstances thereof, and ~~delivering~~ deliver the carcass, if any, within fifteen days after the date of the loss.

(3) ~~Any person licensed under the provisions of sections 37-101, 37-713, and 37-720 to 37-726, holder of a falconry license~~ who desires to release a raptor by reason of unsuitability shall notify the commission in writing and surrender the raptor to the commission for release.

(4) The commission shall furnish forms for the reports required under this section. Nothing in this section shall be construed to permit the possession of more raptors than permitted by ~~the provisions of section 37-722.~~

Sec. 7. That section 37-725, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-725. (1) The Game and Parks Commission ~~commission~~ may establish regulations governing the time, location, and method of capture, and may establish any other regulations necessary for conservation of raptor populations.

(2) Persons possessing a falconry license required for possession of raptors may take or trap young of-the-year raptors, not to exceed two raptors in any one year; but when nestlings are taken a minimum of two nestlings shall be left in the nest. Nothing in this subsection shall be construed to permit the taking of more raptors than is permitted by ~~the provisions of section 37-722 and authorized under current regulation as provided in the rules and regulations adopted and promulgated under section 37-720.~~

(3) Prior to capturing or attempting to capture any raptors, a person shall obtain from the commission a falconry license permitting the possession

of raptors. Before any person attempts to capture any nestling raptor, he or she shall notify the commission of such attempt at least forty-eight hours prior to the time when such attempt is to be made, and shall give such other information as may be required by the commission.

Sec. 8. That section 37-726, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-726. Any person violating any provision of ~~sections 37-101,~~ sections 37-713, and 37-720 to 37-726 shall be guilty of a Class IV misdemeanor, and, in addition, the court shall require that any raptor or raptors in the possession of the offender be confiscated and the license of the offender be revoked.

Sec. 9. That original sections 37-720 to 37-726, Reissue Revised Statutes of Nebraska, 1943, and section 37-101, Revised Statutes Supplement, 1986, are repealed.