

LEGISLATIVE BILL 259

Approved by the Governor March 29, 1995

Introduced by Will, 8

AN ACT relating to the Game Law; to amend section 37-201, Reissue Revised Statutes of Nebraska, and section 37-101, Revised Statutes Supplement, 1994; to redefine terms; to change provisions relating to the destruction of predators; and to repeal the original sections.

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

Section 1. Section 37-101, Revised Statutes Supplement, 1994, is amended to read:

37-101. For purposes of the Game Law, unless the context otherwise requires:

(1) Aquaculture shall have the definition found in section 2-3804.01;

(2) Aquaculture facility shall mean any facility, structure, lake, pond, tank, or tanker truck used for the purpose of propagating, selling, brokering, trading, or transporting live fish or viable gametes;

(3) Aquaculturist shall mean any individual, partnership, limited liability company, or corporation, other than an employee of a state or federal hatchery, involved in producing, transporting, or marketing cultured aquatic stock or products thereof;

(4) Aquatic disease shall mean any departure from a normal state of health of aquatic organisms caused by disease agents;

(5) Aquatic organism shall mean any individual member of any species of fish, mollusk, crustacean, aquatic reptile, aquatic amphibian, aquatic insect, or other aquatic invertebrate. Aquatic organism shall include the viable gametes, eggs or sperm, of an aquatic organism;

(6) 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;

(7) Commercial aquaculturist shall mean an aquaculturist engaged in the business of growing, selling, brokering, or processing live or viable aquatic organisms for commercial purposes;

(8) Commercial exploitation shall mean buying, selling, or bartering for economic or financial gain by any person, partnership, limited liability company, association, or corporation;

(9) Commission shall mean the Game and Parks Commission;

(10) Cultured aquatic stock shall mean aquatic organisms raised from privately owned stocks and aquatic organisms lawfully acquired and held in private ownership until they become intermingled with wild aquatic organisms;

(11) Disabled person shall mean any person certified by a physician to have a permanent physical impairment which limits personal mobility and results in an inability to travel unassisted more than two hundred feet without the use of a wheelchair, crutch, walker, prosthetic, orthotic, or other assistance device as allowed by rules and regulations adopted and promulgated by the commission;

(12) Ecologic harm shall mean significant loss, disadvantage, or injury to the relationships between organisms and their environment;

(13) Economic harm shall mean significant loss, disadvantage, or injury to personal or material resources;

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

(15) Fur harvesting shall mean taking or attempting to take any fur-bearing animal by any means as prescribed by rules and regulations of the commission;

(16) Fur-bearing animals shall mean all beaver, martens, ~~minks except mutation minks~~, muskrats, raccoons, opossums, and otters, ~~bobcats, gray foxes, red foxes except mutation foxes, badgers, long-tailed weasels, Canada lynx, skunks, and minks except mutation minks~~;

(17) 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 creatures protected by the Game Law;

(18) Game animals shall mean all antelope, cottontail rabbits, deer, elk, mountain sheep, and squirrels, ~~mountain lions, moose, and bears~~;

(19) 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;

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

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

(22) Officer shall mean every person authorized to enforce the Game Law;

(23) Person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, limited liability companies, associations, corporations, and municipalities;

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

(25) Raw fur shall mean the green pelts of any fur-bearing animal except commercially reared mutations;

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

(27) 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.

Sec. 2. Section 37-201, Reissue Revised Statutes of Nebraska, is amended to read:

37-201. For the purpose of supplying revenue for the propagation, importation, distribution, protection, and conservation of the wildlife of this state, including all wild animals, birds, fish, and all things pertaining thereto, every person sixteen years of age or older who hunts for game animals or game birds or takes bullfrogs or any other species defined as game or who angles for fish and every person sixteen years of age or older who engages in fur harvesting shall first pay a fee established by the commission pursuant to section 81-814.02 and obtain a permit except (1) the owner or his or her invitee who angles for fish in any body of water (a) which is entirely upon privately owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside such land, and (d) which is not operated on a commercial basis for profit and (2) any paraplegic who angles for fish in his or her privately owned body of water if he or she does not operate such body of water on a commercial basis for profit.

Any bona fide farmer or rancher as defined in section 37-215.03 who actually resides on a portion of such farm or ranch land, together with members of his or her immediate family also residing on such land, may hunt, take, and possess, within duly established season bag and possession limits, upland game and all game except migratory waterfowl, shore birds, deer, antelope, and wild turkey without paying a fee and without obtaining a hunting permit as required in this section and section 37-213 or a habitat stamp as required in sections 37-216.01 to 37-216.09. For purposes of this exemption, immediate family shall mean and be limited to husband and wife and their children and upland game shall mean and be limited to cottontail rabbits, squirrels, grouse, partridges, pheasants, prairie chickens, and quail. Such exemption shall only apply to hunting done on land owned or leased by the bona fide farmer or rancher and shall not apply when hunting on the lands of other persons. The commission may by rule and regulation require a farmer or rancher hunting under the provisions of this section to sign a statement presented by a conservation officer which states that such farmer or rancher is a bona fide farmer or rancher as defined in section 37-215.03 of the land upon which he or she is hunting.

A violation of this section shall be a Class IV misdemeanor.

Any farmer or rancher owning or operating a farm or ranch may destroy or have destroyed any predator, ~~including raccoon and opossum~~; preying on livestock or poultry or causing other agricultural depredation on lands owned or controlled by him or her without a permit issued by the commission. This section shall not be construed to allow such farmer or rancher to destroy or have destroyed species which are protected by the provisions of Chapter 37, article 3, the Nongame and Endangered Species Conservation Act, the federal Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 to 1544, the federal Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 to 667d, the federal Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668 to 668d, the federal Migratory Bird Treaty Act, as amended, 16 U.S.C. 703 to 718j, or rules and regulations adopted and promulgated pursuant to such article and acts.

Sec. 3. Original section 37-201, Reissue Revised Statutes of Nebraska, and section 37-101, Revised Statutes Supplement, 1994, are repealed.