

LEGISLATIVE BILL 111

Approved by the Governor February 13, 2001

Introduced by Baker, 44

AN ACT relating to game and parks; to amend sections 37-407, 37-413, 37-414, and 37-455, Reissue Revised Statutes of Nebraska, and sections 37-409, 37-415, 37-426, 37-427, and 37-431, Revised Statutes Supplement, 2000; to change provisions relating to firearm and bow hunter education, limited deer permits, and fees; to provide for a lifetime habitat stamp; to provide powers and duties; 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. Section 37-407, Reissue Revised Statutes of Nebraska, is amended to read:

37-407. The commission shall establish fees pursuant to section 37-327 to be paid to the state for resident and nonresident hunting permits, annual fishing permits, three-day fishing permits, combined fishing and hunting permits, and fur-harvesting permits, as follows:

(1) Resident fees shall be (a) not less than eight dollars and fifty cents and not more than eleven dollars for hunting, (b) not less than eleven dollars and fifty cents and not more than fifteen dollars for fishing, (c) not less than seven dollars and fifty cents and not more than ten dollars for a three-day fishing permit, (d) not less than nineteen dollars and fifty cents and not more than twenty-five dollars for both fishing and hunting, and (e) not less than fifteen dollars and not more than twenty dollars for fur harvesting; and

(2) Nonresident fees shall be (a) not less than two hundred dollars and not more than two hundred sixty dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and not less than ten dollars additional and not more than fifteen dollars additional for each one hundred or part of one hundred fur-bearing animals harvested, (b)(i) for persons sixteen years of age and older, not less than fifty-five dollars and not more than seventy-two dollars for hunting and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (1)(a) of this section for hunting, (c) not less than ten dollars and seventy-five cents and not more than fourteen dollars for a three-day fishing permit, and (d) not less than thirty-five dollars and not more than forty-five dollars for an annual fishing permit.

Sec. 2. Section 37-409, Revised Statutes Supplement, 2000, is amended to read:

37-409. The commission may issue a replacement permit for hunting, fishing, both hunting and fishing, or fur harvesting or for such other permits as may be issued by the commission to any person who has lost his or her original permit upon receipt from such person of satisfactory proof of purchase and an affidavit of loss of such original permit. The commission shall prescribe the procedures for applying for a replacement permit and may authorize electronic issuance. The commission may also designate agents to issue replacement permits pursuant to section 37-406. A fee of not less than one dollar and fifty cents and not more than five dollars, as established by the commission, ~~pursuant to section 37-327,~~ shall be charged for the issuance of each replacement permit.

Sec. 3. Section 37-413, Reissue Revised Statutes of Nebraska, is amended to read:

37-413. (1) For the purpose of establishing and administering a mandatory firearm hunter education program for persons born on or after January 1, 1977, who hunt with a firearm or crossbow any species of game, game birds, or game animals, the commission shall provide a program of firearm hunter education training leading to obtaining a certificate of successful completion in the safe handling of firearms and shall locate and train volunteer firearm hunter education instructors. The program shall provide a training course having a minimum of (a) ten hours of classroom instruction or (b) independent study on the part of the student sufficient to pass an examination given by the commission followed by such student's participation in a minimum of six hours of practical instruction. The program shall provide instruction in the areas of safe firearms use, shooting and sighting techniques, hunter ethics, game identification, and conservation management. The commission shall issue a firearm hunter education certificate of

successful completion to persons having satisfactorily completed a firearm hunter education course accredited by the commission and shall print, purchase, or otherwise acquire materials as necessary for effective program operation.

(2) It shall be unlawful for any person born on or after January 1, 1977, to hunt with a firearm or crossbow any species of game, game birds, or game animals except:

~~(1)~~ (a) A person under the age of twelve years who is accompanied by a person nineteen years of age or older having a valid hunting permit; and

~~(2)~~ (b) A person born on or after January 1, 1977, who has on his or her person a hunter education certificate of successful completion issued by the person's state or province of residence or a firearm hunter education certificate issued by an accredited program recognized by the commission.

Sec. 4. Section 37-414, Reissue Revised Statutes of Nebraska, is amended to read:

37-414. (1) The commission shall establish and administer a bow hunter education program consisting of a minimum of ~~(a) ten hours of classroom instruction or (b) independent study on the part of the student sufficient to pass an examination given by the commission followed by such student's participation in a minimum of six hours of practical instruction.~~ The program shall provide instruction in the safe use of bow hunting equipment, the fundamentals of bow hunting, shooting and hunting techniques, game identification, conservation management, and hunter ethics. When establishing such a program, the commission shall train volunteers as bow hunter education training instructors. The commission shall issue a certificate of successful completion to any person who satisfactorily completes a bow hunter education program established by the commission and shall print, purchase, or otherwise acquire materials necessary for effective program operation. The commission shall adopt and promulgate rules and regulations for carrying out and administering such program.

(2) A person born on or after January 1, 1977, who is hunting antelope, deer, elk, mountain sheep, or wild turkey with a bow and arrow pursuant to any provision of sections 37-447 to 37-453 and 37-457 shall have on his or her person a bow hunter education certificate of successful completion issued by his or her state or province of residence or a bow hunter education certificate issued by an accredited program recognized by the commission.

Sec. 5. Section 37-415, Revised Statutes Supplement, 2000, is amended to read:

37-415. (1) The commission may issue to any Nebraska resident a lifetime fishing, hunting, or combination hunting and fishing permit upon application and payment of the appropriate fee. The fee for a lifetime hunting permit shall be not less than two hundred dollars and not more than two hundred sixty dollars, the fee for a lifetime fishing permit shall be not less than two hundred thirty dollars and not more than three hundred dollars, and the fee for a lifetime combination hunting and fishing permit shall be not less than four hundred dollars and not more than five hundred twenty dollars, as such fees are established by the commission pursuant to section 37-327. Payment of the fee shall be made in a lump sum at the time of application.

(2) A lifetime permit shall not be made invalid by reason of the holder subsequently residing outside the state.

(3) A replacement lifetime permit may be issued if the original has been lost or destroyed. The fee for a replacement shall be not less than one dollar and fifty cents and not more than five dollars, as established by the commission. ~~pursuant to section 37-327.~~

(4) The commission shall adopt and promulgate rules and regulations to carry out this section and sections 37-416 and 37-417.

Sec. 6. Section 37-426, Revised Statutes Supplement, 2000, is amended to read:

37-426. (1) Except as provided in subsection ~~(2)~~ (3) of this section:

(a) No resident of Nebraska sixteen years of age or older and no nonresident of Nebraska regardless of age shall hunt, harvest, or possess any game bird, upland game bird, game animal, or fur-bearing animal unless, at the time of such hunting, harvesting, or possessing, such person carries on or about his or her person an unexpired habitat stamp validated as prescribed by the rules and regulations of the commission prior to the time of hunting, harvesting, or possessing such bird or animal; and

(b) No resident or nonresident of Nebraska eighteen years of age or older shall take or possess any aquatic organism requiring a Nebraska fishing permit, including any fish, bullfrog, snapping turtle, tiger salamander, or mussel unless, at the time of such taking or possessing, such person carries

on or about his or her person an unexpired aquatic habitat stamp validated as prescribed by the rules and regulations of the commission prior to the time of taking or possessing a fish, bullfrog, snapping turtle, tiger salamander, or mussel.

(2) The commission may issue to any Nebraska resident a lifetime habitat stamp upon application and payment of the appropriate fee. The fee for a lifetime habitat stamp shall be twenty times the fee required in subsection (4) of this section for annual habitat stamps. Payment of such fee shall be made in a lump sum at the time of application. A lifetime habitat stamp shall not be made invalid by reason of the holder subsequently residing outside the state. A replacement lifetime habitat stamp may be issued if the original is lost or destroyed. The fee for a replacement shall be not less than one dollar and fifty cents and not more than five dollars, as established by the commission.

(3) Habitat stamps are not required for holders of limited permits issued under section 37-455. Aquatic habitat stamps are not required (a) when a fishing permit is not required, (b) for holders of permits pursuant to section 37-424, or (c) for holders of lifetime fishing permits or lifetime combination hunting and fishing permits.

~~(3)~~ (4) Any person to whom a stamp has been issued shall, immediately upon request, exhibit the stamp to any officer. Any person hunting, fishing, harvesting, or possessing any game bird, upland game bird, game animal, or fur-bearing animal or any aquatic organism requiring a fishing permit in this state without the appropriate stamp attached to or printed on a valid hunting or fur-harvesting permit or fishing permit and not actually on or about his or her person shall be deemed to be without such stamp. A habitat stamp shall be issued upon the payment of a fee of not less than ten dollars and not more than fifteen dollars per stamp. An aquatic habitat stamp shall be issued upon the payment of a fee of not less than five and not more than six dollars and fifty cents per stamp. The commission shall establish the fees pursuant to section 37-327.

Sec. 7. Section 37-427, Revised Statutes Supplement, 2000, is amended to read:

37-427. The habitat stamp or aquatic habitat stamp required by section 37-426 is not transferable and, except for the lifetime habitat stamp, expires at midnight on December 31 in the year for which the stamp is issued.

Sec. 8. Section 37-431, Revised Statutes Supplement, 2000, is amended to read:

37-431. (1)(a) The Nebraska Habitat Fund is created. The commission shall remit the habitat stamp fees to the State Treasurer for credit to the Nebraska Habitat Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No expenditure shall be made from the Nebraska Habitat Fund until the commission has presented a habitat plan to the Committee on Appropriations of the Legislature for its approval.

(b) Fees received for lifetime habitat stamps shall be credited to the Nebraska Habitat Fund and shall not be expended but may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Income from such investments may be expended by the commission pursuant to section 37-432.

(2) The Nebraska Aquatic Habitat Fund is created. The commission shall remit the aquatic habitat stamp fees to the State Treasurer for credit to the Nebraska Aquatic Habitat Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No expenditure shall be made from the Nebraska Aquatic Habitat Fund until the commission has presented a habitat plan to the Committee on Appropriations and the Committee on Natural Resources of the Legislature for their approval.

(3) The secretary of the commission and any county clerk or public official designated to sell habitat stamps or aquatic habitat stamps shall be liable upon their official bonds for failure to remit the money from the sale of the stamps, as required by sections 37-426 to 37-433, coming into their hands. Any agent who receives stamp fees and who fails to remit the fees to the commission within a reasonable time after demand by the commission shall be liable to the commission in damages for double the amount of the funds wrongfully withheld. Any agent who purposefully fails to remit such fees with the intention of converting them is guilty of theft. The penalty for such violation shall be determined by the amount converted as specified in section 28-518.

Sec. 9. Section 37-455, Reissue Revised Statutes of Nebraska, is amended to read:

37-455. (1)(a) A Nebraska resident who owns or leases eighty acres or more of farm or ranch land for agricultural purposes or a member of such person's immediate family residing in the same household may apply for a limited deer, antelope, wild turkey, or elk permit.

(b) A nonresident of Nebraska who owns three hundred twenty acres or more of farm or ranch land in the State of Nebraska for agricultural purposes or a member of such person's immediate family residing in the same household may apply for a limited deer permit. Only one limited deer permit per three hundred twenty acres may be issued annually under this subdivision.

(2) The limited permit is valid during the predetermined period established by the commission pursuant to any provision of sections 37-447 to 37-452 and 37-457. To qualify for a limited elk permit the farm or ranch land of the applicant must be within an area designated as an elk zone by the commission in its regulations. ~~Only~~ Except as provided in subdivision (1)(b) of this section, only one limited permit for each species shall be issued annually for the farm or ranch land described in the application, except that both a spring and a fall turkey permit may be issued. Upon receipt of an application in proper form as prescribed by the commission, the commission may issue a limited permit which shall restrict (a) the limited deer, antelope, or wild turkey permit to hunting only on the farm or ranch land included in the application and shall not apply to the land of other persons and (b) the limited elk permit to hunting on the entire elk management unit of which the farm or ranch land included in the application is a part. For purposes of this section, immediate family means and is limited to husband and wife and their children. The conditions applicable to permits issued pursuant to section 37-447, 37-448, 37-449, 37-450, 37-452, or 37-457, whichever is appropriate, shall apply to limited permits issued pursuant to this section, except that the commission may adopt regulations for species harvest allocation pertaining to the sex and age of the species harvested which are different for this permit than for other hunting permits.

~~(2)~~ (3) Except as provided in subsection ~~(3)~~ (4) of this section, receipt of a limited permit or a permit issued pursuant to section 37-447, 37-448, 37-449, 37-450, 37-452, or 37-457 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)~~ (4) A limited elk permit issued pursuant to this section shall not be issued to any applicant more than once every three years.

~~(4)~~ (5) The fee for a limited permit to hunt elk shall be one-fifth the fee for the regular permit to hunt elk. The fee for a limited permit to hunt deer, antelope, or wild turkey shall be one-half the fee for the regular permit for these species, except that the fee for a nonresident limited deer permit shall be one-half the fee for a nonresident permit to hunt deer.

~~(5)~~ (6) The commission may by rule and regulation prescribe forms to be filled out by the applicant for a limited permit as prescribed in this section to determine whether the applicant is a Nebraska resident and is the owner or lessee of the described property or is a member of the family or household of such person.

Sec. 10. This act becomes operative on January 1, 2002.

Sec. 11. Original sections 37-407, 37-413, 37-414, and 37-455, Reissue Revised Statutes of Nebraska, and sections 37-409, 37-415, 37-426, 37-427, and 37-431, Revised Statutes Supplement, 2000, are repealed.