

93--B

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GALLIVAN, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to hunting or trapping of elk and moose

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph b of subdivision 2 and paragraph b of subdivision
2 4 of section 11-0103 of the environmental conservation law, paragraph b
3 of subdivision 2 as amended by chapter 427 of the laws of 1988, are
4 amended to read as follows:
5 b. "Big game" means deer, bear, moose, elk[, except captive bred and
6 raised North American elk (*Cervus elaphus*)], caribou and antelope.
7 b. "Domestic game animal" means white-tailed deer OR ELK propagated
8 under a domestic game animal breeder's license pursuant to section
9 11-1905 OF THIS ARTICLE or propagated on a preserve or island outside
10 the state under a law similar in principle to title 19 of this article.
11 S 2. Subdivision 3 of section 11-0505 of the environmental conserva-
12 tion law, as amended by chapter 135 of the laws of 1982, is amended to
13 read as follows:
14 3. No deer, ELK, MOOSE or bear traps shall be made, set or used upon
15 land inhabited by deer, ELK, MOOSE or bear. No salt lick shall be made,
16 set or used upon land inhabited by deer, ELK, MOOSE or bear, except that
17 the department may do so on state wildlife refuges and wildlife manage-
18 ment areas.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 3. Section 11-0521 of the environmental conservation law is amended
2 by adding a new subdivision 4 to read as follows:

3 4. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, IN THE
4 CASE OF ELK OR MOOSE, THE DEPARTMENT MAY ISSUE A LICENSE BY RULE OR
5 REGULATION TO ALLOW THE TAKING OF INDIVIDUAL ANIMALS THAT ARE DEEMED TO
6 BE DESTRUCTIVE.

7 S 4. Subdivision 5 of section 11-0529 of the environmental conserva-
8 tion law, as amended by chapter 610 of the laws of 2006, is amended to
9 read as follows:

10 5. No action for damages shall lie against any authorized person for
11 the killing of a cat, dog or coyote as provided in this section, EXCEPT
12 IN THE CASE OF KILLING A HUNTING DOG USED PURSUANT TO THE PROVISIONS OF
13 SECTION 11-0928 OF THIS ARTICLE.

14 S 5. Section 11-0713 of the environmental conservation law is amended
15 by adding a new subdivision 6 to read as follows:

16 6. THE COMMISSIONER MAY, BY RULE AND REGULATION, ESTABLISH A LICENSE
17 LOTTERY FOR ELK AND MOOSE WHEN CONDITIONS WARRANT CONTROL OF INDIVIDUAL
18 ANIMALS OR WHEN SUCH BIG GAME ANIMALS CONSTITUTE A NUISANCE POPULATION.

19 S 6. Subparagraph 2 of paragraph b of subdivision 1 of section 11-0719
20 of the environmental conservation law, as amended by chapter 289 of the
21 laws of 2004, is amended to read as follows:

22 (2) is convicted of a violation of the Fish and Wildlife Law involving
23 the illegal taking of a deer, ELK, COW OR CALF ELK, moose or bear, or
24 signs an acknowledgment of any such violation of that law for the
25 purpose of effecting a settlement by civil compromise or by stipulation;
26 or

27 S 7. Paragraph b of subdivision 3 of section 11-0901 of the environ-
28 mental conservation law, as amended by chapter 911 of the laws of 1990,
29 is amended to read as follows:

30 b. Wild deer, ELK, MOOSE and bear shall not be taken except by gun or
31 by long bow. Where an open season, set forth in the table of open
32 seasons in section 11-0907 OF THIS TITLE or otherwise established by law
33 or fixed by regulation, is specified as an open season for taking such
34 game by shotgun or long bow only, or is specified as an open season for
35 taking such game by long bow only, they shall not be taken except as so
36 specified.

37 S 8. Paragraph a and the opening paragraph of paragraph b of subdivi-
38 sion 4 of section 11-0901 of the environmental conservation law, as
39 amended by chapter 600 of the laws of 1993, are amended to read as
40 follows:

41 a. Wild deer, ELK, MOOSE and bear shall not be taken in water.

42 No person shall hunt deer, ELK OR MOOSE:

43 S 9. The opening paragraph of paragraph d and subparagraph 1 of para-
44 graph e of subdivision 4 of section 11-0901 of the environmental conser-
45 vation law, as amended by chapter 600 of the laws of 1993, are amended
46 to read as follows:

47 The use upon land inhabited by deer, ELK, MOOSE or bear of a jack-
48 light, spotlight or other type of artificial light by any person who is
49 or is accompanied by a person who is in possession, at the time of such
50 use, of a long bow, a crossbow or firearm of any kind, shall be presump-
51 tive evidence that such person is hunting deer, ELK, MOOSE or bear with
52 the aid of such light, in violation of this subdivision, unless:

53 (1) No person shall use a jacklight, spotlight or other type of arti-
54 ficial light upon lands inhabited by deer, ELK, MOOSE or bear within
55 five hundred feet from a dwelling house, farm building or farm structure

1 actually occupied or used, for the purpose of locating, spotting, harry-
2 ing, worrying or otherwise disturbing deer or bear.

3 S 10. Section 11-0907 of the environmental conservation law is amended
4 by adding a new subdivision 10 to read as follows:

5 10. THE COMMISSIONER IS AUTHORIZED TO ESTABLISH, BY RULE AND REGU-
6 LATION; LICENSES, SEASONS, MANNER OF TAKING, TAG LIMITS AND LICENSE FEES
7 FOR BIG GAME NOT SPECIFICALLY DESIGNATED BY THIS SECTION.

8 S 11. Paragraphs a and b of subdivision 3 of section 11-0909 of the
9 environmental conservation law, as amended by chapter 911 of the laws of
10 1990, are amended to read as follows:

11 a. Wild deer, ELK, MOOSE and bear, wild upland game birds, and small
12 game other than bobcat, mink, muskrat, raccoon, coyote, fox and skunk,
13 taken in any open season, shall be taken only between the hours of
14 sunrise and sunset, unless otherwise provided in regulations of the
15 department.

16 b. The department shall have the authority to establish by regulation
17 hours of hunting wild deer, ELK, MOOSE and bear, wild upland game birds,
18 and small game, other than bobcat, mink, muskrat, raccoon, coyote, fox
19 and skunk, during the open season provided therefor.

20 S 12. The section heading, paragraph a of subdivision 1 and subdivi-
21 sion 2 of section 11-0911 of the environmental conservation law, para-
22 graph a of subdivision 1 as added by section 8 of part D of chapter 61
23 of the laws of 2000, are amended to read as follows:

24 Procedure on taking [wild deer and bear; transportation of wild deer]
25 AND TRANSPORTING BIG GAME.

26 a. When [a wild deer] BIG GAME is taken the taker shall immediately
27 fill in, using ink, ball point pen or indelible pencil, the [deer] tags
28 issued to the taker as provided in regulations of the department. The
29 taker shall immediately cut out or mark the month and date of kill on
30 the tag and shall attach it to the [deer] ANIMAL, except that it need
31 not be attached to the [deer] ANIMAL while it is being dragged or phys-
32 ically carried by the taker to a camp or point where other transporta-
33 tion is available. The taker shall report details of the location and
34 date of harvest and data on the [deer] ANIMAL as required by regulation.

35 2. The taker shall remove his [deer] OR HER BIG GAME ANIMAL out of the
36 woods or open country to a camp or other inhabited location by midnight
37 of the day immediately following the expiration of the open season in
38 the county or part of a county in which the [deer] ANIMAL was taken.

39 S 13. Section 11-0911 of the environmental conservation law is amended
40 by adding a new subdivision 8 to read as follows:

41 8. NO PERSON TAKING, POSSESSING OR TRANSPORTING ELK OR MOOSE SHALL
42 FAIL TO COMPLY WITH ANY REQUIREMENTS ESTABLISHED BY RULE OR REGULATION
43 PURSUANT TO THIS SECTION.

44 S 14. Section 11-0915 of the environmental conservation law, as
45 amended by chapter 190 of the laws of 1999, is amended to read as
46 follows:

47 S 11-0915. Disposal of [deer, moose and bear] BIG GAME killed uninten-
48 tionally by collision.

49 The owner of a motor vehicle which has been damaged by unintentional
50 collision with a deer, ELK, moose or bear shall be entitled to possess
51 such [deer, moose or bear] BIG GAME under the following conditions:

52 1. The accident is reported to an environmental conservation officer,
53 a member of the State Police, a member of the sheriff's department in
54 which the accident occurred or, if the accident occurred on lands under
55 the jurisdiction of the office of parks, recreation and historic preser-
56 vation, to an officer of the regional park police having law enforcement

responsibilities on such lands, or to any police officer of a city, town or village located in the county of such accident within [24] TWENTY-FOUR hours thereafter.

2. The officer shall investigate and, if he finds the deer, ELK, moose or bear has been killed or so injured as to require that it be killed and the damage has been done as alleged, he shall issue a permit to the owner of the motor vehicle entitling such owner to possess the carcass. Such permit shall authorize the owner of the motor vehicle to transfer the carcass to a designated person.

3. Whenever the owner of such damaged motor vehicle declines to possess such deer, ELK, moose or bear, the officer may in his discretion, issue a permit to possess the carcass to any other party requesting such possession.

S 15. Section 11-0921 of the environmental conservation law, as amended by chapter 213 of the laws of 1999, is amended to read as follows:

S 11-0921. Surrender of game unfit for human consumption; permit for taking another of species surrendered.

When a wild turkey, wild deer, WILD ELK, WILD MOOSE or wild bear is taken by a person holding a license or permit and, upon presentation to an environmental conservation officer or other authorized employee of the department, it is shown to the satisfaction of such officer or authorized employee that its flesh was unfit for human consumption at the time it was killed, the taker may surrender the carcass to the officer or authorized employee and the officer or authorized employee shall issue the taker a special permit to take another specimen of the same species as surrendered and for which the season is still open.

S 16. Section 11-0923 of the environmental conservation law, paragraph a of subdivision 1 and subdivision 5 as amended by chapter 160 of the laws of 1979, subdivision 2 as amended by chapter 312 of the laws of 1980 and subdivision 6 as amended by chapter 600 of the laws of 1993, is amended to read as follows:

S 11-0923. Dogs.

1. No owner or trainer of a dog shall:

a. allow it to hunt deer, ELK OR MOOSE, or to run at large on enclosed lands on which wildlife or domestic game is possessed under license issued pursuant to the Fish and Wildlife Law or in any state park, state park reservation, state-owned game farm or wildlife refuge or state-owned or leased wildlife management area;

b. allow it to run at large in fields or woods inhabited by deer, ELK OR MOOSE outside the limits of any city or village, except on lands actually farmed or cultivated by the owner or trainer of the dog or a tenant of such owner or trainer.

2. No owner or trainer of a dog shall take it afield for training on wild game except from August [16] SIXTEEN to April [15] FIFTEEN or as otherwise permitted by department order.

3. Dogs may be trained on artificially propagated game which is shackled, or led or confined game, legally possessed, or on training dummies or other artificial devices at any time on lands owned or leased by the owner or trainer of the dog or on lands for which he has written permission of the owner or lessee, provided such training is done in a manner to preclude any disturbances injurious to wildlife.

4. During the training of a dog, the trainer and any person in his company shall not possess afield a firearm loaded with ammunition other than blank shells or blank cartridges, or inflict any injury to animals or game birds contrary to law.

1 5. Dogs hunting deer, ELK OR MOOSE, or hunting any wildlife or domes-
2 tic game on enclosed lands described in paragraph a of subdivision 1 OF
3 THIS SECTION or on a state game farm or wildlife refuge or wildlife
4 management area, may be killed as provided in section 11-0529 OF THIS
5 ARTICLE.

6 6. Wildlife, except skunk, deer, ELK, MOOSE and bear, may be taken
7 with the aid of a dog, provided, however, that the department is author-
8 ized to establish a training season during which only persons licensed
9 by the department pursuant to section 11-0928 of this article may train
10 tracking dogs on bear. Such season shall not begin before July first and
11 shall end at least eight days in advance of any open hunting season for
12 bear and no person participating in such training shall possess a
13 firearm of any kind or a longbow. Nothing in this subdivision shall be
14 construed to invalidate or otherwise affect a permit to track or take
15 bear issued pursuant to subdivision one of section 11-0521 of this arti-
16 cle.

17 S 17. Subdivision 7 of section 11-0931 of the environmental conserva-
18 tion law is amended to read as follows:

19 7. During any open season for deer, ELK, MOOSE OR BEAR, a person
20 afield shall not possess shotgun shells loaded with a slug or ball
21 unless he OR SHE holds a valid license or permit to take deer, ELK,
22 MOOSE or bear.

23 S 18. Subdivision 6 of section 11-0931 of the environmental conserva-
24 tion law, as amended by section 24 of part R of chapter 58 of the laws
25 of 2013, is amended to read as follows:

26 6. No person while engaged in hunting deer, ELK, MOOSE or bear pursu-
27 ant to a bowhunting privilege, and no person accompanying him or her or
28 a member of his or her party, while he or she is so engaged during a
29 special longbow season, shall have in his or her possession a firearm of
30 any kind, and no person while engaged in hunting deer or bear pursuant
31 to a muzzle-loading privilege, and no person accompanying him or her or
32 a member of his or her party, while he or she is so engaged during a
33 special muzzle-loading firearm season, shall have in his or her
34 possession a firearm of any kind other than a muzzle-loading firearm.

35 S 19. This act shall take effect on the first of November next
36 succeeding the date on which it shall have become a law.