S T A T E O F N E W Y O R K

658

2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, MAZIARZ, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the agriculture and markets law, in relation to the commercial hunting, taking, transportation and sale of deer and venison

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

Section 1. Article 11 of the environmental conservation law is amended by adding a new title 8 to read as follows:

TITLE 8

COMMERCIAL HUNTING, TAKING, TRANSPORTATION AND SALE OF DEER AND VENISON

SECTION 11-0801. APPLICABILITY.
11-0803. PROHIBITIONS.
11-0805. LICENSES.
11-0807. COMMERCIAL HUNTING SEASONS AND BAG LIMITS FIXED BY REGULATION.
11-0809. COMMERCE IN DEER BODIES OR PARTS.

S 11-0801. APPLICABILITY.

THE PROVISIONS OF THIS TITLE SHALL SUPERSEDE ANY OTHER PROVISIONS OF THIS ARTICLE THAT ARE INCONSISTENT WITH THE PROVISIONS OF THIS TITLE. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS TITLE AND, IN SO DOING, SHALL IDENTIFY SUCH INCONSISTENT PROVISIONS AND SHALL SPECIFY THE NATURE AND EXTENT OF SUPERSESSION BY THE PROVISIONS OF THIS TITLE. THE PROVISIONS OF THIS ARTICLE OTHER THAN THOSE OF THIS TITLE SHALL APPLY TO THE COMMERCIAL HUNTING, TAKING, TRANSPORTATION AND SALE OF DEER AND VENISON AS AUTHORIZED BY THIS TITLE INSOFAR AS THEY ARE NOT IDENTIFIED BY THE DEPARTMENT AS INCONSISTENT WITH THE PROVISIONS OF THIS TITLE. THE PROVISIONS OF THIS TITLE SHALL

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

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APPLY ONLY TO THE COMMERCIAL HUNTING, TAKING, TRANSPORTATION AND SALE OF DEER AND VENISON AS AUTHORIZED BY THIS TITLE.

S 11-0803. PROHIBITIONS.

THE DEPARTMENT MAY IMPOSE PROHIBITIONS ON THE HUNTING AND TAKING OF DEER THAT ARE EITHER LESS OR MORE RESTRICTIVE THAN THOSE OF SECTION 11-0901 OF THIS ARTICLE.

S 11-0805. LICENSES.

1. NO PERSON SHALL TAKE DEER PURSUANT TO THE PROVISIONS OF THIS TITLE UNLESS LICENSED PURSUANT TO THE PROVISIONS OF THIS TITLE.

2. NO PERSON SHALL BE LICENSED PURSUANT TO THIS TITLE UNLESS SUCH PERSON:

A. HAS BEEN A RESIDENT OF THIS STATE FOR MORE THAN THIRTY DAYS IMMEDIATELY PRIOR TO APPLICATION;

B. IS AT LEAST EIGHTEEN YEARS; AND

C. HAS AT LEAST THREE YEARS OF EXPERIENCE AS A LICENSED HUNTER OF DEER.

3. THE FEE FOR THIS ONE YEAR COMMERCIAL DEER LICENSE SHALL BE ONE HUNDRED DOLLARS.

S 11-0807. COMMERCIAL HUNTING SEASONS AND BAG LIMITS FIXED BY REGULATION.

1. THE DEPARTMENT SHALL FIX FOR EACH ONE YEAR COMMERCIAL DEER LICENSE PERIOD:

A. THE LENGTH OF THE SEASON OR PART THEREOF AND THE DAY OR DAYS OF SUCH SEASON IN WHICH SUCH LICENSES MAY BE USED, WHICH SHALL NOT COMMENCE UNTIL THE CLOSE OF ALL REGULAR OR SPECIAL OPEN SEASONS AUTHORIZED PURSUANT TO SECTION 11-0907 OF THIS ARTICLE AND SHALL NOT CLOSE UNTIL APRIL FIRST OR SUCH LATER DATE AS THE DEPARTMENT MAY DETERMINE, AND WHICH THE DEPARTMENT MAY VARY BY AREA;

B. THE IMPLEMENTS ALLOWED FOR DEER TAKING, WHICH THE DEPARTMENT MAY VARY BY AREA;

C. THE BAG LIMIT FOR DEER, WHICH THE DEPARTMENT MAY VARY BY AREA AND SEX OF THE DEER; AND

D. THE SPECIFIC AREAS IN WHICH COMMERCIAL HUNTING SHALL BE PERMITTED, WHICH SHALL BE DESIGNATED FOR EACH ONE YEAR COMMERCIAL DEER LICENSE PERIOD, MAY ONLY BE DESIGNATED IF THE DEPARTMENT DETERMINES: (1) THAT THE POPULATION OF DEER IN ANY AREA OF THE STATE IS SUCH THAT ADDITIONAL HARVEST OF DEER IS REASONABLY NECESSARY TO PROPERLY MANAGE THE DEER HERD IN THE STATE IN BALANCE WITH THE AVAILABLE DEER RANGE AND NATURAL FOOD SUPPLY, AND EITHER (2) THAT STATE DEER HERD MANAGEMENT GOALS, INCLUDING BUT NOT LIMITED TO ALLEVIATING AGRICULTURAL DAMAGE, AREAS WHERE EXISTING STATUTES DO NOT ALLOW FOR ADEQUATE HARVEST, AND AREAS WHERE PUBLIC ACCESS MAY BE LIMITED FOR JUSTIFIABLE SECURITY REASONS, WARRANT THE TAKING OF ADDITIONAL DEER OR (3) THAT THE POPULATION OF DEER IN ANY AREA OF THE STATE IS SUCH THAT ADDITIONAL HARVEST OF DEER IS REASONABLY NECESSARY TO CURTAIL MOTOR VEHICLE ACCIDENTS WITH DEER OR TO CURTAIL SUBSTANTIAL LOSS OF RESIDENTIAL LANDSCAPING PLANTS, BUSHES, TREES OR SHRUBBERY. SUCH AREAS MAY BE DESIGNATED ONLY IN COUNTIES OR PARTS OF COUNTIES IN WHICH AN OPEN SEASON FOR TAKING DEER BY THE USE OF FIREARMS IS ESTABLISHED BY LAW.

2. THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION ONE OF SECTION 11-0911 OF THIS ARTICLE SHALL NOT APPLY WHEN A DEER IS TAKEN PURSUANT TO A COMMERCIAL HUNTING LICENSE, BUT THE DEPARTMENT MAY BY REGULATION PROVIDE AN ALTERNATIVE METHOD OF IDENTIFYING AND REPORTING THE DEER SO TAKEN.

3. WITH EACH COMMERCIAL HUNTING LICENSE THERE SHALL BE ISSUED SUCH TAGS OR SEALS AND REPORTING FORMS AS THE DEPARTMENT SHALL DETERMINE TO BE APPROPRIATE, AND THE DEER MAY BE TAKEN ONLY WHEN THE LICENSEE TAKING,

AT THE TIME, IS IN PHYSICAL POSSESSION OF SUCH LICENSE AND ANY TAGS, SEALS AND REPORTING FORMS ISSUED WITH IT.

S 11-0809. COMMERCE IN DEER BODIES OR PARTS.

1. DEER, TAKEN IN THIS STATE, AND ANY AND ALL PARTS THEREOF, MAY, IF LAWFULLY TAKEN PURSUANT TO THE PROVISIONS OF THIS TITLE, BE:

A. POSSESSED,

B. TRANSPORTED WITHIN THE STATE AND FROM WITHIN TO WITHOUT THE STATE, AND

C. BOUGHT AND SOLD, AS PROVIDED IN THIS TITLE, AND NOT OTHERWISE. IT SHALL NOT BE POSSESSED, TRANSPORTED, BOUGHT OR SOLD UNLESS LAWFULLY TAKEN, NOR TRANSPORTED, BOUGHT OR SOLD UNLESS LAWFULLY POSSESSED.

2. DEER TAKEN AND POSSESSED IN ONE PART OF THE STATE MAY BE TRANSPORTED AS PROVIDED IN THIS SECTION BY THE TAKER, OR ANY PERSON WHO ACQUIRES IT LAWFULLY FROM THE TAKER, AND POSSESSED BY THE TAKER OR BY SUCH PERSON IN ANY PART OF THE STATE FOR THE PERIOD DURING WHICH IT MAY BE POSSESSED AT THE PLACE WHERE TAKEN.

3. DEER AND ANY AND ALL PARTS THEREOF MAY BE SOLD TO A PROFESSIONAL PROCESSOR OR AN AGENT OR EMPLOYEE THEREOF.

4. ANY PART OF A DEER OTHER THAN VENISON MAY BE SOLD TO ANY PERSON.

5. THE PROVISIONS OF TITLE SEVENTEEN OF THIS ARTICLE SHALL NOT APPLY TO THE POSSESSION, TRANSPORTATION, OR SALE OF DEER OR PARTS THEREOF, BUT THE DEPARTMENT SHALL PROMULGATE SUCH REGULATIONS THEREFOR AS WILL, IN ITS JUDGMENT, PROMOTE THE ENFORCEMENT OF THE PROVISIONS OF THIS TITLE AND OTHER APPLICABLE PROVISIONS OF THIS ARTICLE OR OTHER LAWS AND FURTHER THE PUBLIC POLICIES OF THIS STATE.

6. ALL VENISON TAKEN PURSUANT TO THE PROVISIONS OF THIS TITLE, WHILE IN THIS STATE, IS SUBJECT TO THE PROVISIONS OF THE AGRICULTURE AND MARKETS LAW AND THE PUBLIC HEALTH LAW, AND REGULATIONS PROMULGATED PURSUANT TO EACH OF SAID LAWS, PERTAINING TO THE MEAT OF CATTLE.

S 2. Subdivisions 6, 7 and 17 of section 96-g of the agriculture and markets law, subdivisions 6 and 7 as amended by chapter 342 of the laws of 1982 and subdivision 17 as added by chapter 182 of the laws of 1993, are amended to read as follows:

6. "Meat" means the edible part of the muscle of cattle, DEER TAKEN BY LAWFUL COMMERCIAL HUNTING IN THIS STATE, swine, sheep, goats, horses and other large domesticated animals which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout or ears. Any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall not be considered meat.

7. "Meat by-product" means any edible part other than meat which has been derived from cattle, DEER TAKEN BY LAWFUL COMMERCIAL HUNTING IN THIS STATE, swine, sheep, goats, horses and other large domesticated animals. This term shall apply only to those parts which have not been manufactured, cured, smoked, processed or otherwise treated.

17. "Game or wild game" means any deer or big game, or portions thereof, as defined in section 11-0103 of the environmental conservation law, taken by lawful hunting, EXCEPT VENISON TAKEN BY LAWFUL COMMERCIAL DEER HUNTING IN THIS STATE AND SOLD OR TO BE SOLD.

S 3. Subdivision 11 of section 198 of the agriculture and markets law, as added by chapter 182 of the laws of 1993, is amended to read as follows:

11. "Game or wild game" means any deer or big game, or portions thereof, as defined in section 11-0103 of the environmental conservation law, taken by lawful hunting, EXCEPT VENISON TAKEN BY LAWFUL COMMERCIAL DEER HUNTING IN THIS STATE AND SOLD OR TO BE SOLD.

S 4. Subdivision 4 of section 199 of the agriculture and markets law, as added by chapter 182 of the laws of 1993, is amended to read as follows:

4. The provisions of this article shall not apply to game or wild game, EXCEPT VENISON TAKEN BY LAWFUL COMMERCIAL DEER HUNTING IN THIS STATE AND SOLD OR TO BE SOLD.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any and all rules and regulations and any other measures necessary to implement any provision of this act on its effective date may be promulgated and taken, respectively, on or before the effective date of such provision.