

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:

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

3 TITLE 8

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

6 SECTION 11-0801. APPLICABILITY.

7 11-0803. PROHIBITIONS.

8 11-0805. LICENSES.

9 11-0807. COMMERCIAL HUNTING SEASONS AND BAG LIMITS FIXED BY  
10 REGULATION.

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

12 S 11-0801. APPLICABILITY.

13 THE PROVISIONS OF THIS TITLE SHALL SUPERSEDE ANY OTHER PROVISIONS OF  
14 THIS ARTICLE THAT ARE INCONSISTENT WITH THE PROVISIONS OF THIS TITLE.  
15 THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS  
16 OF THIS TITLE AND, IN SO DOING, SHALL IDENTIFY SUCH INCONSISTENT  
17 PROVISIONS AND SHALL SPECIFY THE NATURE AND EXTENT OF SUPERSESSION BY  
18 THE PROVISIONS OF THIS TITLE. THE PROVISIONS OF THIS ARTICLE OTHER THAN  
19 THOSE OF THIS TITLE SHALL APPLY TO THE COMMERCIAL HUNTING, TAKING,  
20 TRANSPORTATION AND SALE OF DEER AND VENISON AS AUTHORIZED BY THIS TITLE  
21 INSOFAR AS THEY ARE NOT IDENTIFIED BY THE DEPARTMENT AS INCONSISTENT  
22 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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1 APPLY ONLY TO THE COMMERCIAL HUNTING, TAKING, TRANSPORTATION AND SALE OF  
2 DEER AND VENISON AS AUTHORIZED BY THIS TITLE.

3 S 11-0803. PROHIBITIONS.

4 THE DEPARTMENT MAY IMPOSE PROHIBITIONS ON THE HUNTING AND TAKING OF  
5 DEER THAT ARE EITHER LESS OR MORE RESTRICTIVE THAN THOSE OF SECTION  
6 11-0901 OF THIS ARTICLE.

7 S 11-0805. LICENSES.

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

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

12 A. HAS BEEN A RESIDENT OF THIS STATE FOR MORE THAN THIRTY DAYS IMME-  
13 DIATELY PRIOR TO APPLICATION;

14 B. IS AT LEAST EIGHTEEN YEARS; AND

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

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

19 S 11-0807. COMMERCIAL HUNTING SEASONS AND BAG LIMITS FIXED BY REGU-  
20 LATION.

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

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

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

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

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

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

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

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

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

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

6 A. POSSESSED,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 S 5. This act shall take effect on the one hundred eightieth day after  
12 it shall have become a law; provided that any and all rules and regu-  
13 lations and any other measures necessary to implement any provision of  
14 this act on its effective date may be promulgated and taken, respective-  
15 ly, on or before the effective date of such provision.