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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. GABRYSZAK, GUNTHER, SCHROEDER -- read once and referred to the Committee on Environmental Conservation

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:

Section 1. Paragraph b of subdivision 2 and paragraph b of subdivision 4 of section 11-0103 of the environmental conservation law, paragraph b of subdivision 2 as amended by chapter 427 of the laws of 1988, are amended to read as follows:

b. "Big game" means deer, bear, moose, elk[, except captive bred and raised North American elk (Cervus elaphus)], caribou and antelope.

b. "Domestic game animal" means white-tailed deer OR ELK propagated under a domestic game animal breeder's license pursuant to section 11-1905 or propagated on a preserve or island outside the state under a law similar in principle to title 19 of this article.

S 2. Subdivision 3 of section 11-0505 of the environmental conservation law, as amended by chapter 135 of the laws of 1982, is amended to read as follows:

3. No deer, ELK, MOOSE or bear traps shall be made, set or used upon land inhabited by deer, ELK, MOOSE or bear. No salt lick shall be made, set or used upon land inhabited by deer, ELK, MOOSE or bear, except that the department may do so on state wildlife refuges and wildlife management areas.

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

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

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

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S 4. Section 11-0529 of the environmental conservation law, subdivisions 1 and 4 as amended by chapter 911 of the laws of 1990 and subdivisions 2 and 5 as amended by chapter 610 of the laws of 2006, is amended to read as follows:

S 11-0529. Cats hunting birds; dogs pursuing deer or killing other wildlife in certain areas.

1. Any person over the age of twenty-one years possessing a hunting license may, and environmental conservation officers and peace officers, acting pursuant to their special duties, or police officers shall humanely destroy cats at large found hunting or killing any protected wild bird or with a dead bird of any protected species in its possession.

2. Every environmental conservation officer, forest ranger and member of the state police may kill any dog (a) ACTIVELY pursuing or killing deer, ELK OR MOOSE within the Adirondack or Catskill parks, at any time; (b) pursuing or killing any game or wildlife on a state-owned game farm or wildlife refuge; or (c) pursuing or killing any game or wildlife on a state-owned or leased wildlife management area, except a dog being legally used for hunting small game or for dog training.

3. Every park patrolman, park ranger and member of the state police, county police and town police may kill any dog pursuing or killing deer, ELK OR MOOSE within any state park or state park reservation at any time.

4. At any time (a) any environmental conservation officer, dog warden, forest ranger or member of the state police, anywhere in the state, (b) any member of any town police within the limits of the town of which such member is an officer, (c) any member of the Westchester County Parkway police on any park, parkway or reservation owned or controlled by the county of Westchester or (d) any member of a police force or department of any county, city, town or village in which such member has jurisdiction and is regularly employed may kill any dog pursuing or killing deer, ELK OR MOOSE and any coyote killing a domestic animal.

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

S 5. Section 11-0713 of the environmental conservation law is amended by adding a new subdivision 7 to read as follows:

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

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

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

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

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

game by shotgun or long bow only, or is specified as an open season for taking such game by long bow only, they shall not be taken except as so specified.

S 8. Paragraph a and the opening paragraph of paragraph b of subdivision 4 of section 11-0901 of the environmental conservation law, paragraph a as amended by chapter 600 of the laws of 1993 and the opening paragraph of paragraph b as amended by chapter 483 of the laws of 2010, are amended to read as follows:

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

No person shall hunt deer, ELK OR MOOSE:

S 9. The opening paragraph of paragraph b of subdivision 4 of section 11-0901 of the environmental conservation law, as amended by chapter 600 of the laws of 1993, is amended to read as follows:

No person shall hunt deer, ELK OR MOOSE:

S 10. The opening paragraph of paragraph d and subparagraph 1 of paragraph e of subdivision 4 of section 11-0901 of the environmental conservation law, the opening paragraph of paragraph d as amended by chapter 483 of the laws of 2010 and subparagraph 1 of paragraph e as amended by chapter 600 of the laws of 1993, are amended to read as follows:

The use upon land inhabited by deer, ELK, MOOSE or bear of a jacklight, spotlight or other type of artificial light by any person who is or is accompanied by a person who is in possession, at the time of such use, of a long bow, a crossbow or firearm of any kind, shall be presumptive evidence that such person is hunting deer, ELK, MOOSE or bear with the aid of such light, in violation of this subdivision, unless:

(1) No person shall use a jacklight, spotlight or other type of artificial light upon lands inhabited by deer, ELK, MOOSE or bear within five hundred feet from a dwelling house, farm building or farm structure actually occupied or used, for the purpose of locating, spotting, harrying, worrying or otherwise disturbing deer or bear.

S 11. The opening paragraph of paragraph d of subdivision 4 of section 11-0901 of the environmental conservation law, as amended by chapter 600 of the laws of 1993, is amended to read as follows:

The use upon land inhabited by deer, ELK, MOOSE or bear of a jacklight, spotlight or other type of artificial light by any person who is or is accompanied by a person who is in possession, at the time of such use, of a long bow, a crossbow or firearm of any kind, shall be presumptive evidence that such person is hunting deer, ELK, MOOSE or bear with the aid of such light, in violation of this subdivision, unless:

S 12. Section 11-0907 of the environmental conservation law is amended by adding a new subdivision 10 to read as follows:

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

S 13. Paragraphs a and b of subdivision 3 of section 11-0909 of the environmental conservation law, as amended by chapter 911 of the laws of 1990, are amended to read as follows:

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

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

S 14. The section heading, paragraph a of subdivision 1 and subdivision 2 of section 11-0911 of the environmental conservation law, paragraph a of subdivision 1 as added by section 8 of part D of chapter 61 of the laws of 2000, are amended to read as follows:

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

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

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

S 15. Section 11-0911 of the environmental conservation law is amended by adding a new subdivision 8 to read as follows:

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

S 16. Section 11-0915 of the environmental conservation law, as amended by chapter 190 of the laws of 1999, is amended to read as follows:

S 11-0915. Disposal of [deer, moose and bear] BIG GAME killed unintentionally by collision.

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

1. The accident is reported to an environmental conservation officer, a member of the State Police, a member of the sheriff's department in which the accident occurred or, if the accident occurred on lands under the jurisdiction of the office of parks, recreation and historic preservation, 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 17. 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 18. 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.

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

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

S 19. Subdivisions 6 and 7 of section 11-0931 of the environmental conservation law, subdivision 6 as amended by chapter 483 of the laws of 2010, are amended to read as follows:

6. No person while engaged in hunting deer, ELK, MOOSE or bear pursuant to a bowhunting stamp, and no person accompanying him OR HER or a member of his OR HER party, while he OR SHE is so engaged during a special longbow season, shall have in his OR HER possession a firearm or crossbow of any kind, and no person while engaged in hunting deer or bear pursuant to a muzzle-loading stamp, and no person accompanying him OR HER or a member of his OR HER party, while he OR SHE is so engaged during a special muzzle-loading firearm season, shall have in his OR HER possession a firearm of any kind other than a muzzle-loading firearm.

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

S 20. Subdivision 6 of section 11-0931 of the environmental conservation law, as amended by chapter 97 of the laws of 1978, is amended to read as follows:

6. No person while engaged in hunting deer, ELK, MOOSE or bear pursuant to a bowhunting stamp, and no person accompanying him OR HER or a member of his OR HER party, while he OR SHE is so engaged during a special longbow season, shall have in his OR HER possession a firearm of any kind, and no person while engaged in hunting deer or bear pursuant to a muzzle-loading stamp, and no person accompanying him OR HER or a member of his OR HER party, while he OR SHE is so engaged during a special muzzle-loading firearm season, shall have in his OR HER possession a firearm of any kind other than a muzzle-loading firearm.

S 21. This act shall take effect on the first of November next succeeding the date on which it shall have become a law, provided that:

(a) the amendments to the opening paragraph of paragraph b of subdivision 4 of section 11-0901 of the environmental conservation law, made by section eight of this act, shall be subject to the expiration and reversion of such paragraph when upon such date the provisions of section nine of this act shall take effect;

(b) the amendments to the opening paragraph of paragraph d of subdivision 4 of section 11-0901 of the environmental conservation law, made by section ten of this act shall be subject to the expiration and reversion of such paragraph when upon such date the provisions of section eleven of this act shall take effect; and

(c) the amendments to subdivision 6 of section 11-0931 of the environmental conservation law, made by section nineteen of this act, shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section twenty of this act shall take effect.