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

4473

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

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

AN ACT to amend the environmental conservation law, in relation to migratory birds, game birds, turtles, longbows, crossbows, and cable restraints and to repeal certain provisions of such law relating thereto

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

Section 1. Subdivisions 2 and 3 of section 11-0903 of the environmental conservation law, subdivision 2 and paragraph b of subdivision 3 as amended and paragraph a of subdivision 3 as relettered by chapter 911 of the laws of 1990 and paragraph e of subdivision 2 as amended and paragraph f of subdivision 2 as added by chapter 706 of the laws of 2005, are amended to read as follows:

2. The department may fix annually by regulation the open seasons and bag limits for wild game of the following species, until the date specified:

a. Hungarian partridge;

b. black, gray and fox squirrels, bobcat, lynx, coyote, fox, European hare, varying hare and cottontail rabbits, and may regulate or prohibit the use of dogs in hunting varying hare during any regular open season for deer;

c. pheasants[, except on Long Island];

d. BOBWHITE QUAIL;

E. raccoon;

[e.] F. wild turkeys;

[f.] G. frogs, salamanders, turtles, lizards and snakes.

Such open seasons and bag limits may be fixed for the entire state[, except on Long Island in the case of pheasants,] or for any county or part thereof, giving due regard to abundance of the species and poten-

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

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tial hunting pressure. The department may regulate the taking, possession and disposition of wild turkeys.

3. [a. On Long Island, the open season for the taking of hen pheasants shall be only during the open season for the taking of pheasants specified in item d of the table appearing as subdivision 2 of section 11-0905.

b.] Any open season for pheasants, fixed by regulation of the department [in the counties of Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Herkimer, Jefferson, Lewis, Montgomery, Oneida, Orange, Oswego, Otsego, Putnam, Rensselaer, Rockland, St. Lawrence, Schenectady, Sullivan and Ulster] shall include the intervening Sundays as part of such open season.

S 2. Subdivision 1 of section 11-0903 of the environmental conservation law, as amended by chapter 84 of the laws of 2010, is amended to read as follows:

1. Open seasons and bag limits with respect to migratory game birds shall be those [published annually in the federal register by the U.S. Department of the Interior, unless the department adopts regulations pursuant to section 11-0307] SEASONS AND BAG LIMITS FOR NEW YORK ESTABLISHED IN FEDERAL REGULATIONS MADE UNDER AUTHORITY OF THE MIGRATORY BIRD TREATY ACT OF JULY 3, 1918 (16 U.S.C. SS 703-711) AS MAY BE AMENDED FROM TIME TO TIME, PROVIDED HOWEVER THAT THE DEPARTMENT MAY ESTABLISH SEASONS OR BAG LIMITS FOR MIGRATORY GAME BIRDS BY REGULATION PURSUANT TO SECTION 11-0307 OF THIS ARTICLE. Notice of such open seasons and bag limits shall be provided by department press release and any other means that the department determines to be appropriate and effective, including posting on the department's public website.

S 3. Subdivision 1 of section 11-0903 of the environmental conservation law is amended to read as follows:

1. Open seasons and bag limits with respect to migratory game birds shall be those [fixed by the department in regulations pursuant to section 11-0307, to conform with] SEASONS AND BAG LIMITS FOR NEW YORK ESTABLISHED IN federal regulations made under authority of the Migratory Bird Treaty Act of July 3, 1918 (16 U.S.C. SS 703-711) AS MAY BE AMENDED FROM TIME TO TIME, PROVIDED HOWEVER THAT THE DEPARTMENT MAY ESTABLISH SEASONS OR BAG LIMITS FOR MIGRATORY GAME BIRDS BY REGULATION PURSUANT TO SECTION 11-0307 OF THIS ARTICLE.

S 4. Paragraphs a, d and e of subdivision 2 of section 11-0905 of the environmental conservation law, paragraph a as amended by chapter 84 of the laws of 2010 and paragraphs d and e as amended by chapter 911 of the laws of 1990, are amended to read as follows:

a. Migratory game birds, all species	Fixed annually by federal regulation[, unless the] OR state [adopts] regulation	Fixed annually by federal regulation[, unless the] OR state [adopts] regulation
d. Ring-necked pheasant	[Long Island November 1 through December 31. Elsewhere, fixed] FIXED annually by regulation	[Long Island, four birds in one day, thirty during season. Elsewhere, fixed] FIXED annually by regulation
e. [Quail]	[Orange, Putnam and	[Orange, Putnam and

BOBWHITE QUAIL	Westchester counties, fixed] FIXED annually by regulation[; Long Island, November 1 through December 31]	Westchester counties; four birds in one day, ten during season. Long Island, six birds in one day, forty during season.] FIXED ANNUALLY BY REGULATION

S 5. Paragraph a of subdivision 2 of section 11-0905 of the environmental conservation law, as amended by chapter 911 of the laws of 1990, is amended to read as follows:

a. Migratory game birds, all species	Fixed annually by FEDERAL OR STATE regulation	Fixed annually by FEDERAL OR STATE regulation

S 6. Subdivision 10 of section 11-0701 of the environmental conservation law, as amended by chapter 57 of the laws of 1993 and as renumbered by chapter 470 of the laws of 1994, is amended to read as follows:

10. A trapping license entitles the holder to trap beaver, otter, fisher, mink, muskrat, skunk, raccoon, bobcat, coyote, fox, opossum, weasel, pine marten, SNAPPING TURTLES, DIAMONDBACK TERRAPINS and unprotected wildlife except birds, as provided in title 11 OF THIS ARTICLE, subject to the provisions of subdivision [6] 3 of section 11-0713 of this article.

S 7. Paragraph c of subdivision 3 of section 11-0901 of the environmental conservation law, as amended by chapter 825 of the laws of 1973, subparagraph 1 as amended by chapter 407 of the laws of 1976, is amended to read as follows:

c. Wild small game and wild upland game birds shall be taken only by longbow or gun, or by the use of raptors as provided in title 10 of this article, except that:

(1) skunk, raccoon, bobcat, coyote, fox, mink and muskrat may be taken in any manner not prohibited in this section or in title 11 of [the Fish and Wildlife Law] THIS ARTICLE, [and]

(2) frogs may also be taken by spearing, catching with the hands, or by the use of a club or hook, AND

(3) SNAPPING TURTLES AND DIAMONDBACK TERRAPINS MAY ALSO BE TAKEN BY CATCHING WITH THE HANDS OR BY THE USE OF A NET OR POLE, OR BY TRAPPING PURSUANT TO TITLES 7 AND 11 OF THIS ARTICLE.

S 8. Subdivision 1 of section 11-1103 of the environmental conservation law, as amended by chapter 911 of the laws of 1990, is amended to read as follows:

1. The department may by regulation permit trapping of beaver, fisher, otter, bobcat, coyote, fox, raccoon, opossum, weasel, skunk, muskrat, pine marten [and], mink, SNAPPING TURTLES, AND DIAMONDBACK TERRAPINS, or any of them, in specified areas, and may regulate the taking, possession and disposition of such animals. The periods in which trapping of such animals is so permitted are open seasons for the trapping of the species for which the period is fixed, in the area or areas for which it is so fixed.

S 9. Paragraph g of subdivision 3 of section 11-0901 of the environmental conservation law, as amended by chapter 34 of the laws of 1979, is amended to read as follows:

g. [Wildlife] EXCEPT AS PROVIDED IN SUBDIVISIONS 15 AND 16 OF THIS SECTION, WILDLIFE shall not be taken by the use of a cross-bow, by a long bow drawn, pulled, released, or held in a drawn position by any mechanical device attached to a portion of the bow other than the bowstring, or by the use of a device commonly called a spear gun.

S 10. Subdivision 15 of section 11-0901 of the environmental conservation law, as amended by chapter 81 of the laws of 1988, is amended to read as follows:

15. Notwithstanding any inconsistent provision of this section, the department may issue a permit [to take] OR ADOPT REGULATIONS TO ALLOW THE TAKING OF big game or small game by the use of a bow equipped with a mechanical device for holding and releasing the bowstring, attached to the handle section of an otherwise legal bow, [to] BY any person who is permanently physically incapable of drawing and holding a bow because of a physical [handicap or] disability, subject to such restrictions as the department may deem necessary in the interest of public safety.

S 11. Subdivision 16 of section 11-0901 of the environmental conservation law is REPEALED and a new subdivision 16 is added to read as follows:

16. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE, A PERSON WHO IS LICENSED TO HUNT WITH A LONG BOW MAY POSSESS AND USE A CROSSBOW WHENEVER AND WHEREVER HUNTING WITH A LONG BOW IS PERMITTED BY THIS ARTICLE OR BY REGULATIONS ADOPTED PURSUANT THERETO, IF SUCH PERSON IS ONE OF THE FOLLOWING:

A. A PERSON WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE; OR

B. A PERSON WITH A PERMANENT PHYSICAL DISABILITY.

FOR PURPOSES OF THIS SUBDIVISION, "PERSON WITH A PERMANENT PHYSICAL DISABILITY" SHALL MEAN ANY PERSON WHO IS PERMANENTLY PHYSICALLY INCAPABLE OF ARM MOVEMENT SUFFICIENT TO DRAW, HOLD OR RELEASE A LONG BOW, AS DETERMINED BY A PHYSICIAN DULY LICENSED TO PRACTICE MEDICINE IN THE STATE OF NEW YORK. THE DEPARTMENT IS AUTHORIZED TO ADOPT REGULATIONS REQUIRING DOCUMENTATION TO ESTABLISH THAT AN APPLICANT IS ELIGIBLE TO USE A CROSSBOW PURSUANT TO THIS SUBDIVISION.

S 12. Subdivision 4 of section 11-0931 of the environmental conservation law, as amended by chapter 483 of the laws of 2010, is amended to read as follows:

4. a. No person shall:

(1) discharge a firearm, crossbow or long bow in such a way as will result in the load, bolt or arrow thereof passing over a public highway or any part thereof;

(2) discharge a firearm[,] OR crossbow [or long bow] within five hundred feet [from] OF a dwelling house, farm building or farm structure actually occupied or used, school building, school playground, or occupied factory or church;

(3) DISCHARGE A LONG BOW WITHIN TWO HUNDRED FIFTY FEET OF A DWELLING HOUSE, FARM BUILDING OR FARM STRUCTURE ACTUALLY OCCUPIED OR USED, SCHOOL BUILDING, SCHOOL PLAYGROUND, OR OCCUPIED FACTORY OR CHURCH;

(4) use a firearm, crossbow or a long bow for the hunting of migratory game birds in Larchmont Harbor, specifically those portions bounded by the following points of land:

BEGINNING AT A POINT KNOWN AS UMBRELLA POINT ON THE EAST SHORE OF LARCHMONT HARBOR THEN PROCEEDING IN A NORTHERLY DIRECTION TO CEDAR ISLAND; THENCE NORTHWESTERLY TO MONROE INLET; THENCE NORTHEASTERLY TO DELANCY COVE BEING IN THE TOWN OF MAMARONECK; THENCE IN A SOUTHWESTERLY DIRECTION FROM DELANCY COVE TO GREACEN POINT; THENCE RUNNING THE AREA BETWEEN DELANCY COVE AND THE WEST SHORE OF SATANS TOE NORTHEAST; THENCE

SOUTHEAST THEN ALONG THE WEST SHORE OF SATANS TOE SOUTHWEST AND THEN SOUTH TO THE SOUTHERLY POINT OF SATANS TOE TO EDGEWATER POINT.

[(4)] (5) Use of a firearm, crossbow or a long bow for the hunting of migratory game birds in Udall's Cove, specifically those portions of Little Neck Bay within Nassau and Queens counties lying east of a line running north from the foot of Douglaston Parkway to the shore opposite.

b. The prohibitions contained in [subparagraph] SUBPARAGRAPHS 2 AND 3 of paragraph a [above] OF THIS SUBDIVISION shall not apply to:

(1) The owner or lessee of the dwelling house, or members of his immediate family actually residing therein, or a person in his OR HER employ, or the guest of the owner or lessee of the dwelling house acting with the consent of said owner or lessee, provided however, that nothing herein shall be deemed to authorize such persons to discharge a firearm[,] OR crossbow WITHIN FIVE HUNDRED FEET or A longbow within [five] TWO hundred FIFTY feet of any other dwelling house, or a farm building or farm structure actually occupied or used, or a school building or playground or occupied factory or church;

(2) Programs conducted by public schools offering instruction and training in the use of firearms, crossbow or long bow;

(3) The authorized use of a pistol, rifle or target range regularly operated and maintained by a police department or other law enforcement agency or by any duly organized membership corporation;

(4) The discharge of a shotgun over water by a person hunting migratory game birds if no dwelling house or public structure, livestock or person is situated in the line of discharge less than five hundred feet from the point of discharge.

S 13. Subdivision 4 of section 11-0931 of the environmental conservation law, subparagraph 3 of paragraph a as added by chapter 400 of the laws of 1973 and subparagraph 4 of paragraph a as added by chapter 67 of the laws of 1976, is amended to read as follows:

4. a. No person shall:

(1) discharge a firearm or long bow in such a way as will result in the load or arrow thereof passing over a public highway or any part thereof;

(2) discharge a firearm [or long bow] within five hundred feet [from] OF a dwelling house, farm building or farm structure actually occupied or used, school building, school playground, or occupied factory or church;

(3) DISCHARGE A LONG BOW WITHIN TWO HUNDRED FIFTY FEET OF A DWELLING HOUSE, FARM BUILDING OR FARM STRUCTURE ACTUALLY OCCUPIED OR USED, SCHOOL BUILDING, SCHOOL PLAYGROUND, OR OCCUPIED FACTORY OR CHURCH;

(4) use a firearm or a long bow for the hunting of migratory game birds in Larchmont Harbor, specifically those portions bounded by the following points of land:

BEGINNING AT A POINT KNOWN AS UMBRELLA POINT ON THE EAST SHORE OF LARCHMONT HARBOR THEN PROCEEDING IN A NORTHERLY DIRECTION TO CEDAR ISLAND; THENCE NORTHWESTERLY TO MONROE INLET; THENCE NORTHEASTERLY TO DELANCY COVE BEING IN THE TOWN OF MAMARONECK; THENCE IN A SOUTHWESTERLY DIRECTION FROM DELANCY COVE TO GREACEN POINT; THENCE RUNNING THE AREA BETWEEN DELANCY COVE AND THE WEST SHORE OF SATANS TOE NORTHEAST; THENCE SOUTHEAST THEN ALONG THE WEST SHORE OF SATANS TOE SOUTHWEST AND THEN SOUTH TO THE SOUTHERLY POINT OF SATANS TOE TO EDGEWATER POINT.

[(4)] (5) Use of a firearm or a long bow for the hunting of migratory game birds in Udall's Cove, specifically those portions of Little Neck Bay within Nassau and Queens counties lying east of a line running north from the foot of Douglaston Parkway to the shore opposite.

b. The prohibitions contained in [subparagraph] SUBPARAGRAPHS 2 AND 3 of paragraph a [above] OF THIS SUBDIVISION shall not apply to:

(1) The owner or lessee of the dwelling house, or members of his immediate family actually residing therein, or a person in his employ, or the guest of the owner or lessee of the dwelling house acting with the consent of said owner or lessee, provided however, that nothing herein shall be deemed to authorize such persons to discharge a firearm WITHIN FIVE HUNDRED FEET or A longbow within [five] TWO hundred FIFTY feet of any other dwelling house, or a farm building or farm structure actually occupied or used, or a school building or playground or occupied factory or church;

(2) Programs conducted by public schools offering instruction and training in the use of firearms or long bow;

(3) The authorized use of a pistol, rifle or target range regularly operated and maintained by a police department or other law enforcement agency or by any duly organized membership corporation;

(4) The discharge of a shotgun over water by a person hunting migratory game birds if no dwelling house or public structure, livestock or person is situated in the line of discharge less than five hundred feet from the point of discharge.

S 14. Subdivision 5 of section 11-1101 of the environmental conservation law is amended to read as follows:

5. Except as provided in subdivision 1 or 2 of section 11-0523 OF THIS ARTICLE with respect to destructive and menacing wildlife, no person shall (a) set or use a trap of the leg-gripping type having teeth in the jaws; (b) set a trap so that wildlife when caught is suspended; (c) use, locate or set a snare or a device consisting of a noose of any material whereby an animal may be taken, PROVIDED HOWEVER THAT THE DEPARTMENT MAY, BY REGULATION, AUTHORIZE THE USE OF LIVE RESTRAINT CABLE DEVICES TO TAKE WILDLIFE.

S 15. This act shall take effect immediately; provided that:

(a) the amendments to subdivision 1 of section 11-0903 of the environmental conservation law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 84 of the laws of 2010, as amended, when upon such date the provisions of section three of this act shall take effect;

(b) the amendments to paragraph a of subdivision 2 of section 11-0905 of the environmental conservation law made by section four of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 5 of chapter 84 of the laws of 2010, as amended, when upon such date the provisions of section five of this act shall take effect;

(c) the amendments to subdivision 15 of section 11-0901 of the environmental conservation law made by section ten of this act shall take effect on the same date as the reversion of such subdivision of section 11-0901 of the environmental conservation law as provided in section 17 of chapter 483 of the laws of 2010, as amended; and

(d) the amendments to subdivision 4 of section 11-0931 of the environmental conservation law made by section twelve of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 17 of chapter 483 of the laws of 2010, as amended, when upon such date the provisions of section thirteen of this act shall take effect.