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

1699--B

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GALLIVAN, GRIFFO, GRISANTI, LANZA, LARKIN, LIBOUS, MARCHIONE, MAZIARZ, O'MARA, RITCHIE, SEWARD, VALESKY -- 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 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to authorizing crossbow hunting in certain regions of the state

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

Section 1. Subdivision 25 of section 11-0103 of the environmental conservation law, as amended by chapter 595 of the laws of 1984, is amended to read as follows:

25. "Hunting accident" means the injury to or death of a person caused by the discharge of a firearm, CROSSBOW, or longbow while the person causing such injury or death, or the person injured or killed, is taking or attempting to take game, wildlife or fish.

S 2. Section 11-0713 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. THE DEPARTMENT SHALL ADOPT REGULATIONS FOR TRAINING IN THE SAFE USE OF HUNTING WITH A CROSSBOW AND RESPONSIBLE HUNTING PRACTICES. SUCH TRAINING SHALL BE INCLUDED IN THE BASIC HUNTER EDUCATION COURSE REQUIRED OF ALL NEW HUNTERS. UPON COMPLETION OF THE TRAINING BY AN INDIVIDUAL THE DEPARTMENT SHALL PROVIDE DOCUMENTATION OF THE SUCCESSFUL COMPLETION OF THE COURSE. ALL PERSONS WHO HAVE COMPLETED HUNTER EDUCATION PRIOR TO THE DATE WHICH CROSSBOW TRAINING HAS BEEN INCORPORATED INTO THE HUNTER EDUCATION PROGRAM SHALL COMPLETE AN ONLINE OR OTHER TRAINING PROGRAM APPROVED BY THE DEPARTMENT PRIOR TO USING A CROSSBOW TO HUNT BIG GAME.

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

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THE DEPARTMENT MAY ADOPT RULES AND REGULATIONS AS NECESSARY TO DOCUMENT COMPLETION OF THIS PROGRAM AND MAY REQUIRE A PERSON TO POSSESS SUCH PROOF WHILE HUNTING WITH A CROSSBOW.

S 3. Paragraph a of subdivision 1 of section 11-0719 of the environmental conservation law, as amended by chapter 176 of the laws of 1987, is amended to read as follows:

a. In the circumstances described in paragraph b the department may revoke any license or stamp, of any person, to hunt, fish or trap, defined in section 11-0701 or issued pursuant to any provision of [the Fish and Wildlife Law] THIS ARTICLE, or it may revoke all of such licenses or stamps. It may also deny such person, for a period not exceeding five years, the privilege of obtaining such license or licenses or stamp or stamps or of hunting, trapping or fishing, anywhere in the state with or without license or stamp, except as provided in subdivision 1 of section 11-0707 or in section 11-0523. It may also require that such person successfully complete a department-sponsored course and obtain a certificate of qualification in responsible hunting, [responsible] CROSSBOW HUNTING, bowhunting or [responsible] trapping practices before being issued another license.

S 3-a. Paragraph a of subdivision 1 of section 11-0719 of the environmental conservation law, as amended by section 26 of part R of chapter 58 of the laws of 2013, is amended to read as follows:

a. In the circumstances described in paragraph b of this subdivision the department may revoke any license, bowhunting privilege, or muzzle-loading privilege, of any person, to hunt, fish or trap, defined in section 11-0701 of this title or issued pursuant to any provision of [the Fish and Wildlife Law] THIS ARTICLE, or it may revoke all of such licenses, bowhunting privileges, or muzzle-loading privileges. It may also deny such person, for a period not exceeding five years, the privilege of obtaining such license or licenses, bowhunting privilege, or muzzle-loading privilege, or of hunting, trapping or fishing, anywhere in the state with or without license, bowhunting privilege, or muzzle-loading privilege, except as provided in subdivision 1 of section 11-0707 of this title or in section 11-0523 of this article. It may also require that such person successfully complete a department-sponsored course and obtain a certificate of qualification in responsible hunting, [responsible] CROSSBOW HUNTING, bowhunting or [responsible] trapping practices before being issued another license.

S 4. Subparagraph 4 of paragraph b of subdivision 1 of section 11-0719 of the environmental conservation law, as amended by chapter 436 of the laws of 2000, is amended to read as follows:

(4) is convicted of an offense involving a violation of subdivisions one and two of section 11-0901 of this article relating to taking of wildlife when the person taking is in or on a motor vehicle while such motor vehicle is on a public highway or an offense involving a violation of subdivision one of section 11-0901 of this article and subparagraph one of paragraph a of subdivision four of section 11-0931 of this article relating to taking wildlife when the person taking is in or on a motor vehicle and discharging a firearm, CROSSBOW, or longbow in such a way that the load or arrow passes over a public highway or a part thereof or signs an acknowledgment of any such violation for the purpose of affecting a settlement by civil compromise or by stipulation.

S 5. Subdivision 2 of section 11-0719 of the environmental conservation law, paragraph a as amended by chapter 119 of the laws of 1999, the opening paragraph of paragraph a as amended by section 33 of part F of chapter 82 of the laws of 2002, paragraph b as amended by chapter 269 of

the laws of 1975, paragraph c as amended by chapter 176 of the laws of 1987 and paragraph d as amended by chapter 595 of the laws of 1984, is amended to read as follows:

2. a. The department may revoke the licenses, tags, and stamps which authorize the holder to hunt and/or trap wildlife, and may deny the privilege of obtaining such licenses, tags, and stamps and may deny the privileges of hunting and/or trapping with or without a license.

(1) of any person who, while engaged in hunting or trapping,

(i) causes death or injury to another by discharging a firearm, CROSSBOW, or longbow, or

(ii) so negligently discharges a firearm, CROSSBOW, or longbow as to endanger the life or safety of another, or

(iii) so negligently and wantonly discharges a firearm, CROSSBOW, or longbow as to destroy or damage public or private property; or

(2) of any agent of the department authorized to issue certificates of qualification in responsible hunting, bowhunting, CROSSBOW HUNTING, or trapping practices who improperly issues any such certification to a person whom he has not trained, or whom he knows has not satisfactorily completed all of the requirements necessary for such certification.

b. Action by the department resulting in the revocation of such license or denial of the privilege to hunt and trap as provided in this subdivision shall be only after a hearing held by the department upon notice to the offender, at which proof of facts indicating the violation is established to the satisfaction of the commissioner or of the hearing officer designated by him and concurred in by the commissioner. Provided that where a person, while hunting, causes death or injury to any person by discharge of a firearm, CROSSBOW, or longbow, the commissioner may, in his discretion, suspend such person's license or licenses to hunt and suspend such person's right to hunt without a license for a period of up to sixty days pending a hearing as provided for in this subdivision.

c. In case such discharge of a firearm, CROSSBOW, or longbow causes death or injury to another, the license or licenses shall be revoked and the privilege of obtaining any such license and of hunting or of trapping anywhere in the state with or without a license denied, for a period not exceeding ten years, except that no revocation shall be made in cases in which facts established at the hearing indicate to the satisfaction of the commissioner that there was no negligence on the part of the shooter or bowman. In all other cases the license or licenses shall be revoked and the privilege of obtaining such license and of hunting or of trapping anywhere in the state with or without a license denied for a period not exceeding five years. The department may also require that the person causing such death or injury successfully complete a department-sponsored course and obtain a certificate of qualification in responsible hunting, CROSSBOW HUNTING, or bowhunting practices before being issued another hunting license.

d. Every person injuring himself, herself or another person in a hunting accident, as such term is defined in subdivision 25 of section 11-0103 of this chapter, and the investigating law enforcement officer summoned to or arriving at the scene of such accident shall within ten days from the occurrence of such accident file a report of the accident in writing with the department. Every such person or law enforcement officer shall make such other and additional reports as the department shall require. Failure to report such accident as herein provided by the person causing injury or to furnish relevant information required by the department shall be a violation and shall constitute grounds for suspension or revocation of such person's hunting licenses and denial of

the privilege of obtaining any such license and of hunting with or without a license following a hearing or opportunity to be heard. In addition, the department may temporarily suspend the license of the person failing to report a hunting accident within the period prescribed herein until such report has been filed. In the case of a non-resident, the failure to report an accident as herein provided shall constitute grounds for suspension or revocation of his or her privileges of hunting within this state. The report required by this section shall be made in such form and number as the department may prescribe.

S 5-a. Subdivision 2 of section 11-0719 of the environmental conservation law, as amended by section 27 of part R of chapter 58 of the laws of 2013, is amended to read as follows:

2. a. The department may revoke the licenses, tags, bowhunting privileges, or muzzle-loading privileges, which authorize the holder to hunt and/or trap wildlife, and may deny the privilege of obtaining such licenses, tags, bowhunting privileges, or muzzle-loading privileges, and may deny the privileges of hunting and/or trapping with or without a license.

(1) of any person who, while engaged in hunting or trapping,

(i) causes death or injury to another by discharging a firearm, CROSSBOW, or longbow, or

(ii) so negligently discharges a firearm, CROSSBOW, or longbow as to endanger the life or safety of another, or

(iii) so negligently and wantonly discharges a firearm, CROSSBOW, or longbow as to destroy or damage public or private property; or

(2) of any agent of the department authorized to issue certificates of qualification in responsible hunting, bowhunting, CROSSBOW HUNTING, or trapping practices who improperly issues any such certification to a person whom he has not trained, or whom he knows has not satisfactorily completed all of the requirements necessary for such certification.

b. Action by the department resulting in the revocation of such license or denial of the privilege to hunt and trap as provided in this subdivision shall be only after a hearing held by the department upon notice to the offender, at which proof of facts indicating the violation is established to the satisfaction of the commissioner or of the hearing officer designated by him and concurred in by the commissioner. Provided that where a person, while hunting, causes death or injury to any person by discharge of a firearm, CROSSBOW, or longbow, the commissioner may, in his discretion, suspend such person's license or licenses to hunt and suspend such person's right to hunt without a license for a period of up to sixty days pending a hearing as provided for in this subdivision.

c. In case such discharge of a firearm, CROSSBOW, or longbow causes death or injury to another, the license or licenses, bowhunting privilege, and muzzle-loading privilege shall be revoked and the ability to obtain any such license and of hunting or of trapping anywhere in the state with or without a license denied, for a period not exceeding ten years, except that no revocation shall be made in cases in which facts established at the hearing indicate to the satisfaction of the commissioner that there was no negligence on the part of the shooter or bowman. In all other cases the license or licenses, bowhunting privilege, or muzzle-loading privilege, shall be revoked and the privilege of obtaining such license, bowhunting privilege, or muzzle-loading privilege, and of hunting or of trapping anywhere in the state with or without a license denied for a period not exceeding five years. The department may also require that the person causing such death or injury successfully complete a department-sponsored course and obtain a certif-

icate of qualification in responsible hunting or bowhunting practices before being issued another hunting license.

d. Every person injuring himself, herself or another person in a hunting accident, as such term is defined in subdivision 25 of section 11-0103 of this article, and the investigating law enforcement officer summoned to or arriving at the scene of such accident shall within ten days from the occurrence of such accident file a report of the accident in writing with the department. Every such person or law enforcement officer shall make such other and additional reports as the department shall require. Failure to report such accident as herein provided by the person causing injury or to furnish relevant information required by the department shall be a violation and shall constitute grounds for suspension or revocation of such person's hunting licenses and bowhunting and muzzle-loading privileges and denial of the ability to obtain any such license and of hunting with or without a license following a hearing or opportunity to be heard. In addition, the department may temporarily suspend the license of the person failing to report a hunting accident within the period prescribed herein until such report has been filed. In the case of a non-resident, the failure to report an accident as herein provided shall constitute grounds for suspension or revocation of his or her privileges of hunting within this state. The report required by this section shall be made in such form and number as the department may prescribe.

S 6. Paragraphs b and c of subdivision 4 of section 11-0901 of the environmental conservation law, as amended by chapter 600 of the laws of 1993, subparagraph 5 of paragraph b and subparagraph 5 of paragraph c as amended by chapter 430 of the laws of 2000, are amended to read as follows:

b. No person shall hunt deer:

(1) with the aid of a dog, or aircraft of any kind; or

(2) with the aid of a jacklight, spotlight, headlight or other type of artificial light; or

(3) with a pistol, revolver or rifle using rim-fire ammunition; or

(4) with a shotgun of less than twenty gauge or loaded with shells other than shells each carrying a single round ball or a single slug, provided however, the use of a shotgun of twenty gauge or larger having a rifled barrel or a smooth bore barrel fitted with a rifled choke, loaded with shells each carrying a single round ball or a single slug, shall not be prohibited so long as only shells having a non-metallic case, except for the base, are used; or

(5) with [a bow other than] a long bow with a draw weight [in excess] of LESS THAN thirty-five pounds; or

(6) with an arrow OR BOLT with an arrowhead that measures less than seven-eighths of an inch at its widest point or that has fewer than two sharp cutting edges; or

(7) with the aid of a pre-established bait pile other than those areas established by standard agricultural production practices; or

(8) with an arrow OR BOLT with a barbed broadhead arrowhead.

c. No person shall hunt bear:

(1) with the aid of a dog, or aircraft of any kind; or

(2) with the aid of a jacklight, spotlight, headlight or other type of artificial light; or

(3) with a pistol, revolver or rifle using rim-fire ammunition; or

(4) with a shotgun of less than twenty gauge or loaded with shells other than shells each carrying a single round ball or a single slug, provided however, the use of a shotgun of twenty gauge or larger having

a rifled barrel or a smooth bore barrel fitted with a rifled choke, loaded with shells each carrying a single round ball or a single slug, shall not be prohibited so long as only shells having a non-metallic case, except for the base, are used; or

(5) with [a bow other than] a long bow with a draw weight [in excess] of LESS THAN thirty-five pounds; or

(6) with an arrow OR BOLT with an arrowhead that measures less than seven-eighths of an inch at its widest point or that has fewer than two sharp cutting edges; or

(7) with the aid of a pre-established bait pile other than those areas established by standard agricultural production practices; or

(8) with an arrow OR BOLT with a barbed broadhead arrowhead.

S 7. 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:

d. The use upon land inhabited by deer 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 or bear with the aid of such light, in violation of this subdivision, unless:

(1) such long bow is unstrung, or such a firearm OR CROSSBOW is taken down, or securely fastened in a case, or locked in the trunk of a vehicle, or

(2) the firearm is a pistol or revolver, or

(3) the firearm is not in or on a motor vehicle and is a rifle designed or adapted for use of rim-fire ammunition and neither the person in possession of the gun, nor any member of his party, has in his possession any twenty-two caliber ammunition other than twenty-two caliber rim-fire ammunition, or

(4) the firearm is not in or on a motor vehicle and is a shotgun and neither the person in possession of the gun, nor any member of his party, has in his possession ammunition other than shells loaded with scatter shot of size number four or smaller.

S 8. Section 11-0901 of the environmental conservation law is amended by adding a new subdivision 17 to read as follows:

17. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE, THE DEPARTMENT MAY, BY REGULATION, AUTHORIZE THE TAKING OF WILDLIFE BY THE USE OF A CROSSBOW BY ANY LICENSED PERSON IN ANY HUNTING SEASON, EXCEPT IN THE COUNTIES OF NASSAU, SUFFOLK AND WESTCHESTER. A SUMMARY OF REGULATIONS ADOPTED PURSUANT TO THIS SUBDIVISION SHALL BE PUBLISHED EACH YEAR IN THE HUNTING AND FISHING SYLLABUS OF THE DEPARTMENT ISSUED PURSUANT TO SECTION 11-0323 OF THIS ARTICLE.

S 9. Subdivision 2 of section 11-0931 of the environmental conservation law, as amended by section 7 of part H of chapter 58 of the laws of 2012, is amended to read as follows:

2. No firearm OR CROSSBOW except a pistol or revolver shall be carried or possessed in or on a motor vehicle unless it is unloaded, FOR A FIREARM in both the chamber and the magazine, except that a loaded firearm which may be legally used for taking migratory game birds may be carried or possessed in a motorboat while being legally used in hunting migratory game birds, and no person except a law enforcement officer in the performance of his official duties shall, while in or on a motor vehicle, use a jacklight, spotlight or other artificial light upon lands inhabited by deer if he is in possession or is accompanied by a person who is in possession, at the time of such use, of a longbow, crossbow or

a firearm of any kind except a pistol or revolver, unless such longbow is unstrung or such firearm OR CROSSBOW is taken down or securely fastened in a case or locked in the trunk of the vehicle. For purposes of this subdivision, motor vehicle shall mean every vehicle or other device operated by any power other than muscle power, and which shall include but not be limited to automobiles, trucks, motorcycles, tractors, trailers and motorboats, snowmobiles and snowtravelers, whether operated on or off public highways. Notwithstanding the provisions of this subdivision, the department may issue a permit to any person who is non-ambulatory, except with the use of a mechanized aid, to possess a loaded firearm in or on a motor vehicle as defined in this section, subject to such restrictions as the department may deem necessary in the interest of public safety. Nothing in this section permits the possession of a pistol or a revolver contrary to the penal law.

S 10. 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, 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, CROSSBOW or long bow within five hundred feet from a dwelling house, farm building or farm structure actually occupied or used, school building, school playground, or occupied factory or church;

(3) 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) 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 2 of paragraph a above 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, CROSSBOW or longbow within five hundred 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 11. Paragraph c of subdivision 5 of section 11-0931 of the environmental conservation law, as amended by chapter 309 of the laws of 2006, is amended to read as follows:

c. In the Northern Zone no person, while engaged in hunting with the aid of a dog or while afield accompanied by a dog, shall possess a rifle larger than .22 caliber using rim-fire ammunition or possess a shotgun loaded with a slug, ball or buckshot, OR POSSESS A CROSSBOW; but this paragraph does not apply to persons, engaged in coyote hunts with dogs during any open season on coyotes established pursuant to the provisions of section 11-0903.

S 12. This act shall take effect immediately; provided that:

1. the amendments to paragraph a of subdivision 1 of section 11-0719 of the environmental conservation law made by section three-a of this act shall take effect on the same date and in the same manner as section 26 of part R of chapter 58 of the laws of 2013, takes effect; and

2. the amendments to subdivision 2 of section 11-0719 of the environmental conservation law made by section five-a of this act shall take effect on the same date and in the same manner as section 27 of part R of chapter 58 of the laws of 2013, takes effect.