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

1362

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. GUNTHER -- Multi-Sponsored by -- M. of A. RABBITT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to a junior small and big game hunting license and the use of crossbows; and repealing 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. Subparagraph 1 of paragraph a of subdivision 2 of section 11-0701 of the environmental conservation law, as added by section 5 of part F of chapter 82 of the laws of 2002, is amended to read as follows:

(1) A small and big game license entitles the resident holder to hunt wildlife subject to the following:

(i) a holder who is eighteen years of age or older may hunt wildlife as provided in title 9 of this article,

(ii) a holder who is AGE sixteen [years of age or older] OR SEVENTEEN may hunt wildlife, except big game, as provided in title 9 of this article, and

(iii) a holder who is [between the ages of sixteen and eighteen] AGE SIXTEEN OR SEVENTEEN may hunt big game [pursuant to the provisions of] AS PROVIDED IN title 9 of this article [while the holder is accompanied by a parent, guardian or person over the age of eighteen as required by] SUBJECT TO THE PROVISIONS OF section 11-0929 of this article.

A holder may take fish with a gun or longbow as provided in titles 9 and 13 of this article.

S 2. Subparagraph 2 of paragraph a of subdivision 2 of section 11-0701 of the environmental conservation law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

(2) A non-resident big game license entitles a person who has not been a resident of the state for more than thirty days to hunt wild deer as provided in title 9 OF THIS ARTICLE. It entitles such person to hunt bear during the regular open bear season or in an open season fixed by regulation pursuant to subdivision eight of section 11-0903 of this

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

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article if such person is also the holder of a non-resident bear tag. It entitles a person who is [between the ages of] AGE sixteen [and eighteen years] OR SEVENTEEN to exercise the privileges of a big game license subject to the provisions of section 11-0929 OF THIS ARTICLE.

S 3. Paragraph c of subdivision 2 of section 11-0701 of the environmental conservation law, as amended by chapter 25 of the laws of 2011, is amended to read as follows:

c. A junior archery license entitles a resident holder who is [between the ages of twelve and sixteen years] AGE FOURTEEN OR FIFTEEN to hunt wild deer and bear with a longbow during the special archery season and during the regular season, as provided in title 9 of this article, as if such person held a license which authorizes the holder to hunt big game with a bowhunting stamp affixed, subject to the provisions of section 11-0929 and subdivision 3 of section 11-0713 of this article. It entitles a non-resident holder who is [between the ages of twelve and sixteen years] AGE FOURTEEN OR FIFTEEN to hunt wild deer and bear with a longbow during the special archery season and during the regular season, as provided in title 9 of this article, as if such person held a non-resident bowhunting license, a non-resident license which authorizes the holder to hunt deer and a non-resident bear tag, subject to the provisions of section 11-0929 and subdivision 3 of section 11-0713 of this article.

S 4. Subdivision 12 of section 11-0701 of the environmental conservation law, as amended by chapter 344 of the laws of 2008, is amended to read as follows:

12. A. A junior hunting license[:

a.] entitles a holder who is twelve or thirteen years of age to hunt wildlife, except big game, as provided in title 9 of this article subject, specifically, to the provisions of section 11-0929 of this article. It entitles such holder to possess firearms as provided in section 265.05 of the penal law.

b. A JUNIOR HUNTING LICENSE entitles a holder who is fourteen or fifteen years of age to hunt wildlife, including wild deer and bear, as provided in title 9 of this article, subject, specifically, to the provisions of section 11-0929 of this article. It entitles such holder to possess firearms as provided in section 265.05 of the penal law.

C. A JUNIOR SMALL AND BIG GAME LICENSE ENTITLES THE HOLDER AGE FOURTEEN OR FIFTEEN TO HUNT WILDLIFE, EXCEPT BIG GAME, AS PROVIDED IN TITLE 9 OF THIS ARTICLE AND TO HUNT BIG GAME DURING THE SPECIAL MUZZLE-LOADING SEASON AND DURING THE REGULAR SEASON, AS PROVIDED IN TITLE 9 OF THIS ARTICLE, AS IF SUCH PERSON HELD A LICENSE WHICH AUTHORIZES THE HOLDER TO HUNT BIG GAME WITH A MUZZLE-LOADING STAMP AFFIXED, SUBJECT TO THE PROVISIONS OF SECTION 11-0929 OF THIS ARTICLE.

S 5. Subdivision 2 of section 11-0703 of the environmental conservation law, as amended by chapter 507 of the laws of 2010, is amended to read as follows:

2. Except as provided in section 11-0704 of this title, no license, permit, tag or stamp is transferable. No person shall alter, change, lend to another or attempt to transfer to another any license or any button, permit, tag or stamp issued therewith. No person, while hunting, shall possess a license, button, permit, tag or stamp which was issued to another person unless actually accompanied by the person to whom such license, button, permit, tag or stamp was issued. No person shall purchase, possess or use more than one junior archery, junior hunting, JUNIOR SMALL AND BIG GAME, small and big game, big game, bowhunting, muzzle-loading, sportsman, or resident super-sportsman license or stamp,

non-resident bowhunting or muzzle-loading license, non-resident super-sportsman license, non-resident bear tag or special permit for the current license year, except as permitted by regulation of the department. Notwithstanding the prohibitions contained in this subdivision, the department may authorize by rule or regulation the transfer of deer management permits, issued pursuant to section 11-0913 of this article, to any person licensed to hunt deer pursuant to this title.

S 6. Paragraph b of subdivision 4 of section 11-0703 of the environmental conservation law, as amended by chapter 178 of the laws of 2011, is amended to read as follows:

b. A person under the age of fourteen years is ineligible for any license, other than a junior archery license, which authorizes the holder to hunt big game. A person under the age of sixteen years is ineligible for a small and big game, sportsman or resident super-sportsman, non-resident super-sportsman, non-resident big game, non-resident bowhunting license, or bowhunting stamp. A person is ineligible for a small game, small and big game, junior hunting, JUNIOR SMALL AND BIG GAME, big game, junior archery, sportsman and resident super-sportsman, non-resident super-sportsman, or non-resident bowhunting or muzzle-loading license unless such person meets the requirements of subdivision 3 of section 11-0713 of this title.

S 7. Subdivision 6 of section 11-0703 of the environmental conservation law, as amended by chapter 344 of the laws of 2008, is amended to read as follows:

6. a. Except as provided in section 11-0707 and section 11-0709 of this title, no person shall (1) hunt wildlife, other than deer or bear, or take fish with a gun, unless such person holds and is entitled to exercise the privileges of a small game, junior hunting, JUNIOR SMALL AND BIG GAME, small and big game, free sportsman, sportsman or resident super-sportsman, or non-resident super-sportsman license; (2) hunt antlerless deer in a special open season therefor pursuant to subdivision 6 of section 11-0903 of this article unless such person holds and is entitled to exercise the privileges of and has on his or her person while so hunting a small and big game, JUNIOR SMALL AND BIG GAME, big game, junior archery, free sportsman, junior hunting if the licensee is at least fourteen years old, sportsman, resident super-sportsman, non-resident super-sportsman or non-resident bowhunting or muzzle-loading license, and a special antlerless deer license; (3) take fish or frogs in the manner described in subdivision 4 of section 11-0701 of this title unless such person is entitled to exercise the privileges of a fishing license; (4) trap wildlife unless such person holds a trapping license.

b. Except as provided in section 11-0707 and section 11-0709 of this title, no resident shall (1) hunt wild deer or bear unless such person holds and is entitled to exercise the privileges of a small and big game, JUNIOR SMALL AND BIG GAME, junior archery, junior hunting if the licensee is at least fourteen years old, free sportsman, sportsman, or resident super-sportsman license, and meets the requirements of this article; (2) hunt wild deer or bear with a longbow in a special longbow season unless such person holds and is entitled to exercise the privileges of a small and big game, junior archery, free sportsman, sportsman, or resident super-sportsman license with a bowhunting stamp affixed and meets the requirements of this article; or (3) hunt wild deer or bear with a muzzle-loading firearm in a special muzzle-loading firearm season unless such person holds a small and big game, free sportsman, sportsman, junior hunting if the licensee is at least fourteen years

old, or resident super-sportsman license with a muzzle-loading stamp affixed, OR JUNIOR SMALL AND BIG GAME LICENSE and meets the requirements of this article.

c. Except as provided in section 11-0707 and section 11-0709 of this title, no non-resident shall (1) hunt wild deer unless such person holds and is entitled to exercise the privileges of a big game, JUNIOR SMALL AND BIG GAME, junior archery, junior hunting if the licensee is at least fourteen years old, non-resident super-sportsman, or non-resident bowhunting or muzzle-loading license; (2) hunt wild deer with a longbow in a special longbow season unless such person holds and is entitled to exercise the privileges of a non-resident super-sportsman, non-resident bowhunting, or junior archery license; (3) hunt wild deer with a muzzle-loading firearm in a special muzzle-loading firearm season unless such person holds a JUNIOR SMALL AND BIG GAME, non-resident super-sportsman or non-resident muzzle-loading license; (4) hunt wild bear unless such person holds a junior hunting license if the licensee is at least fourteen years old, a junior archery, OR JUNIOR SMALL AND BIG GAME license, or a non-resident bear tag in combination with one of the non-resident deer licenses listed in subparagraph 1, 2 or 3 of this paragraph.

S 8. Subparagraph 3 of paragraph a of subdivision 1 of section 11-0713 of the environmental conservation law, as amended by section 3 of part AA of chapter 60 of the laws of 2011, is amended to read as follows:

(3) license issuing officers as may be appointed by the commissioner. Applicants for designation as license issuing officers shall be [over the age of] eighteen years OF AGE OR OLDER and shall meet such other requirements of eligibility, including posting bond, as the department may by regulation specify. Such issuing officers shall be entitled to receive and keep the same fees for issuing licenses and stamps that are specified in section 11-0715 of this title for issuing clerks, and shall file reports and remit license fees to the appropriate regional environmental conservation officer or the department as required by regulation.

S 9. Subparagraph 3 of paragraph a of subdivision 1 of section 11-0713 of the environmental conservation law, as amended by section 4 of part LL of chapter 59 of the laws of 2009, is amended to read as follows:

(3) license issuing officers as may be appointed by the commissioner. Applicants for designation as license issuing officers shall be [over the age of] eighteen years OF AGE OR OLDER and shall meet such other requirements of eligibility, including posting bond, as the department may by regulation specify. Such issuing officers shall be entitled to receive and keep the same fees for issuing licenses and stamps that are specified in section 11-0715 of this title for issuing clerks and section 13-0355 of this chapter, and shall file reports and remit license fees to the appropriate regional environmental conservation officer or the department as required by regulation.

S 10. Subdivision 2 of section 11-0713 of the environmental conservation law, as amended by chapter 25 of the laws of 2011, is amended to read as follows:

2. The issuing officer shall not issue a junior archery license OR JUNIOR SMALL AND BIG GAME to a person [between the ages of twelve and sixteen] AGE FOURTEEN OR FIFTEEN or a junior hunting license to a person [between the ages of twelve and sixteen years] AGE TWELVE THROUGH FIFTEEN unless at the time of issuance applicant is accompanied by his or her parent or legal guardian who shall consent to the issuance of the license and shall so signify by signing his or her name in ink across the face of it. At no time shall such licenses be issued by mail to

persons [between the ages of twelve and sixteen years] AGES TWELVE THROUGH FIFTEEN.

S 11. Paragraph c of subdivision 3 of section 11-0715 of the environmental conservation law, as amended by section 4 of part KK of chapter 59 of the laws of 2009, is amended to read as follows:

c. In all cases:

(1) Certificates in lieu of lost license or stamp or tag	$ 5.00
(2) Duplicate for lost or destroyed permit, button or tag	$10.00
(3) Junior hunting license	$ 5.00
(4) JUNIOR SMALL AND BIG GAME LICENSE	$ 9.00
(5) Junior archery license	$ 9.00
[(5)] (6) One-day fishing license	$15.00
[(6)] (7) Conservation patron license	$12.00

S 12. Subdivision 3 of section 11-0719 of the environmental conservation law, as amended by chapter 25 of the laws of 2011, is amended to read as follows:

3. A junior hunting license issued to a person who is [at least twelve and less than sixteen years of age] AGE TWELVE THROUGH FIFTEEN or a junior archery OR JUNIOR SMALL AND BIG GAME license issued to a person who is [between the ages of twelve and sixteen years] AGE FOURTEEN OR FIFTEEN may be revoked by the department upon proof satisfactory to the department that such person, while under the age of sixteen, has engaged in hunting wildlife with a gun or longbow, in circumstances in which a license is required, while not accompanied by his or her parent, guardian or other adult as provided in section 11-0929 of this article. If such license or privilege is revoked the department shall fix the period of such revocation, which is not to exceed six years. The department may require that such person successfully complete a department sponsored course and obtain a certificate of qualification in responsible hunting or responsible bowhunting practices before being issued another hunting or bowhunting license.

S 13. Paragraph a of subdivision 8 of section 11-0907 of the environmental conservation law, as amended by chapter 483 of the laws of 2010, is amended to read as follows:

a. In every area identified in column one of the table set forth in subdivision 2 of this section, except those areas restricted to special seasons for taking deer by longbow only, special open seasons may be established by regulation for taking deer and/or bear, by the use of muzzle-loading firearms, of not less than .44 caliber shooting a single projectile, or by the use of a crossbow, by the holders of a small and big game, sportsman or free sportsman license to which a valid muzzle-loading stamp is affixed or to holders of a JUNIOR SMALL AND BIG GAME, resident or non-resident super-sportsman, or non-resident muzzle-loading license.

S 14. Paragraph a of subdivision 8 of section 11-0907 of the environmental conservation law, as amended by section 45 of part F of chapter 82 of the laws of 2002, is amended to read as follows:

a. In every area identified in column one of the table set forth in subdivision 2 of this section, except those areas restricted to special seasons for taking deer by longbow only, special open seasons may be established by regulation for taking deer and/or bear, by the use of muzzle-loading firearms, of not less than .44 caliber shooting a single projectile, by the holders of a small and big game, sportsman or free sportsman license to which a valid muzzle-loading stamp is affixed or to

holders of a JUNIOR SMALL AND BIG GAME, resident or non-resident super-sportsman, or non-resident muzzle-loading license.

S 15. Subdivision 7 of section 11-0913 of the environmental conservation law, as amended by section 6 of part KK of chapter 59 of the laws of 2009, is amended to read as follows:

7. The department shall charge and receive a fee of ten dollars for the application and the processing of such permit or permits. Applicants who are successful in the computerized selection shall receive the permit or permits free of any additional charge. The application fee shall be non-refundable. The department may waive the application fee for holders of a lifetime sportsman license existing as of October first, two thousand nine, junior archery license, JUNIOR SMALL AND BIG GAME LICENSE, resident super-sportsman license, or junior hunting license.

S 16. Section 11-0929 of the environmental conservation law, as amended by chapter 344 of the laws of 2008, subdivision 5 as added by chapter 25 of the laws of 2011, is amended to read as follows:

S 11-0929. Hunting by minors.

1. A licensee [who is] AGE twelve or thirteen [years of age] shall not [hunt wildlife with a gun or a longbow] EXERCISE THE PRIVILEGES OF A JUNIOR SMALL GAME LICENSE unless he or she is accompanied by his or her parent or legal guardian, or by a person twenty-one years of age or older designated in writing by his or her parent or legal guardian on a form prescribed by the department, who holds a license which authorizes the holder to hunt wildlife.

2. A licensee who is AGE fourteen or fifteen [years of age] shall not:

a. [hunt wildlife with a gun or longbow] EXERCISE THE PRIVILEGES OF A JUNIOR SMALL GAME LICENSE, other than wild deer or bear as provided in paragraph b of this subdivision, unless he or she is accompanied by his or her parent or legal guardian holding a license which authorizes the holder to hunt wildlife, or by a person eighteen years of age or older, designated in writing by his or her parent or legal guardian, holding such license;

b. hunt wild deer or bear with a gun unless:

(1) he or she is accompanied by his or her parent or a legal guardian, or a youth mentor who is twenty-one years of age or older designated in writing by the parent or legal guardian of the licensee on a form prescribed by the department; and

(2) such parent, guardian or youth mentor has had at least three years of experience in hunting big game; and

(3) such parent, guardian or youth mentor holds a license which authorizes the holder to hunt big game; and

(4) such parent, guardian or youth mentor maintains physical control over the minor he or she is accompanying at all times while hunting; and

(5) such parent, guardian or youth mentor and the minor he or she is accompanying remain at ground level at all times while hunting; and

(6) such parent, guardian or youth mentor and the minor he or she is accompanying shall each display either a minimum total of two hundred fifty square inches of solid fluorescent orange or patterned fluorescent orange consisting of no less than fifty percent fluorescent orange material worn above the waist and visible from all directions, or a hat or cap with no less than fifty percent of the exterior consisting of solid fluorescent orange material and visible from all directions. For purposes of this paragraph, "physical control" shall mean that the physical proximity of the minor to the parent, guardian or youth mentor is such that the parent, guardian or youth mentor is reasonably able to

issue verbal directions and instructions, maintain constant visual contact, and otherwise provide guidance and supervision to the minor.

3. A licensee [who is] AGE sixteen or seventeen [years of age and] who has not previously had a license which authorizes the holder to hunt big game issued to him or her and engaged in hunting pursuant to it shall not hunt deer or bear unless he or she is accompanied by his or her parent or legal guardian, or by a person designated in writing by his or her parent or legal guardian on a form prescribed by the department and who is eighteen years of age or older and who has had at least one year's experience in hunting deer or bear, and such accompanying parent, guardian or person holds a license which authorizes the holder to hunt big game.

4. A junior archery licensee, [who is] AGE fourteen or fifteen [years of age], shall not hunt deer or bear unless he or she is accompanied by his or her parent or legal guardian, or by a person designated in writing by his or her parent or legal guardian on a form prescribed by the department who is eighteen years of age or older and who has had at least one year's experience in hunting deer or bear by longbow, and such accompanying parent, guardian or person holds a license which authorizes the holder to hunt big game during a special archery season and the regular open season.

5. A junior archery licensee, who is twelve or thirteen years of age, shall not hunt deer or bear unless:

(a) he or she is accompanied by his or her parent or legal guardian, or by a person designated in writing by his or her parent or legal guardian on a form prescribed by the department who is twenty-one years of age or older and

(b) such parent, guardian or person has had at least three year's experience in hunting deer or bear by longbow and

(c) such parent, guardian or person holds a license that authorizes the holder to hunt big game and

(d) such parent, guardian or person maintains physical control over the minor he or she is accompanying at all times while hunting. For the purposes of this paragraph "physical control" shall mean that the physical proximity of the minor to the parent, guardian or person is such that the parent, guardian or person is reasonably able to issue verbal directions and instructions, maintain constant visual contact, and otherwise provide guidance and supervision to the minor.

6. A JUNIOR SMALL AND BIG GAME LICENSEE, AGE FOURTEEN OR FIFTEEN, SHALL NOT HUNT DEER OR BEAR UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO HAS HAD AT LEAST ONE YEAR'S EXPERIENCE IN HUNTING DEER OR BEAR, AND SUCH ACCOMPANYING PARENT, GUARDIAN OR PERSON HOLDS A LICENSE WHICH AUTHORIZES THE HOLDER TO HUNT BIG GAME DURING A SPECIAL MUZZLE-LOADING SEASON AND THE REGULAR OPEN SEASON.

S 17. 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 18. Subdivision 15 of section 11-0901 of the environmental conservation law, as amended by chapter 483 of the laws of 2010, is amended to read as follows:

15. Notwithstanding any inconsistent provision of this section, the department may adopt regulations to allow the taking of big game or small game by the use of a long bow equipped with a mechanical device for holding and releasing the bowstring, attached to the handle section of an otherwise legal long bow, OR BY THE USE OF A CROSS-BOW, to any person with a physical disability who is physically incapable of drawing and holding a long bow because of a physical disability, subject to such restrictions as the department may adopt by regulation. For the purpose of this subdivision, a person with a physical disability shall mean any person who submits to the department a statement of a physician duly licensed to practice medicine that such person is physically incapable of arm movement sufficient to draw, hold and release a long bow as defined in subdivision 4 of this section or as otherwise defined in department regulation. The department is authorized to adopt regulations requiring documentation to establish that an applicant is eligible to use a mechanical device pursuant to this subdivision.

S 19. 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] 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, OR BY THE USE OF A CROSS-BOW, to any person WITH A PHYSICAL DISABILITY 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] ADOPT BY REGULATION. FOR THE PURPOSE OF THIS SUBDIVISION, "PERSON WITH A PHYSICAL DISABILITY" SHALL MEAN ANY PERSON WHO SUBMITS TO THE DEPARTMENT A STATEMENT OF A PHYSICIAN DULY LICENSED TO PRACTICE MEDICINE THAT SUCH PERSON IS PHYSICALLY INCAPABLE OF ARM MOVEMENT SUFFICIENT TO RELEASE A BOW AS DEFINED IN SUBDIVISION 4 OF THIS SECTION OR AS OTHERWISE DEFINED IN DEPARTMENT REGULATION.

S 20. 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, THE DEPARTMENT MAY, BY REGULATION, AUTHORIZE THE USE OF CROSSBOWS.

S 21. This act shall take effect October 1, 2013; provided that the amendments to subparagraph 3 of paragraph a of subdivision 1 of section 11-0713 of the environmental conservation law made by section eight of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 3 of part AA of chapter 60 of the laws of 2011, as amended, when upon such date the provisions of section nine of this act shall take effect; and provided further that the amendments to paragraph a of subdivision 8 of section 11-0907 and subdivision 15 of section 11-0901 of the environmental conservation law made by sections thirteen and eighteen of this act shall be subject to the expiration of such provisions pursuant to section 17 of chapter 483 of the laws of 2010, as amended, when upon such date the provisions of sections fourteen and nineteen of this act shall take effect; and provided further that any regulations necessary for the timely implementation of the provisions of this act on its effective date may be promulgated on or before such date.