

93--A

Cal. No. 279

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

---

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to hunting or trapping of moose

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

1     Section 1. Paragraph b of subdivision 2 and paragraph b of subdivision  
2     4 of section 11-0103 of the environmental conservation law, paragraph b  
3     of subdivision 2 as amended by chapter 427 of the laws of 1988, are  
4     amended to read as follows:  
5     b. "Big game" means deer, bear, moose, [elk, except captive bred and  
6     raised North American elk (*Cervus elaphus*)], caribou and antelope.  
7     b. "Domestic game animal" means white-tailed deer propagated under a  
8     domestic game animal breeder's license pursuant to section 11-1905 OF  
9     THIS ARTICLE or propagated on a preserve or island outside the state  
10    under a law similar in principle to title 19 of this article.  
11    S 2. Subdivision 3 of section 11-0505 of the environmental conserva-  
12    tion law, as amended by chapter 135 of the laws of 1982, is amended to  
13    read as follows:  
14    3. No deer, MOOSE or bear traps shall be made, set or used upon land  
15    inhabited by deer, MOOSE or bear. No salt lick shall be made, set or  
16    used upon land inhabited by deer, MOOSE or bear, except that the depart-  
17    ment may do so on state wildlife refuges and wildlife management areas.  
18    S 3. Subdivision 3 of section 11-0521 of the environmental conserva-  
19    tion law, as renumbered by chapter 911 of the laws of 1990, is renum-  
20    bered subdivision 4, and a new subdivision 3 is added to read as  
21    follows:

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

LBD00592-02-5

1 3. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, IN THE  
2 CASE OF MOOSE, THE DEPARTMENT MAY ISSUE A LICENSE BY RULE OR REGULATION  
3 TO ALLOW THE TAKING OF INDIVIDUAL ANIMALS THAT ARE DEEMED TO BE DESTRUC-  
4 TIVE.

5 S 4. Subdivision 5 of section 11-0529 of the environmental conserva-  
6 tion law, as amended by chapter 610 of the laws of 2006, is amended to  
7 read as follows:

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

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

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

17 S 6. Paragraph b of subdivision 3 of section 11-0901 of the environ-  
18 mental conservation law, as amended by section 5 of part EE of chapter  
19 55 of the laws of 2014, is amended to read as follows:

20 b. Wild deer, MOOSE and bear shall not be taken except by gun, cross-  
21 bow or by long bow. Where an open season, set forth in the table of open  
22 seasons in section 11-0907 of this title or otherwise established by law  
23 or fixed by regulation, is specified as an open season for taking such  
24 game by shotgun or long bow only, or is specified as an open season for  
25 taking such game by long bow only, they shall not be taken except as so  
26 specified.

27 S 7. Paragraph a and the opening paragraph of paragraph b of subdivi-  
28 sion 4 of section 11-0901 of the environmental conservation law, as  
29 amended by chapter 600 of the laws of 1993, are amended to read as  
30 follows:

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

32 No person shall hunt deer OR MOOSE:

33 S 8. The opening paragraph of paragraph d and subparagraph 1 of para-  
34 graph e of subdivision 4 of section 11-0901 of the environmental conser-  
35 vation law, as amended by chapter 600 of the laws of 1993, are amended  
36 to read as follows:

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

43 (1) No person shall use a jacklight, spotlight or other type of arti-  
44 ficial light upon lands inhabited by deer, MOOSE or bear within five  
45 hundred feet from a dwelling house, farm building or farm structure  
46 actually occupied or used, for the purpose of locating, spotting, harry-  
47 ing, worrying or otherwise disturbing deer, MOOSE or bear.

48 S 9. Section 11-0907 of the environmental conservation law is amended  
49 by adding a new subdivision 11 to read as follows:

50 11. THE COMMISSIONER IS AUTHORIZED TO ESTABLISH, BY RULE AND REGU-  
51 LATION; LICENSES, SEASONS, MANNER OF TAKING, TAG LIMITS AND LICENSE FEES  
52 FOR BIG GAME NOT SPECIFICALLY DESIGNATED BY THIS SECTION.

53 S 10. Paragraphs a and b of subdivision 3 of section 11-0909 of the  
54 environmental conservation law, as amended by chapter 911 of the laws of  
55 1990, are amended to read as follows:

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

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

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

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

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

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

28 S 12. Section 11-0911 of the environmental conservation law is amended  
29 by adding a new subdivision 8 to read as follows:

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

33 S 13. The section heading, opening paragraph and subdivision 1 of  
34 section 11-0915 of the environmental conservation law, as amended by  
35 chapter 190 of the laws of 1999, is amended to read as follows:

36 S 11-0915. Disposal of [deer, moose and bear] BIG GAME killed uninten-  
37 tionally by collision.

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

41 1. The accident is reported to an environmental conservation officer,  
42 a member of the State Police, a member of the sheriff's department in  
43 which the accident occurred or, if the accident occurred on lands under  
44 the jurisdiction of the office of parks, recreation and historic preser-  
45 vation, to an officer of the regional park police having law enforcement  
46 responsibilities on such lands, or to any police officer of a city, town  
47 or village located in the county of such accident within [24]  
48 TWENTY-FOUR hours thereafter.

49 S 14. Section 11-0921 of the environmental conservation law, as  
50 amended by chapter 213 of the laws of 1999, is amended to read as  
51 follows:

52 S 11-0921. Surrender of game unfit for human consumption; permit for  
53 taking another of species surrendered.

54 When a wild turkey, wild deer, WILD MOOSE or wild bear is taken by a  
55 person holding a license or permit and, upon presentation to an environ-  
56 mental conservation officer or other authorized employee of the depart-

ment, 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 15. 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[,] 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 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 OR MOOSE, or hunting any wildlife or domestic game on enclosed lands described in paragraph a of subdivision [1] ONE OF THIS SECTION 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, 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 16. Subdivision 7 of section 11-0931 of the environmental conservation law is amended to read as follows:

7. During any open season for deer, 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, MOOSE or bear.

1 S 17. Subdivision 6 of section 11-0931 of the environmental conserva-  
2 tion law, as amended by section 24 of part R of chapter 58 of the laws  
3 of 2013, is amended to read as follows:  
4 6. No person while engaged in hunting deer, MOOSE or bear pursuant to  
5 a bowhunting privilege, and no person accompanying him or her or a  
6 member of his or her party, while he or she is so engaged during a  
7 special longbow season, shall have in his or her possession a firearm of  
8 any kind, and no person while engaged in hunting deer or bear pursuant  
9 to a muzzle-loading privilege, and no person accompanying him or her or  
10 a member of his or her party, while he or she is so engaged during a  
11 special muzzle-loading firearm season, shall have in his or her  
12 possession a firearm of any kind other than a muzzle-loading firearm.  
13 S 18. This act shall take effect on the first of November next  
14 succeeding the date on which it shall have become a law.