

LEGISLATIVE BILL 105

Approved by the Governor February 20, 1987

Introduced by Rupp, 22

AN ACT relating to game and parks; to amend sections 37-201, 37-204, 37-212, 37-213, and 37-507.01, Reissue Revised Statutes of Nebraska, 1943; to provide an exception to the requirement to pay a fee and obtain a permit to angle for fish; to change provisions relating to fees for certain permits as prescribed; to provide for the use of revenue from certain fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-201. For the purpose of supplying revenue for the propagation, importation, distribution, protection, and conservation of the wildlife of this state, including all wild animals, birds, fish, and all things pertaining thereto, every person sixteen years of age or older who hunts for game animals or game birds or takes bullfrogs, or any other species as defined as game in section 37-101, or who angles for fish, and every person sixteen years of age or older who engages in fur harvesting, shall first pay a fee as herein required and obtain a permit, except (1) the owner or his or her invitee who angles for fish in any body of water (a) which is entirely upon privately owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside said such land, and (d) when such owner does not operate such body of water on a commercial basis for profit and (2) any paraplegic who angles for fish in his or her privately owned body of water if he or she does not operate such body of water on a commercial basis for profit.

Any bona fide farmer or rancher, as described in section 37-215.03, who actually resides on a portion of such farm or ranch land, together with members of his or her immediate family also residing on such land, may hunt, take, and possess, within duly established season bag and possession limits, upland game, and all game

except migratory water fowl, shore birds, deer, antelope, and wild turkey without the necessity of paying a fee and obtaining a hunting permit, as required in ~~sections 37-201 and this section~~ and section 37-213; or a habitat stamp as required in sections 37-216.01 to 37-216.09. For the purpose of this exemption, the term immediate family shall mean and be limited to husband and wife and their children. The term upland game shall mean and be limited to cottontail rabbits, squirrels, grouse, partridges, pheasants, prairie chickens, and quail. Such exemption shall only apply to hunting done on land owned or leased by the bona fide farmer or rancher, and shall not apply when hunting on the lands of other persons. The Game and Parks Commission may by rule and regulation require a farmer or rancher, hunting under the provisions of this section, to sign a statement presented by a conservation officer, which states that such farmer or rancher is a bona fide farmer or rancher as described in section 37-215.03 of the land upon which he or she is hunting.

A violation of the provisions of this section shall be a Class IV misdemeanor.

Any farmer or rancher owning or operating a farm or ranch may destroy or have destroyed a predator, including raccoon and opossum, preying on livestock or poultry or causing other agricultural depredation on lands owned or controlled by him or her without a permit issued by the Game and Parks Commission.

Sec. 2. That section 37-204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-204. (1) There shall be paid to the state, for permits issued under the provisions of this act, the following fees:

(1) (a) Resident fees shall be eight dollars and fifty cents for hunting, ~~nine eleven~~ seven dollars and fifty cents for a three-day fishing permit, ~~nineteen seventeen~~ nineteen dollars and fifty cents for both fishing and hunting, and fifteen dollars for fur harvesting; and

(2) (b) By ~~nonresidents~~, for fur harvesting one thousand or less fur-bearing animals, ~~Nonresident fees shall be~~ two hundred dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and ten dollars additional for each one hundred or part of one hundred fur-bearing animals harvested, ~~the commission may limit the number of days for which such a permit is~~

issued and the number of fish or game birds taken on one permit, and is authorized to issue coupons attached to nonresident permits for the purpose of tagging and identification. Nonresident permits for fur harvesting may be issued only to residents of states which sell similar permits to residents of Nebraska. No hunting or fur-harvesting permit shall be required of any nonresident entering this state solely to participate in scheduled dog trials for which an entry fee is charged. For purposes of this subdivision, scheduled dog trials shall mean events wherein hunting dogs and their owners or handlers compete and are judged under controlled conditions in various feats of skill and performance in the hunting or retrieving of birds and animals when such events are conducted under the written authorization of the Game and Parks Commission. The fee for a nonresident hunting permit shall be forty dollars; the fee for a three-day nonresident fishing permit shall be six for hunting, seven dollars and fifty cents for a three-day fishing permit, and the fee for a nonresident annual fishing permit shall be twenty twenty-five dollars per year; and for an annual fishing permit.

(3) (2) No person, except a resident of the United States who has resided in this state continuously for a period of ninety days before making an application for a permit under this act and who has a bona fide intention of becoming a legal resident of this state, supported by documentary proof, shall be deemed to be a resident or be issued a permit as such under this act. The issuance of a hunter's permit to anyone known to be physically or mentally unfit to carry or use firearms is hereby prohibited. All nonresident hunters and fur harvesters regardless of age shall be required to obtain a permit, and all nonresident anglers under sixteen years of age must shall be accompanied by a person possessing a valid fishing permit. The commission may limit the number of days for which a permit is issued and the number of fish or game birds taken on one permit and may issue coupons which are attached to nonresident permits for the purpose of tagging and identification. Nonresident permits for fur harvesting may be issued only to residents of states which sell similar permits to residents of Nebraska. No hunting or fur-harvesting permit shall be required of any nonresident entering this state solely to participate in scheduled dog trials for which an entry fee is charged. For purposes of this subsection, scheduled dog trials shall mean events in which hunting dogs and their owners or handlers compete and are judged under controlled conditions in various

feats of skill and performance in the hunting or retrieving of birds and animals when such events are conducted under the written authorization of the commission.

Sec. 3. That section 37-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-212. The fund funds derived from the sale of permits, as provided in this act, any unexpended balance now on hand from the sale of hunting, fur-harvesting, and fishing permits, and all money required by this act to be paid into the State Game Fund are hereby appropriated to the use of the Game and Parks Commission for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor, and all things pertaining thereto, for the creation of cash funds under section 81-814.01, for the administration and enforcement of the provisions of sections 37-1201 to 37-1274 the State Boat Act, and for the construction and maintenance of boating and docking facilities, navigation aids and access to boating areas, and such other uses which will promote the safety and convenience of the boating public in Nebraska. An amount equal to two dollars from each annual resident fishing permit and two dollars from each combination hunting and fishing permit sold in this state shall be used by the commission for the administration, construction, operation, and maintenance of fish hatcheries and for the distribution of fish.

Sec. 4. That section 37-213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-213. Unless holding a permit as in this act required, it shall be unlawful (1) for any person who is a resident of the State of Nebraska and is sixteen years of age or older or who is a nonresident of this state to engage in fur harvesting or have in possession any fur-bearing animal or raw fur, except that a person may possess a fur-bearing animal or raw fur for up to ten days after expiration of a valid permit, (2) for any person who is a resident of the State of Nebraska and is sixteen years old or older or who is a nonresident of this state to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds, game animals, or crows, (3) for any person of the age of who is sixteen years of age or older to hunt or take or attempt to hunt or take any migratory waterfowl without first obtaining and affixing to his or her hunting permit a federal migratory bird hunting stamp.

All such stamps affixed to hunting permits ~~must~~ shall be signed by the holder of the hunting permit. The term migratory waterfowl shall mean any ducks, geese, coots, or brant upon which an open season has been established by the Game and Parks Commission, or (4) for any person who is sixteen years of age or older to take, angle for, or attempt to take any kind of fish, bullfrog, snapping turtle, tiger salamander, mussel, or minnow from the waters of this state or possess the same, except that the owner or invitee of the owner of any body of water (a) located entirely upon privately owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside ~~said~~ such land, and (d) when such owner does not operate such body of water on a commercial basis for profit and any paraplegic who angles for fish in his or her privately owned body of water if he or she does not operate such body of water on a commercial basis for profit shall not be required to hold a permit before fishing from or possessing fish or minnows taken from such waters. ~~No~~ PROVIDED, that ~~no~~ fishing permit shall be required for fishing in any duly licensed commercial put-and-take fishery operating under rules and regulations ~~prescribed~~ adopted and promulgated by the Game and Parks Commission. The fee for licensing such put-and-take commercial fishery shall be fifty dollars per year, payable in advance, and no person shall operate such an establishment without first obtaining such permit from the commission. Before issuing such permit the commission shall investigate each such establishment annually and be satisfied that the same is a bona fide commercial put-and-take fishery operating within all applicable state and federal laws. It shall be unlawful for a nonresident to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds or game animals, mussel, turtle, or amphibian, to angle for or take or attempt to angle for or take any kind of fish, or to harvest fur or attempt to harvest fur while in the possession of a resident permit illegally obtained. It shall also be unlawful for anyone to do or attempt to do any other thing for which a permit is herein provided without first obtaining such permit and paying the fee required. During the firearms deer season, wild animals other than deer may be hunted only with a shotgun or .22 rimfire rifle or handgun, except that this provision shall not apply to a bona fide farmer or rancher who owns, leases, or resides upon farm or ranch land, or a member of the immediate family of such farmer or rancher, while

hunting on such farm or ranch land. Except as provided in sections 37-204 and 37-209, it shall be unlawful for any nonresident to trap or attempt to trap or to harvest fur or attempt to harvest fur from any wild mammal. Any violation of ~~the provisions of~~ this section shall constitute a Class II misdemeanor, and the offender shall be fined at least forty dollars.

If the offense shall be failure to hold a hunting, fishing, fur-harvesting, deer, turkey, or antelope permit as required, unless issuance of the required permit is restricted so that permits are not available, the court shall require the offender to purchase the required permit and exhibit the same to the court.

Sec. 5. That section 37-507.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-507.01. Whenever the possession, use, importation, storage, taxidermy for millinery purposes, sale, or offering or exposing for sale of fish, game, or song, insectivorous, or other birds is prohibited or restricted, the prohibition or restriction, when not specifically stated to be otherwise, shall mean any part of such fish, game, or song, insectivorous, or other birds. ~~Any~~ ~~PROVIDED~~; ~~that any~~ nonresident person who takes, hunts, kills, ~~or~~ pursues, or attempts to take, hunt, kill, or pursue; or has in his or her possession any wild mammal, bird, turtle, mussel, or amphibian shall first obtain and have in his or her possession a nonresident hunting permit as ~~defined in subdivision (2) of provided in~~ section 37-204, except that a nonresident bait vendor's permit as ~~defined provided~~ in section 37-503 shall be the only permit required of nonresidents to take, hunt, kill, ~~or~~ pursue, or ~~to~~ attempt to take, hunt, kill, or pursue; or to have in his or her possession any salamander.

Sec. 6. This act shall become operative on January 1, 1988.

Sec. 7. That original sections 37-201, 37-204, 37-212, 37-213, and 37-507.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.