

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1859

Session of
2009

INTRODUCED BY STABACK, PEIFER, BAKER, BELFANTI, BEYER,
CALTAGIRONE, CARROLL, CASORIO, CREIGHTON, DALLY, FAIRCHILD,
GEIST, GERGELY, GILLESPIE, GOODMAN, HALUSKA, HORNAMAN,
KAUFFMAN, KORTZ, KOTIK, LEVDANSKY, LONGIETTI, McCALL,
MICOZZIE, MOUL, MURT, PYLE, ROCK, SIPTROTH, SOLOBAY, SWANGER,
VULAKOVICH, WALKO, WANSACZ AND MARSHALL, JULY 14, 2009

SENATOR ALLOWAY, GAME AND FISHERIES, IN SENATE, AS AMENDED,
JANUARY 26, 2010

AN ACT

1 Amending Title 34 (Game) of the Pennsylvania Consolidated
2 Statutes, in preliminary provisions, further providing for
3 definitions; in enforcement, further providing for the
4 offense of assaulting an officer, for jurisdiction and
5 penalties, for revocation, suspension or denial of license,
6 permit or registration and for determination of second or
7 subsequent convictions; in game or wildlife protection,
8 further providing for endangered or threatened species; in
9 hunting and furtaking, further providing for killing game or
10 wildlife by mistake, for unlawful taking or possession of
11 game or wildlife, for unlawful use of lights while hunting,
12 for buying and selling game, for trespass on private property
13 while hunting, for unlawful killing or taking of big game and
14 for additional penalty for poaching; and, in hunting and
15 furtaking licenses, further providing for unlawful acts
16 concerning licenses.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The definitions of "closed season," "open season"
20 and "violation" in section 102 of Title 34 of the Pennsylvania
21 Consolidated Statutes are amended to read:

22 § 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Closed season." The periods of the calendar year and the [shooting] hours during which it is unlawful to take game or wildlife.

* * *

"Open season." The indicated periods of the calendar year and the daily [shooting] hours during which game or wildlife may be legally hunted, taken or killed and includes both the first and the last day of the season or period of time designated by this title or by regulation of the commission.

* * *

"Violation." [A] Any act in violation of a provision of this title [and a violation of a] or any regulation promulgated by the commission which implements or otherwise pertains to any provision of this title.

* * *

Section 2. Sections 905, 925, 929(a) and (b), 932, 2167, 2306, 2307(b) and (e), 2310(a)(2) and (c), 2312(a) and (d), 2314 and 2321 of Title 34 are amended to read:

§ 905. Assaulting an officer.

[A] Any person who intentionally, knowingly or recklessly attempts to cause or causes serious bodily injury to an officer making an arrest or investigation for a violation of this title or performing any duties required by this title commits a [misdemeanor] felony of the second degree.

1 § 925. Jurisdiction and penalties.

2 (a) Jurisdiction.--Notwithstanding the provisions of Title
3 42 (relating to judiciary and judicial procedure), all
4 magisterial district judges shall have jurisdiction for all
5 violations of this title which are classified as summary
6 offenses and may accept guilty pleas and impose sentences for
7 violations of this title classified as misdemeanors.

8 (b) Fines and penalties for violations.--In addition to any
9 other requirements of this title, the following fines and
10 penalties shall be imposed for violations of this title:

11 (1) Felony of the second degree, not more than \$25,000
12 and may be sentenced to imprisonment up to 60 months.

13 (2) Felony of the third degree, not more than \$15,000
14 and may be sentenced to imprisonment up to 36 months.

15 [(1)] (3) Misdemeanor of the first degree, not [less
16 than \$2,000 nor] more than \$10,000 and may be sentenced to
17 imprisonment up to [six] 18 months.

18 [(2)] (4) Misdemeanor of the second degree, not [less
19 than \$1,000 nor] more than \$5,000 and may be sentenced to
20 imprisonment up to [six] 12 months.

21 [(3)] (5) Misdemeanor [of the third degree,] not [less
22 than \$500 nor] more than [\$2,500] \$3,000 and may be sentenced
23 to imprisonment up to six months.

24 [(4)] (6) Summary offense of the first degree, not less
25 than [\$500] \$1,000 nor more than \$1,500 and may be sentenced
26 to imprisonment up to three months.

27 [(5)] (7) Summary offense of the second degree, not less
28 than [\$300] \$400 nor more than \$800 and may be sentenced to
29 imprisonment up to one month.

30 [(6)] (8) Summary offense of the third degree, not less

1 than [\$200] \$250 nor more than \$500.

2 [(7)] (9) Summary offense of the fourth degree, not less
3 than [\$100] \$150 nor more than \$300.

4 [(8)] (10) Summary offense of the fifth degree, not less
5 than [\$75] \$100 nor more than \$200.

6 [(9)] (11) Summary offense of the sixth degree, [not
7 less than \$50 nor more than \$100] \$75.

8 [10] (12) Summary offense of the seventh degree, [not
9 less than \$25 nor more than \$75] \$50.

10 [(11)] (13) Summary offense of the eighth degree, \$25.

11 (b.1) Costs of prosecution for violations.--In addition to
12 the imposition of any fines and penalties, costs of prosecution
13 shall [also] be assessed pursuant to 42 Pa.C.S. §§ 1725.1
14 (relating to costs) [and], 3571 (relating to Commonwealth
15 portion of fines, etc.) and section 1403 of the act of August 9,
16 1955 (P.L.323, No.130), known as The County Code, and as
17 otherwise deemed appropriate by the court.

18 (c) Penalty for undesignated violations.--A person who
19 violates any provision of this title for which a particular
20 penalty is not [applicable] designated commits:

21 (1) A misdemeanor of the [third] second degree if the
22 violation involves an endangered or threatened species and no
23 more severe penalty is fixed.

24 (2) A summary offense of the fifth degree for any other
25 violation.

26 (d) [Second and subsequent offenses.--Where game or wildlife
27 is taken, killed, wounded, possessed, transported, purchased,
28 concealed or sold and the offense is a second or subsequent
29 offense in a two-year period, one and one-half times the amount
30 of fine shall be imposed.]Enhanced penalties for certain

1 violations.--If applicable, one or more of the following may
2 apply to certain offenses:

3 (1) An additional fine of one and one-half times the
4 amount of the applicable fine may be imposed when the offense
5 is a second or subsequent offense within a seven-year period
6 or during the same criminal episode and no penalties for
7 second or subsequent offenses are prescribed for the
8 violation under this title.

9 (2) An additional fine of \$500 may be imposed when the
10 offense involves the unlawful taking of big game or
11 threatened or endangered species and a witness report was
12 instrumental in securing a successful conviction. Any
13 additional fines imposed under this paragraph shall be
14 directed to the commission to compensate any witness whose
15 report directly results in a successful conviction. If
16 applicable, each witness, up to a maximum of two, shall be
17 compensated \$250 for each additional \$500 imposed.

18 (e) Installment payment of fines.--Upon a plea and proof
19 that person is unable to pay any fine and costs imposed under
20 this title, a court may, in accordance with 42 Pa.C.S. § 9758
21 (relating to fine), permit installment payments it considers
22 appropriate to the circumstances of the [defendant] person, in
23 which case its order shall specify when each installment payment
24 is due.

25 (f) Nonpayment of fines and costs.--Unless otherwise
26 provided in this title, each person who fails to pay [the fine]
27 any fines and costs imposed may, after a hearing before a
28 magisterial district judge, be imprisoned until the [fine is]
29 fines and costs are paid in full. The court may imprison the
30 person for a number of days equal to one day for each \$40 of the

1 unpaid balance of the [fine] fines and costs not to exceed [120
2 days] six months.

3 (g) [Community public service] Adjudication alternative
4 program inapplicable.--The provisions of 42 Pa.C.S. § 1520
5 (relating to [community public service] adjudication alternative
6 program) shall not be applied as an adjudication alternative for
7 any violation or offense under this title.

8 (h) Separate offenses.--Where game or wildlife is unlawfully
9 taken, killed, wounded, possessed, transported, purchased,
10 concealed or sold, each bird or animal or part thereof involved
11 in the violation constitutes a separate offense.

12 (i) Replacement costs.--In addition to the fines and costs
13 imposed for violations pursuant to subsection (b), the costs
14 incurred by the commission for the replacement of the species
15 involved in the violation shall be assessed by the magisterial
16 district judge in such amount as is fixed by regulation of the
17 commission. Replacement costs shall only be assessed for
18 violations relating to threatened or endangered species of North
19 American game or wildlife and such other species of Pennsylvania
20 game or wildlife as designated by the commission.

21 (j) Title 18 inapplicable.--Title 18 (relating to crimes and
22 offenses) is inapplicable to this title insofar as it relates
23 to:

24 (1) intent, willfulness of conduct or fines and
25 imprisonment for convictions of summary offenses and
26 misdemeanors; or

27 (2) criminal records under 18 Pa.C.S. Ch. 91 (relating
28 to criminal history record information) for misdemeanors
29 under section 2522(b) (1) (relating to shooting at or causing
30 injury to human beings).

§ 929. Revocation, suspension or denial of license, permit or registration.

(a) General rule.--Except as otherwise provided in this title, any hunting or furtaking license, special license or permit or registration granted under the authority of this title may be denied, revoked or suspended by the commission when the holder of the license, permit or registration is convicted of an offense under this title or has acted contrary to the intent of the registration or permit, with each offense constituting a separate violation subject to separate revocation. The commission may refuse to grant to that person any permit or registration and may deny any privilege granted by these documents for a period not exceeding five years unless otherwise provided in this title.

* * *

(b) Regulations.--The commission may promulgate regulations specifying the procedures to be followed in denying, revoking or suspending any hunting and furtaking privileges, licenses, permits and registrations granted under the provisions of this title.

§ 932. Determination of second or subsequent [convictions] offenses.

Any person convicted or pleading guilty or signing an acknowledgment of guilt under any provisions of this title who, within the past [two] seven years, was convicted or pleaded guilty or signed an acknowledgment of guilt for violating any of the provisions of this title or the former laws relating to game or wildlife then in force shall be sentenced under this title as a second or subsequent offender. Any acceptance of Accelerated Rehabilitative Disposition within the past seven years of the

1 present violation shall be considered for the purposes of
2 determining a second or subsequent offense.

3 § 2167. Endangered or threatened species.

4 (a) Changes to list.--The commission may, by regulation, add
5 or remove any wild bird or wild animal native to this
6 Commonwealth to or from the Pennsylvania native list of
7 endangered or threatened species.

8 (b) Possession, transportation, capturing or killing.--
9 Except as otherwise provided in this title, it is unlawful for
10 any person, acting either for himself or as the representative
11 of another, to bring into or remove from this Commonwealth, or
12 to possess, transport, capture or kill, or attempt, aid, abet or
13 conspire to capture or kill, any wild bird or wild animal, or
14 any part thereof, or the eggs of any wild bird, which are
15 endangered or threatened species. It is the duty of every
16 officer having authority to enforce this title to seize all wild
17 birds or wild animals, or any part thereof, or the eggs of any
18 wild bird, which have been declared endangered or threatened. [A
19 violation of this subsection is a misdemeanor of the third
20 degree. All wild birds or wild animals, or any part thereof, or
21 the eggs seized which are found to be in violation of this
22 subsection are contraband.]

23 (c) Purchase, sale, barter or exchange.--Except as otherwise
24 provided in this title, it is unlawful for any person, acting
25 either for himself or as a representative of another, at any
26 time to buy, sell, barter or exchange, or to offer for sale or
27 barter, or to have in possession for sale or barter, or to aid,
28 abet or conspire in the possession, sale, barter or exchange, or
29 to give away any endangered or threatened species or subspecies
30 of wild birds or wild animals, or parts thereof. It is the duty

1 of every officer having authority to enforce this title to seize
2 all endangered or threatened wild birds or wild animals, or any
3 part thereof. [A violation of this subsection is a misdemeanor
4 of the second degree. All wild birds or wild animals, or any
5 part thereof, found to be in violation of this subsection are
6 contraband.] This subsection shall not be construed to permit
7 any individual or agency other than the commission to sell the
8 skins or parts of game or wildlife or the plumage or parts of
9 birds killed as a protection to crops or accidentally killed
10 upon the highways or seized as contraband.

11 (d) Penalties.--A violation of this section shall be graded
12 as follows:

13 (1) A first violation is a misdemeanor of the second
14 degree and may result in forfeiture of the privilege to hunt
15 or take wildlife anywhere within this Commonwealth for a
16 period of seven years.

17 (2) A second violation within a seven-year period or
18 during the same criminal episode as the first violation is a
19 misdemeanor of the first degree and may result in the
20 forfeiture of the privilege to hunt or take wildlife anywhere
21 within this Commonwealth for a period of ten years.

22 (3) A third or subsequent violation within a seven-year
23 period or during the same criminal episode as the first or
24 second violation is a felony of the third degree and may
25 result in the forfeiture of the privilege to hunt or take
26 wildlife anywhere within this Commonwealth for a period of 15
27 years.

28 § 2306. Killing game or wildlife by mistake.

29 (a) General rule.--Any person who, while hunting or trapping
30 for game or wildlife which may be lawfully taken, by accident or

1 mistake kills or attempts to kill any game or wildlife other
2 than bears, elk or threatened or endangered species, contrary to
3 the provisions of this title, shall pay restitution pursuant to
4 subsection (b) to an officer of the commission. [The person
5 shall immediately remove all the entrails of any edible game or
6 wildlife, deliver the entire carcass, less entrails, to any
7 commission officer in the county in which killed for disposition
8 and make a written sworn statement explaining when, where and
9 how the accident or mistake occurred.]

10 (b) Restitution.--Restitution for killing or an attempted
11 killing by accident or mistake shall be as follows:

12 (1) Each deer - \$25.

13 (2) Each turkey - \$20.

14 (3) Each other wild bird or wild animal, other than a
15 bear, elk or an endangered or threatened species - \$15.

16 (c) [Additional action.--If the officer receiving the
17 payment and written statement after further review and
18 investigation is not satisfied the killing or attempted killing
19 was an accident or a mistake but was caused by negligence or
20 carelessness or if the person fails to pay the prescribed
21 restitution within ten days, the officer shall cause the person
22 to be prosecuted for the unlawful killing or attempted killing
23 of game or wildlife, and, if convicted, any amount paid shall be
24 applied to the payment of the penalty and costs.] Procedural
25 requirements.--Any person claiming a mistake kill or attempted
26 kill of game or wildlife pursuant to this section shall:

27 (1) Immediately remove all of the entrails of any edible
28 game or wildlife and, if big game, tag the animal in the
29 manner prescribed under section 2323 (relating to tagging and
30 reporting big game kills).

1 (2) Within 24 hours after the killing or attempted
2 killing, report the same to the appropriate commission
3 regional office by telephone or electronic communication.

4 (3) Within 24 hours after the killing or attempted
5 killing, deliver the entire carcass, less entrails, to any
6 commission officer in the county in which killed for
7 disposition and provide a written, sworn statement to the
8 commission officer explaining when, where and how the
9 accident or mistake occurred.

10 (4) Within ten days after the killing or attempted
11 killing, provide the commission officer full payment of
12 restitution.

13 § 2307. Unlawful taking or possession of game or wildlife.

14 * * *

15 (b) [(Reserved)] Hunting before and after lawful hunting
16 hours.--It is unlawful for any person to take, injure, kill,
17 possess or transport or knowingly aid, abet, assist, attempt or
18 conspire in any manner to take, injure, kill, possess or
19 transport any game or wildlife or any part thereof which was
20 taken within 30 minutes prior to the commencement of lawful
21 hunting hours or within 30 minutes after the cessation of lawful
22 hunting hours.

23 * * *

24 (e) Penalties.--A violation of this section relating to:

25 (1) Threatened or endangered species is a misdemeanor of
26 the second degree.

27 (2) Elk or bear is a summary offense of the first
28 degree.

29 (3) Deer is a summary offense of the second degree.

30 [(3.1) Deer killed as a result of negligence or

carelessness as provided for in section_2306(c) (relating to killing game or wildlife by mistake) is a summary offense punishable by a fine of not less than \$100 nor more than \$500.]

(4) Bobcat or otter is a summary offense of the third degree.

(5) Wild turkey or beaver is a summary offense of the fourth degree.

(6) Any other game or wildlife is a summary offense of the fifth degree.

* * *

§ 2310. Unlawful use of lights while hunting.

(a) General rule.--Except as set forth in subsection (b), it is unlawful for any person or group of persons to engage in any of the following activities to any degree:

* * *

(2) [Aid] Intentionally, knowingly or recklessly act, aid, assist or conspire either in the killing or taking or in an attempt to kill, take, possess, transport or conceal any game or wildlife or a part thereof which has been killed or taken by use of any artificial light.

* * *

(c) Penalties.--[A violation of this section is a summary offense of the fifth degree. In addition thereto, if any person is hunting game or wildlife or if any attempt is made to take any game or wildlife, the person or persons shall be sentenced to the additional penalties of:

(1) For each endangered or threatened species, a fine of \$1,000 and forfeiture of the privilege to hunt or take game or wildlife anywhere within this Commonwealth for a period of

1 ten years.

2 (2) For each elk or bear, a fine of \$800 and forfeiture
3 of the privilege to hunt or take game or wildlife anywhere
4 within this Commonwealth for a period of five years.

5 (3) For each deer, a fine of \$500 and forfeiture of the
6 privilege to hunt or take game or wildlife anywhere within
7 this Commonwealth for a period of three years.

8 (4) For each bobcat or otter, a fine of \$300 and
9 forfeiture of the privilege to hunt or take game or wildlife
10 anywhere within this Commonwealth for a period of three
11 years.

12 (5) For each turkey or beaver, a fine of \$200 and
13 forfeiture of the privilege to hunt or take game or wildlife
14 anywhere within this Commonwealth for a period of two years.

15 (6) For each other bird or animal, a fine of \$100 and
16 forfeiture of the privilege to hunt or take game or wildlife
17 anywhere within this Commonwealth for a period of one year.]

18 (1) A violation of subsection (a)(1) is a summary
19 offense of the fifth degree.

20 (2) A violation of subsection(a)(2) or (3) relating to:

21 (i) Threatened or endangered species shall be graded
22 as follows:

23 (A) A first offense is a misdemeanor of the
24 second degree and may result in forfeiture of the
25 privilege to hunt or take game or wildlife anywhere
26 in this Commonwealth for a period of seven years.

27 (B) A second offense within a seven-year period
28 or during the same criminal episode as the first
29 offense is a misdemeanor of the first degree and may
30 result in forfeiture of the privilege to hunt or take

1 game or wildlife anywhere within this Commonwealth
2 for a period of ten years.

3 (C) A third subsequent violation within a seven-
4 year period or during the same criminal episode of a
5 first or second offense is a felony of the third
6 degree and may result in forfeiture of the privilege
7 to hunt or take wildlife within this Commonwealth FOR ←
8 A PERIOD OF 15 YEARS.

9 (ii) Big game animals shall be graded as follows:

10 (A) A first offense or a second offense during
11 the same criminal episode is a misdemeanor and may
12 result in forfeiture of the privilege to hunt or take
13 game or wildlife anywhere within this Commonwealth
14 for a period of five years.

15 (B) A second offense within a seven-year period
16 or a third or fourth offense during the same criminal
17 episode is a misdemeanor of the first degree and may
18 result in the forfeiture of the privilege to hunt or
19 take game or wildlife anywhere within this
20 Commonwealth for a period of ten years.

21 (C) A fifth or subsequent offense during the
22 same criminal episode or a third offense within a
23 seven-year period is a felony of the third degree and
24 may result in forfeiture of the privilege to hunt or
25 take game or wildlife anywhere within this
26 Commonwealth for a period of 15 years.

27 (iii) A violation of subsection (a)(2) where the
28 species is a single white-tailed deer or a single wild
29 turkey is a summary offense of the first degree and may
30 result in forfeiture of the privilege to hunt or take

1 wildlife anywhere within this Commonwealth for a period
2 of three years. A second violation of subsection (a) (2)
3 where the species is a single white-tailed deer or a
4 single wild turkey within a seven-year period is a
5 misdemeanor and may result in forfeiture of the privilege
6 to hunt or take wildlife anywhere within this
7 Commonwealth for a period of five years. A third offense
8 within a seven-year period where the species is a single
9 white-tailed deer or a single wild turkey is a
10 misdemeanor of the first degree and may result in the
11 forfeiture of the privilege to hunt or take wildlife
12 anywhere within this Commonwealth for a period of ten
13 years.

14 (iv) Any other game or wildlife is a summary offense
15 of the first degree and may result in the forfeiture of
16 the privilege to hunt or take game or wildlife anywhere
17 within this Commonwealth for a period of three years.

18 * * *

19 § 2312. Buying and selling game.

20 (a) General rule.--Unless otherwise provided, it is unlawful
21 for any person to buy, sell or barter, or aid, abet, assist or
22 conspire to buy, sell or barter, or offer for sale or barter, or
23 have in possession or transport for sale or barter, any game or
24 the edible parts of game or any protected bird or animal or
25 parts of any protected bird or animal.

26 * * *

27 (d) Penalty.--A violation of this section relating to:

28 [(1) Elk or bear is a summary offense of the first
29 degree and results in forfeiture of the privilege to hunt or
30 take wildlife anywhere within this Commonwealth for a period

1 of five years.

2 (2) Deer is a summary offense of the second degree and
3 results in forfeiture of the privilege to hunt or take game
4 or wildlife anywhere within this Commonwealth for a period of
5 three years.

6 (3) Bobcat or otter is a summary offense of the third
7 degree and results in forfeiture of the privilege to hunt or
8 take game or wildlife anywhere within this Commonwealth for a
9 period of three years.

10 (4) Wild turkey or beaver is a summary offense of the
11 fourth degree and results in forfeiture of the privilege to
12 hunt or take game or wildlife anywhere within this
13 Commonwealth for a period of two years.

14 (5) Each other wild bird or wild animal is a summary
15 offense of the fifth degree and results in forfeiture of the
16 privilege to hunt or take game or wildlife anywhere within
17 this Commonwealth for a period of one year.]

18 (1) Threatened or endangered species shall be graded as
19 follows:

20 (i) A first offense is a misdemeanor of the second
21 degree and may result in forfeiture of the privilege to
22 hunt or take game or wildlife anywhere within this
23 Commonwealth for a period of seven years.

24 (ii) A second offense within a seven-year period or
25 during the same criminal episode is a misdemeanor of the
26 first degree and may result in forfeiture of the
27 privilege to hunt or take game or wildlife anywhere
28 within this Commonwealth for a period of ~~15~~ TEN years. ←

29 (iii) A third or subsequent violation of this
30 section within a seven-year period or during the same

1 criminal episode is a felony of the third degree and may
2 result in forfeiture of the privilege to hunt or take
3 wildlife anywhere within this Commonwealth for a period
4 of 15 years.

5 (2) Big game animals shall be graded as follows:

6 (i) A first offense or a second offense during the
7 same criminal episode is a misdemeanor and may result in
8 forfeiture of the privilege to hunt or take game or
9 wildlife anywhere within this Commonwealth for a period
10 of five years.

11 (ii) A second offense within a seven-year period or
12 a third or fourth offense during the same criminal
13 episode is a misdemeanor of the first degree and may
14 result in the forfeiture of the privilege to hunt or take
15 game or wildlife anywhere within this Commonwealth for a
16 period of ten years.

17 (iii) A fifth or subsequent offense during the same
18 criminal episode or third offense within a seven-year
19 period is a felony of the third degree and may result in
20 forfeiture of the privilege to hunt or take game or
21 wildlife anywhere within this Commonwealth for a period
22 of 15 years.

23 (3) The selling and buying of venison up to 20 pounds
24 and the buying and selling of other game or wildlife is a
25 summary offense of the first degree and may result in the
26 forfeiture of the privilege to hunt or take game or wildlife
27 anywhere within this Commonwealth for a period of three
28 years.

29 § 2314. Trespass on private property while hunting.

30 (a) General rule.--Any person who while violating any

1 provision of this title or any regulations promulgated under
2 this title and who in addition is found to be trespassing as
3 defined in 18 Pa.C.S. § 3503 (relating to criminal trespass)
4 shall be in violation of this section.

5 (b) Penalty.--A violation of this section:

6 (1) [For a first offense is a summary offense.] A
7 violation of this section is a summary offense of the fifth
8 degree.

9 (2) [For a second or subsequent offense within one year
10 of the prior offense is a summary offense and upon conviction
11 will result in an immediate revocation of the person's
12 hunting and furtaking license and disqualification of the
13 person from issuance of a future license for a period of one
14 year from the date of revocation.] A second or subsequent
15 violation of this section within a seven-year period is a
16 summary offense of the fifth degree and may result in
17 forfeiture of the privilege to hunt or take game or wildlife
18 anywhere within this Commonwealth for a period of one year.

19 § 2321. Unlawful killing or taking of big game.

20 (a) General rule.--Except as provided in this title or by
21 regulation of the commission, it is unlawful for any person to:

22 (1) [Kill or take or attempt or conspire to kill or take
23 in any manner more than the lawful number of big game animals
24 which may be taken in any license year] Take, injure, kill,
25 possess or transport or knowingly, intentionally or
26 recklessly aid, abet, assist, attempt or conspire in any
27 manner to take, injure, kill, possess or transport any big
28 game animal during closed season.

29 (2) [Possess or transport in any manner any big game
30 which was unlawfully killed or taken] Take, injure, kill,

1 possess or transport or knowingly, intentionally or
2 recklessly aid, abet, assist, attempt or conspire in any
3 manner to take, injure, kill, possess or transport any big
4 game animal beyond established daily or season limits.

5 [(3) Assist, aid or abet or conspire to assist, aid or
6 abet in any manner any other person in the violation of
7 paragraph (1) or (2).]

8 (b) Exception.--This section shall not be construed to
9 prohibit the transportation or possession of one or more big
10 game animals which are lawfully killed and properly tagged.

11 (c) Evidence of unlawful killing.--Unless the head is
12 attached in a natural manner and properly tagged as provided in
13 section 2323 (relating to tagging and reporting big game kills),
14 the possession, transportation or control of any big game or a
15 part or parts of such big game shall be prima facie evidence
16 that the big game was unlawfully killed within this
17 Commonwealth. Under such circumstances, the person possessing,
18 transporting or controlling the big game shall immediately, upon
19 demand of an officer of the commission, produce the head of the
20 big game or the name and address of the person killing the big
21 game or other satisfactory evidence that the carcass in
22 possession or under the person's control is part of a lawfully
23 taken big game.

24 (d) Penalty.--

25 [(1) A violation of this section relating to bear or elk
26 is a summary offense of the first degree.

27 (2) A violation of this section relating to deer is a
28 summary offense of the second degree.

29 (3) A violation of this section relating to wild turkey
30 is a summary offense of the fourth degree.

1 (4) Each bird or animal or part thereof involved in a
2 violation constitutes a separate offense.]

3 (1) (i) Except as otherwise provided in paragraph (2),
4 a violation of this section or a second violation of this
5 section during the same criminal episode is a misdemeanor
6 and may result in forfeiture of the privilege to hunt or
7 take wildlife anywhere within this Commonwealth for a
8 period of five years.

9 (ii) A third or fourth violation of this section
10 during the same criminal episode or a second violation of
11 this section within a seven-year period is a misdemeanor
12 of the first degree and may result in forfeiture of the
13 privilege to hunt or take wildlife anywhere within this
14 Commonwealth for a period of ten years.

15 (iii) A fifth or subsequent violation of this
16 section during the same criminal episode or third offense
17 within a seven-year period is a felony of the third
18 degree and may result in forfeiture of the privilege to
19 hunt or take wildlife anywhere within this Commonwealth
20 for a period of 15 years.

21 (2) (i) A violation of subsection (a)(1) or (2) where
22 the species is a single white-tailed deer or a single
23 wild turkey is a summary offense of the first degree and
24 may result in forfeiture of the privilege to hunt or take
25 wildlife anywhere within this Commonwealth for a period
26 of three years. A second violation of subsection (a)(1)
27 or (2) where the species is a single white-tailed deer or
28 a single wild turkey within a seven-year period is a
29 misdemeanor and may result in forfeiture of the privilege
30 to hunt or take wildlife anywhere within this

1 Commonwealth for a period of five years. A third offense
2 within a seven-year period where the species is a single
3 white-tailed deer or a single wild turkey is a
4 misdemeanor of the first degree and may result in the
5 forfeiture of the privilege to hunt or take wildlife
6 anywhere within this Commonwealth for a period of ten
7 years.

8 (ii) (A) A second violation of subsection (a)(1) or
9 (2) during the same criminal episode where the
10 species taken, injured, killed, possessed or
11 transported is white-tailed deer or wild turkey is a
12 misdemeanor and may result in forfeiture of the
13 privilege to hunt or take wildlife anywhere within
14 this Commonwealth for a period of five years.

15 (B) A third or fourth violation of subsection
16 (a)(1) or (2) during the same criminal episode where
17 the species is white-tailed deer or wild turkey is a
18 misdemeanor of the first degree and may result in
19 forfeiture of the privilege to hunt or take wildlife
20 anywhere within this Commonwealth for a period of ten
21 years.

22 (C) A fifth or subsequent violation of
23 subsection (a)(1) or (2) during the same criminal
24 episode where the species is white-tailed deer or
25 wild turkey is a felony of the third degree and may
26 result in forfeiture of the privilege to hunt or take
27 wildlife anywhere within this Commonwealth for a
28 period of 15 years.

29 Section 3. Section 2329 of Title 34 is repealed:

30 [§ 2329. Additional penalty for poaching.

1 (a) Additional penalty.--A person who violates this chapter
2 by illegally poaching any big game or threatened or endangered
3 species shall, in addition to any other penalty imposed, be
4 sentenced to pay a fine of \$200 for each big game animal or each
5 threatened or endangered species illegally poached. Any fines
6 collected under this subsection shall be paid over to the
7 commission for use in maintaining the toll-free telephone number
8 under subsection (b) and to compensate callers whose reports led
9 to payment of a fine under this subsection. Each caller shall be
10 compensated \$100 for each \$200 collected as a result of the
11 caller's report.

12 (b) Report of violations.--The commission shall establish
13 and maintain a toll-free telephone number to report poaching of
14 big game or threatened or endangered species. Reports of
15 poaching of big game or threatened or endangered species are
16 confidential. No persons other than employees of the commission
17 in the course of official duties in connection with poaching
18 reports shall have access to identifying information relating to
19 the caller.]

20 Section 4. Section 2711(a)(4) and (b) of Title 34 are
21 amended to read:

22 § 2711. Unlawful acts concerning licenses.

23 (a) General rule.--Except as otherwise provided in this
24 title, it is unlawful for any person to:

25 * * *

26 (4) Issue, acquire or aid, assist or conspire, either
27 for that person or any other person, in procuring any hunting
28 or furtaking license for which that person is not legally
29 entitled thereto.

30 * * *

(b) Penalties.--A violation of this subchapter relating to:

[(1) Hunting by a nonresident without a valid license or licenses required by this title is a summary offense of the fourth degree.

(2) Furtaking by a nonresident without a valid furtaking license or licenses required by this title is a summary offense of the second degree.

(3) Hunting or furtaking by a resident without a valid license or licenses required by this title is a summary offense of the fifth degree.

(4) Subsection (a)(1) insofar as it relates to signing or displaying a license is a summary offense of the eighth degree.

(5) Subsection (a)(2), (3), (4), (5) or (9) is a summary offense of the fifth degree.

(6) Subsection (a)(6), (7) or (8) is a summary offense of the seventh degree.

(7) Subsection (a)(11) is a summary offense of the third degree. In addition to the imposition of any penalty, a convicted violator [shall] may incur a five-year [mandatory] revocation of the privilege to hunt or trap anywhere in this Commonwealth.

(8) Any of the other provisions of this subchapter or the regulations promulgated thereunder is a summary offense of the fifth degree.]

(1) Subsection (a)(1) insofar as it relates to hunting or furtaking without a valid license or licenses required is a summary offense of the third degree.

(2) Subsection (a)(1) insofar as it relates to signing or displaying a license is a summary offense of the eighth

1 degree.

2 (3) Subsection (a) (2), (3), (4), (5), (9) or (12) is a
3 summary offense of the fifth degree.

4 (4) Subsection (a) (6), (7) or (8) is a summary offense
5 of the seventh degree.

6 (5) Subsection (a) (10) or (11) is a summary offense of
7 the first degree and may result in forfeiture of the
8 privilege to hunt or take game or wildlife anywhere within
9 this Commonwealth for a period of five years.

10 (6) Any of the other provisions of this subchapter or
11 the regulations promulgated thereunder is a summary offense
12 of the fifth degree.

13 * * *

14 Section 5. The Pennsylvania Game Commission shall provide
15 public notice of the provisions within this measure. This notice
16 shall be included within the Pennsylvania Hunting and Trapping
17 Digest for 2010-2011, and summaries of the amendments shall be
18 made available at each issuing agent.

19 Section 6. This act shall take effect in 60 days.