

CHAPTER 269

NATURAL RESOURCES

SENATE BILL 94-137

BY SENATORS Bishop and Tebedo;
also REPRESENTATIVES Foster, Chlouber, and Prinster.

AN ACT

CONCERNING A GRANT OF INCREASED AUTHORITY TO THE DIVISION OF WILDLIFE TO REGULATE HUNTING, AND, IN CONNECTION THEREWITH, ENCOURAGING LOCAL LAW ENFORCEMENT OFFICIALS TO COOPERATE WITH THE DIVISION IN APPREHENDING VIOLATORS, EXPANDING THE RANGE OF PROHIBITED ACTIVITIES, AND GIVING INCREASED INCENTIVES TO LICENSE AGENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-1-102 (4), (23), (25), (27), (38), (39), (43), and (45), Colorado Revised Statutes, 1984 Repl. Vol., are amended, and the said 33-1-102, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

33-1-102. Definitions. (4) "Carcass tag" OR "TAG" means that portion of the license or separate identification which is required ~~either~~ by statute or BY rule or regulation of the commission to be ~~secured~~ ATTACHED to ~~the edible portion of the~~ A wildlife carcass as evidence of lawful possession.

(4.5) "COMMERCIAL WILDLIFE PARK" MEANS A PRIVATELY OWNED WILDLIFE PARK, CONTAINING LAWFULLY ACQUIRED CAPTIVE WILDLIFE, ON WHICH WILDLIFE ARE EXHIBITED FOR EDUCATIONAL, COMMERCIAL, OR PROMOTIONAL PURPOSES.

(23) "Game wildlife" means those wildlife species which may be lawfully HUNTED OR taken for food, sport, or profit and which are classified as game wildlife by the commission.

(25) "Hours" means the designated period of the day or night when wildlife may be HUNTED OR taken lawfully.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(25.5) "HUNT" MEANS TO PURSUE, ATTRACT, STALK, LIE IN WAIT FOR, OR ATTEMPT TO SHOOT, WOUND, KILL, TRAP, CAPTURE, COLLECT, OR TAKE WILDLIFE. "HUNT" DOES NOT INCLUDE STALKING, ATTRACTING, SEARCHING, OR LYING IN WAIT FOR WILDLIFE BY AN UNARMED PERSON SOLELY FOR THE PURPOSE OF WATCHING OR TAKING PHOTOGRAPHS OF WILDLIFE.

(27) "License" means a permit, stamp, card, certificate, tag, SEAL, or other document provided for by statute or commission rule or regulation and issued OR REQUIRED by the division authorizing the hunting, fishing, trapping, taking, TRANSPORTATION, or possession of wildlife or other activity for which express authorization is required by articles 1 to 6 of this title.

(38) (a) "Resident" means any person who has lived in this state for six consecutive months or more immediately preceding the date of application for or purchase of any license required under the provisions of articles 1 to 6 of this title or rules or regulations of the commission.

(b) The burden of establishing residence shall be on the person claiming such status AT THE TIME OF APPLICATION FOR A LICENSE. NO PERSON IS ENTITLED TO CLAIM MULTIPLE STATES OF RESIDENCE EXCEPT AS PROVIDED IN PARAGRAPHS (c) AND (d) OF THIS SUBSECTION (38). The following evidence or any other reliable evidence may be used in establishing, but is not necessarily determinative of, residence:

(I) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which ~~he~~ THE PERSON, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A residence is a permanent building ~~or part thereof, including~~ OR PART OF A BUILDING AND MAY INCLUDE a house, condominium, apartment, room in a house, or mobile home. No RENTAL PROPERTY, vacant lot, VACANT HOUSE OR CABIN, or premises used solely for business shall be considered a residence.

(II) In determining the principal or primary place of abode, the following circumstances RELATING TO THE PERSON may be taken into account: Business pursuits, place of employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, EXISTENCE OF ANY OTHER RESIDENCES OUTSIDE OF COLORADO AND THE AMOUNT OF TIME SPENT AT EACH SUCH RESIDENCE, and ANY motor vehicle OR VESSEL registration.

(II.3) THE RESIDENCE ADDRESS GIVEN FOR PURPOSES OF PURCHASING OR OBTAINING LICENSES ISSUED UNDER THIS TITLE SHALL BE THE SAME AS THE ADDRESS GIVEN FOR COLORADO STATE INCOME TAX PURPOSES.

(II.6) A PERSON SHALL NOT BE CONSIDERED TO HAVE GAINED RESIDENT STATUS WHILE RETAINING A DOMICILE OUTSIDE THIS STATE.

(III) In determining WHETHER the principal or primary place of abode IS IN COLORADO, the following documents may be taken into account: A current ~~Colorado~~ driver's license with ~~Colorado~~ address, recent property tax receipts, copies of recent

resident income tax returns, current voter registration cards, current motor vehicle OR VESSEL registrations, and other public records evidencing place of abode or employment.

(c) A person who is a resident of this state does not terminate residency upon entering the armed services of the United States. A member of the armed services ON ACTIVE DUTY who resided in Colorado at the time ~~he~~ THE PERSON entered military service and ~~his~~ THE PERSON'S dependents are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where ~~he may be assigned to duty~~ STATIONED or for how long, UNLESS THE MEMBER CHANGES HIS OR HER HOME OF RECORD TO SOME STATE OTHER THAN COLORADO.

(d) For the purposes of this subsection (38), the following shall also be deemed residents of this state:

(I) Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their dependents;

(II) Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in this state and their dependents;

(III) Full-time students who are enrolled in and have been attending any accredited TRADE SCHOOL, college, or university in this state for at least six months immediately prior to the date of application for any license. FOR THE PURPOSES OF THIS SUBPARAGRAPH (III), THE SPOUSE AND DEPENDENT CHILDREN OF ANY SUCH STUDENT SHALL ALSO BE CONSIDERED RESIDENTS. The temporary absence of such ~~students~~ STUDENT OR THE STUDENT'S SPOUSE OR DEPENDENT CHILDREN from this state while THE STUDENT IS still enrolled at any such TRADE SCHOOL, college, or university shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time under the rules or policy of the educational institution he OR SHE is attending.

(IV) Colorado residents who attend school full-time out of state and pay nonresident tuition UNLESS EXEMPTED FROM SUCH TUITION PAYMENTS BY THE TRADE SCHOOL, COLLEGE, OR UNIVERSITY.

(d.5) THE RESIDENCY STATUS OF CHILDREN UNDER EIGHTEEN YEARS OF AGE IS PRESUMED TO BE THAT OF THE CUSTODIAL PARENT OR LEGAL GUARDIAN.

(e) Except as provided in ~~subparagraphs (I) to (IV)~~ of paragraph (d) OR (d.5) of this subsection (38), a person is presumed to have terminated his OR HER Colorado residence if ~~he~~ THE PERSON accepts any resident hunting, fishing, or trapping license issued by another state or foreign country, registers to vote in any other state or foreign country, or accepts a driver's license that shows an address other than in Colorado.

(f) If a person moves to any other state or foreign country with the intention of making it ~~his~~ THE PERSON'S permanent residence, ~~he~~ THE PERSON shall be considered to have lost his OR HER residence in Colorado.

(39) "Season" means the period of time during which wildlife may be legally HUNTED OR taken.

(43) "Take" or "hunt" means to ~~pursue, shoot, wound, kill, trap, possess, capture, collect, attract, stalk, or lie in wait or to attempt any of the foregoing for the purpose of taking wildlife, whether or not such wildlife is then or subsequently taken~~ ACQUIRE POSSESSION OF WILDLIFE; but such terms shall not include ~~stalking, attracting, or searching for or lying in wait for wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof or~~ THE accidental wounding or killing OF WILDLIFE by a motor vehicle, ~~locomotive~~ VESSEL, or train.

(45) "Transfer" means to pass, deliver, convey, RECEIVE, or hand over any license issued under articles 1 to 6 of this title from one person to another or to intentionally allow such a license to come into the possession of a person other than the person for whom it was originally procured.

SECTION 2. 33-1-115 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended, and the said 33-1-115 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

33-1-115. Migratory birds - possession of raptors - reciprocal agreements - reports to general assembly. (2) (a) The commission shall issue licenses in accordance with its regulations to permit the possession of raptors for falconry and captive breeding purposes and to encourage individual efforts to propagate the species. THE COMMISSION SHALL ACTIVELY PURSUE THE ESTABLISHMENT OF RECIPROCAL AGREEMENTS WITH OTHER STATES AND CANADA AS A SIGNATORY TO THE "MIGRATORY BIRD TREATY ACT", WHICH AGREEMENTS SHALL ALLOW FOR THE TAKING, USE, AND TRANSPORTATION OF RAPTORS FROM EACH RESPECTIVE AREA BY QUALIFIED AND LICENSED APPLICANTS.

(b) APPLICANTS FROM OTHER STATES OR CANADIAN PROVINCES OR TERRITORIES WHICH ARE SIGNATORIES TO THE "MIGRATORY BIRD TREATY ACT" AND HAVE RECIPROCAL RAPTOR AGREEMENTS WITH COLORADO MAY OBTAIN NONTHREATENED RAPTORS IN REASONABLE NUMBERS COMMENSURATE WITH RAPTOR POPULATIONS WITHIN THIS STATE. THE COMMISSION MAY ISSUE NONRESIDENT TAKE LICENSES TO SUCH APPLICANTS, AND THE FEES FOR SUCH LICENSES SHALL BE EQUIVALENT TO THE FEES FOR COMPARABLE LICENSES IN THE STATES, PROVINCES, OR TERRITORIES WITH WHICH COLORADO HOLDS SUCH AGREEMENTS.

(c) It is the intent of the general assembly for the commission to make the rules and regulations of this state conform to or be more stringent than the provisions of the "Migratory Bird Treaty Act" and the "Endangered Species Act". These rules and regulations may include, but not be limited to, captive breeding and the use of domestic captive bred raptors and the purchase, sale, transportation, importation, exportation, or exchange of raptors with persons having like licenses.

(3) UNTIL THE ROCKY MOUNTAIN FALCON, ALSO KNOWN AS THE AMERICAN PEREGRINE FALCON OR FALCO PEREGRINUS ANATUM, IS REMOVED FROM THE LISTS OF THREATENED AND ENDANGERED SPECIES MAINTAINED BY THE FEDERAL GOVERNMENT AND THE COMMISSION, THE COMMISSION SHALL REPORT ANNUALLY TO THE AGRICULTURAL COMMITTEES OF REFERENCE IN BOTH THE SENATE AND THE HOUSE OF

REPRESENTATIVES ON THE STATUS OF THE ROCKY MOUNTAIN FALCON POPULATION IN COLORADO.

SECTION 3. 33-4-101 (1), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

33-4-101. License agents - reports - board of claims - penalty for failure to account. (1) The director may designate sole proprietors, partnerships, or corporations having permanent business locations in this state as license agents to sell, at their permanent business locations, hunting, fishing, trapping, and other licenses of the division. License agents shall be paid a commission of five percent of all moneys collected for licenses sold. All agents authorized to sell licenses shall keep accurate records of all sales of licenses and shall make such reports to the division regarding license sales as may be required by the division. Such agents shall be required to give evidence of financial responsibility, in the form of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S., or a bond, in such amount as may be fixed by the division BASED UPON PERFORMANCE CRITERIA ESTABLISHED BY THE WILDLIFE COMMISSION BY RULE OR REGULATION WHICH MAY BE LESS THAN THE FULL VALUE OF CONSIGNMENT, IN AN AMOUNT ADEQUATE to ~~insure~~ ENSURE the remittance of all moneys collected from such license sales, less amounts allowed as commissions, and the making of reports required by the division. The commission may promulgate rules and regulations for the establishment and cancellation of license agencies. All license moneys received shall be kept separate and apart from any other moneys of the agent authorized to sell licenses and shall at all times belong to the state. All moneys due from the sale of wildlife licenses shall belong to the state and shall draw interest at the rate of one and one-half percent per month from the ~~time that the agency is cancelled by the division until paid~~ DATE DUE.

SECTION 4. 33-4-102 (1.6), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

33-4-102. Types of licenses and fees. (1.6) By promulgation of appropriate rule and regulation, the commission may from time to time authorize the issuance of any of the licenses provided for in this section for a fee less than that specified in this section when in the judgment of the commission one of the following conditions applies:

(c) WHEN THE COMMISSION DETERMINES THAT AN ACTIVITY IS REGULATED AT BOTH THE STATE AND FEDERAL LEVELS AND THAT ISSUANCE OF A MULTI-YEAR STATE LICENSE OR COLLECTION OF A REDUCED STATE ANNUAL LICENSE FEE, OR BOTH, WOULD HELP TO COORDINATE SUCH STATE AND FEDERAL REGULATION AND REFLECT THE ADMINISTRATIVE COST SAVINGS REALIZED THROUGH SUCH COORDINATION.

SECTION 5. 33-4-102 (6) (a), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended, and the said 33-4-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

33-4-102. Types of licenses and fees. (6) (a) Moneys received in payment for any licenses issued under this title shall not be refunded except for proven error

committed by the division in issuing licenses or upon the death of a licensee in possession of a big game license if death occurs before the starting date of the season specified on said license OR IF AUTHORIZED BY THE DIRECTOR UNDER RULES OF THE COMMISSION.

(13) (a) THE COMMISSION SHALL ESTABLISH A LICENSE CLASSIFICATION FOR ZOOLOGICAL PARKS. EACH LICENSED ZOOLOGICAL PARK SHALL BE SUBJECT TO THE FOLLOWING REQUIREMENTS:

(I) THE PRIMARY PURPOSE OF THE PARK SHALL BE THE EXHIBITION OF CAPTIVE WILD OR EXOTIC ANIMALS FOR THE EDUCATION OF THE GENERAL PUBLIC; EXCEPT THAT THIS SUBPARAGRAPH (I) SHALL NOT BE CONSTRUED TO PROHIBIT THE CARRYING ON OF REASONABLE INCIDENTAL ACTIVITIES SUCH AS PROPAGATION, PURCHASE, SALE, AND EXCHANGE OF ANIMALS;

(II) THE PARK SHALL BE OPERATED UNDER THE DIRECTION OF A PROFESSIONAL STAFF THAT HAS GENERALLY RECOGNIZED FORMAL OR PRACTICAL TRAINING IN THE HUSBANDRY OF THE TYPES OF ANIMALS KEPT IN THE PARK;

(III) THE PARK SHALL HAVE A STATE-LICENSED VETERINARIAN ON STAFF OR UNDER CONTRACT WITH THE PARK AND AVAILABLE TO PROVIDE PROFESSIONAL CONSULTATION AND CARE WHEN NEEDED;

(IV) THE PARK SHALL MAINTAIN REGULAR HOURS DURING WHICH IT IS OPEN TO THE PUBLIC;

(V) THE ANIMALS KEPT AT THE PARK SHALL BE CONFINED BY AT LEAST ONE FENCE OR OTHER ENCLOSURE SURROUNDING THE AREA IN WHICH THEY ARE HOUSED OR DISPLAYED AND BY AT LEAST ONE ADDITIONAL FENCE, NO LESS THAN EIGHT FEET IN HEIGHT, SURROUNDING THE PERIMETER OF THE PARK.

(b) A LICENSED ZOOLOGICAL PARK MAY MOVE ANIMALS WITHIN COLORADO IN CONNECTION WITH THE BUYING, SELLING, EXCHANGING, OR LOANING OF SUCH ANIMALS WITH ANOTHER LICENSED ZOOLOGICAL PARK OR IN CONNECTION WITH THE EXPORT OF SUCH ANIMALS FROM COLORADO.

(c) NO LICENSED ZOOLOGICAL PARK MAY IMPORT NON-CERVID RUMINANTS OR CAMELIDS INTO COLORADO UNLESS, IN EACH SUCH INSTANCE, THE ANIMAL HAS BEEN SUBJECTED TO THE FOLLOWING PROCESS:

(I) BEFORE IMPORTATION, THE ANIMAL IS TESTED FOR TUBERCULOSIS AND FOUND NOT TO BE INFECTED;

(II) AFTER SUCH TEST, THE ANIMAL IS IMPORTED AND HELD IN ISOLATION IN AN ISOLATION FACILITY FOR A CONTINUOUS PERIOD OF LEAST SIXTY DAYS; AND

(III) AFTER THE END OF SUCH ISOLATION PERIOD, THE ANIMAL IS AGAIN TESTED FOR TUBERCULOSIS. IF THE TEST RESULT IS NEGATIVE, THE ANIMAL MAY THEN BE INCORPORATED INTO THE ANIMAL POPULATION OF THE PARK.

(d) IMPORTATION AND TESTING OF CERVID ANIMALS BY LICENSED ZOOLOGICAL

PARKS SHALL BE SUBJECT TO REGULATION BY THE DIVISION.

(e) A LICENSE ISSUED TO A ZOOLOGICAL PARK SHALL COVER THE PARK AND ALSO OTHER PROPERTY USED IN CONJUNCTION WITH THE PARK FOR THE SELLING, BUYING, BROKERING, TRADING, OR BREEDING OF OR CARING FOR ANIMALS USED AT THE PARK. ANIMALS MAY BE MOVED BETWEEN THE PARK AND SUCH OTHER PROPERTY AS MAY BE REASONABLY NECESSARY FOR THE OPERATION OF THE PARK.

(f) THE ANNUAL FEE FOR A ZOOLOGICAL PARK LICENSE SHALL NOT EXCEED THE ANNUAL FEE FOR A COMMERCIAL PARK LICENSE.

SECTION 6. 33-4-102.5 (4), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

33-4-102.5. Issuance of migratory waterfowl stamp - prohibition against hunting without stamp. (4) The commission may enter into a contract with a nonprofit waterfowl conservation organization for the purpose of providing the form and design of the migratory waterfowl stamp. Such contract shall provide that such nonprofit waterfowl conservation organization shall select a form and design. ~~from proposals submitted by fine art publishers. Each publisher's proposal shall be limited to five or fewer alternative pieces of artwork.~~ At least one of ~~which~~ THE ALTERNATIVE PIECES OF ARTWORK CONSIDERED FOR FINAL SELECTION shall be the work of an artist who is a resident of Colorado. In addition, such contract shall designate the ownership of the publication rights for any art prints or other facsimiles of the migratory waterfowl stamp and the disposition of any proceeds. The division shall not be an eligible contractor, unless no contract can be negotiated with a nonprofit waterfowl conservation organization.

SECTION 7. 33-6-102 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-102. Items constituting public nuisance - when - seizure. (1) Every motor vehicle, vessel, firearm, seine, net, trap, explosive, poisonous or stupefying substance, or other personal property used in the HUNTING, taking, or harassing of wildlife in violation of the provisions of articles 1 to 6 of this title is declared to be a public nuisance. Every such item shall be subject to seizure, confiscation, and forfeiture or destruction as provided in this section, unless the possession of said property is not unlawful and the owner of said property was not a party to the violation and would suffer undue hardship by the sale, confiscation, or destruction of the property.

SECTION 8. 33-6-105 (1) and (2), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-6-105. Disposition of fines and surcharges. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), all moneys collected for fines under articles 1 to 6 of this title, either by payment of a penalty assessment or assessed by a court upon conviction AND RESULTING FROM ISSUANCE OF A CITATION BY AN OFFICER OF THE DIVISION OF WILDLIFE, shall be transmitted to the state treasurer, who shall credit one-half to the general fund and one-half to the wildlife cash fund or, FOR OFFENSES INVOLVING NONGAME WILDLIFE, TO the nongame and endangered wildlife cash fund.

(b) ~~For offenses involving nongame wildlife, such half shall be credited to the nongame and endangered wildlife cash fund and, for all other offenses under articles 1 to 6 of this title, such half shall be credited to the wildlife cash fund; except that, when an arrest has been made by or the citation for any wildlife offense has been issued by an officer of the division of parks and outdoor recreation, all moneys collected for the fine shall be transmitted to the state treasurer, who shall credit one-half to the parks and outdoor recreation cash fund and one-half to the general fund.~~ WHEN AN ARREST HAS BEEN MADE OR THE CITATION FOR ANY WILDLIFE OFFENSE HAS BEEN ISSUED BY AN OFFICER OF THE DIVISION OF PARKS AND OUTDOOR RECREATION OR BY ANY OTHER COLORADO PEACE OFFICER, AS DEFINED IN THIS TITLE, THE STATE TREASURER SHALL CREDIT ONE-HALF OF THE MONEYS COLLECTED TO THE GENERAL FUND AND ONE-HALF TO THE COLORADO TOWN, CITY, COUNTY, CITY AND COUNTY, OR STATE AGENCY WHOSE OFFICER ISSUED THE CITATION.

(2) It is the duty of every clerk of a court before which prosecutions and appeals of violators of articles 1 to 6 of this title are heard, within twenty days after any such trial, appeal, DISPOSITION, or dismissal thereof, to notify the division, in writing, of the result thereof and the amount of fines collected, if any, and the disposition of such fines.

SECTION 9. The introductory portion to 33-6-106 (1) and 33-6-106 (1) (b), (1) (d), (3), (4), and (5), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-6-106. Suspension of license privileges. (1) The commission has the exclusive authority to suspend the privilege of applying for, purchasing, or exercising the benefits conferred by any ~~license~~ OR ALL LICENSES issued by the division for a period not to exceed ~~three~~ FIVE YEARS, EXCEPT AS OTHERWISE PROVIDED IN ARTICLES 1 TO 6 OF THIS TITLE, if a person:

(b) WHILE A COLORADO RESIDENT:

(I) Has been convicted of wildlife violations of another state, OR ANY CANADIAN province, UNITED STATES territory, or federal agency WHICH IS A MEMBER OF THE "WILDLIFE VIOLATOR COMPACT", PART 26 OF ARTICLE 60 OF TITLE 24, C.R.S., for which ~~similar~~ EQUIVALENT charges exist in this state, AND SUCH CONVICTIONS, INDIVIDUALLY OR WHEN COMBINED WITH CONVICTIONS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1), WOULD TOTAL TWENTY OR MORE POINTS IN ANY CONSECUTIVE FIVE-YEAR PERIOD; or

(II) HAS BEEN CONVICTED OF FEDERAL WILDLIFE VIOLATIONS OCCURRING IN THIS STATE, AND SUCH CONVICTIONS, INDIVIDUALLY OR WHEN COMBINED WITH CONVICTIONS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1), TOTAL TWENTY OR MORE POINTS IN ANY CONSECUTIVE FIVE-YEAR PERIOD;

(d) Is found to meet the requirements for RECIPROCAL suspension as provided in ~~a compact with another state, territory, or province~~ THE "WILDLIFE VIOLATOR COMPACT", PART 26 OF ARTICLE 60 OF TITLE 24, C.R.S.;

(3) Any person who is to be considered for suspension, including permanent suspension, shall be given due notice of such action and shall be given the opportunity

to appear and show cause why his OR HER license privileges should not be suspended. Such notice shall be in the form of a ~~registered or~~ certified letter, RETURN RECEIPT REQUESTED, sent to the last known address of the person, stating the violations and the date of hearing. PROOF OF SUCH MAILING AND ATTEMPTED DELIVERY SHALL BE SUFFICIENT PROOF OF THE NOTICE REQUIRED BY THIS SUBSECTION (3).

(4) Except as otherwise provided in subsection (4.5) of this section, any hearing on the suspension of license privileges for Colorado residents shall be held in ~~the county wherein the person resides~~ A REGIONAL OR AREA OFFICE OF THE DIVISION NEAREST TO THE RESIDENCE OF THE RESPONDENT or, in the case of nonresidents, in such other ~~county~~ LOCATION as may be determined by the division. Such hearing shall be conducted by a hearing examiner on behalf of the commission. The hearing examiner may administer oaths and affirmations, issue subpoenas for the attendance of witnesses and the production of books and papers, and apply to the district court for enforcement thereof. The hearing examiner shall not be subject to the provisions of part 10 of article 30 of title 24, C.R.S. The director shall appoint such hearing examiners, who may be employees of the division.

(5) Notice of any resulting suspension shall be sent to the person by ~~registered or~~ certified mail, RETURN RECEIPT REQUESTED, to the last known address of such person and to license agents and other persons who should be notified of such suspensions.

SECTION 10. 33-6-106, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-6-106. Suspension of license privileges. (7) THE COMMISSION MAY DELEGATE THE EXERCISE OF ITS EXCLUSIVE AUTHORITY TO SUSPEND WILDLIFE LICENSE PRIVILEGES TO ANY HEARING EXAMINER APPOINTED BY THE DIVISION. THE HEARING EXAMINER'S DECISION MAY BE APPEALED TO THE COMMISSION BY FILING A NOTICE OF APPEAL WITH THE COMMISSION WITHIN THIRTY DAYS AFTER RECEIPT OF THE HEARING EXAMINER'S DECISION.

SECTION 11. 33-6-107 (3), (4), (7), (8), and (9), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-6-107. Licensing violations - penalties. (3) Except as otherwise provided in articles 1 to 6 of this title or by rule or regulation of the commission, any person, regardless of age, who HUNTS OR takes wildlife in this state shall procure a proper and valid license therefor and shall have the valid license on his OR HER person when exercising the benefits it confers. A person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall, with respect to wildlife other than big game, be punished by a fine of fifty dollars and an assessment of ten license suspension points or shall, with respect to big game, be punished by a fine of two hundred fifty dollars and an assessment of fifteen license suspension points.

(4) It is unlawful for any person under fourteen years of age to HUNT OR take big game, and it is unlawful for persons between the ages of fourteen and eighteen years of age to HUNT OR take big game unless accompanied by a person eighteen years of age or older. Any person who violates this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of ten license suspension points.

(7) It is unlawful for any person to ALTER, transfer, sell, loan, or assign his OR HER own OR ANOTHER PERSON'S lawfully acquired license to another person. Any person who violates this subsection (7) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of fifteen license suspension points, and any licenses so used are void.

(8) It is unlawful for any person born on or after January 1, 1949, to purchase OR OBTAIN any hunting license, HUNT, OR TRAP unless ~~he~~ THE PERSON produces a hunter education certificate issued by the division, attesting to ~~his~~ THE PERSON'S successful completion of a division certified hunter education course taught by a division certified instructor which totals not less than ten hours of instruction. Any person required to obtain such a certificate shall have the certificate on his OR HER person while hunting, TRAPPING, OR TAKING WILDLIFE. For the purposes of this subsection (8), the division shall recognize, in addition to Colorado hunter education certificates issued on or after January 1, 1985, those Colorado hunter education certificates issued prior to January 1, 1985, and any valid temporary hunter education certificate issued by the division, and the division may recognize the hunter education programs of other states or countries as being sufficient for the purposes of purchasing a hunting license in Colorado. Any person who violates this subsection (8) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of ten license suspension points.

(9) For the purposes of this section, any person, ~~or members~~ ANY MEMBER of ~~his~~ SUCH PERSON'S family, or ~~his agents~~ ANY EMPLOYEE OF THE PERSON may HUNT, TRAP, OR take black-billed magpies, common crows, starlings, English or house sparrows, common pigeons, coyotes, bobcats, red foxes, raccoons, jackrabbits, badgers, marmots, prairie dogs, pocket gophers, Richardson's ground squirrels, rock squirrels, thirteen-lined ground squirrels, porcupines, crayfish, tiger salamanders, muskrats, beavers, EXOTIC WILDLIFE, and common snapping turtles on lands owned or leased by ~~him~~ THE PERSON without securing licenses to do so, BUT ONLY when such wildlife is causing damage TO CROPS, REAL OR PERSONAL PROPERTY, OR LIVESTOCK. Any person may ~~take~~ KILL skunks or rattlesnakes when necessary to protect life or property. THE PELTS OR HIDES OF any ~~such wildlife~~ MAMMALS taken under this subsection (9) may be TRANSFERRED, POSSESSED, TRADED, BARTERED, OR sold by ~~purchasing~~ ANY PERSON WHO HOLDS an appropriate small game or furbearer license.

SECTION 12. 33-6-109 (1) and (3), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-6-109. Wildlife - illegal possession. (1) It is unlawful for any person to HUNT, take, or have in ~~his~~ SUCH PERSON'S possession any wildlife that is the property of this state as provided in section 33-1-101, except as permitted by articles 1 to 6 of this title or by rule or regulation of the commission.

(3) Any person who violates subsection (1) or (2) of this section is guilty of a misdemeanor and, ~~upon conviction thereof~~ DEPENDING UPON THE WILDLIFE INVOLVED, shall be punished UPON CONVICTION THEREOF by a fine OR IMPRISONMENT, OR BOTH, and license suspension points OR SUSPENSION OR REVOCATION OF LICENSE PRIVILEGES ~~according to the wildlife involved~~, as follows:

License

Fine **Suspension
Points**

~~(a) For each eagle, member of an endangered species, rocky mountain goat, moose, rocky mountain bighorn sheep, or lynx \$1,000 — 20~~

~~(b) For each elk or member of a threatened species \$ 700 — 15~~

~~(c) For each antelope, deer, black bear, or mountain lion \$ 500 — 15~~

~~(d) For each raptor not covered by paragraphs (a) and (b) of this subsection (3) and each wild turkey \$ 200 — 10~~

~~(e) For all other wildlife not covered by paragraph (a) or (b) of this subsection (3), except fish:~~

~~(I) For one illegal animal or bird .. \$ 50 — 10~~

~~(II) For each additional illegal animal or bird of a multipossession offense \$ 25 — 1~~

~~(f) For all fish not covered by paragraphs (a) and (b) of this subsection (3):~~

~~(I) For one illegal fish \$ 35 — 10~~

~~(II) For each additional illegal fish of a multipossession offense \$ 10 — 1~~

(a) FOR EACH ANIMAL LISTED AS ENDANGERED OR THREATENED, A FINE OF NOT LESS THAN TWO THOUSAND DOLLARS AND NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR IN THE COUNTY JAIL, OR BY BOTH SUCH FINE AND SUCH IMPRISONMENT, AND AN ASSESSMENT OF TWENTY POINTS.

(b) FOR EACH GOLDEN EAGLE, ROCKY MOUNTAIN GOAT, OR BIGHORN SHEEP, A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR IN THE COUNTY JAIL, OR BOTH SUCH FINE AND SUCH IMPRISONMENT, AND AN ASSESSMENT OF TWENTY POINTS.

(c) FOR EACH ELK, BEAR, MOOSE, OR MOUNTAIN LION, A FINE OF ONE THOUSAND DOLLARS AND AN ASSESSMENT OF FIFTEEN POINTS.

(d) FOR EACH ANTELOPE, DEER, OR BIG GAME SPECIES AS DEFINED IN THE STATE OR COUNTRY OF ORIGIN AND NOT LISTED IN PARAGRAPH (a), (b), OR (c) OF THIS SUBSECTION (3), A FINE OF SEVEN HUNDRED DOLLARS AND AN ASSESSMENT OF FIFTEEN POINTS.

(e) FOR EACH VIOLATION OF PARAGRAPH (b), (c), OR (d) OF THIS SUBSECTION (3) WHERE THREE OR MORE ANIMALS ARE TAKEN OR POSSESSED, A MINIMUM FINE PER ANIMAL AS SET FORTH IN SAID PARAGRAPHS, TO A MAXIMUM OF TEN THOUSAND DOLLARS PER ANIMAL, OR IMPRISONMENT FOR NOT MORE THAN ONE YEAR IN THE COUNTY JAIL, OR BY BOTH SUCH FINE AND SUCH IMPRISONMENT. UPON CONVICTION, THE COMMISSION MAY SUSPEND ANY OR ALL LICENSE PRIVILEGES OF THE PERSON FOR A PERIOD OF FROM ONE YEAR TO LIFE.

(f) FOR EACH RAPTOR NOT COVERED BY PARAGRAPH (a) OR (b) OF THIS SUBSECTION (3) AND FOR EACH WILD TURKEY, A FINE OF TWO HUNDRED DOLLARS AND AN ASSESSMENT OF TEN POINTS.

(g) FOR ALL FISH, MOLLUSKS, CRUSTACEANS, AMPHIBIANS, OR REPTILES NOT COVERED BY PARAGRAPH (a) OF THIS SUBSECTION (3), A FINE OF THIRTY-FIVE DOLLARS AND AN ASSESSMENT OF FIVE POINTS FOR THE FIRST SUCH ANIMAL AND, FOR EACH ADDITIONAL SUCH ANIMAL TAKEN OR POSSESSED AT THE SAME TIME, AN ADDITIONAL FINE OF TEN DOLLARS PER ANIMAL AND AN ADDITIONAL ASSESSMENT OF ONE POINT PER ANIMAL.

(h) FOR ANY WILDLIFE NOT COVERED BY PARAGRAPHS (a) TO (g) OF THIS SUBSECTION (3), A FINE OF FIFTY DOLLARS AND AN ASSESSMENT OF FIVE POINTS FOR THE FIRST SUCH ANIMAL AND, FOR EACH ADDITIONAL SUCH ANIMAL TAKEN OR POSSESSED AT THE SAME TIME, AN ADDITIONAL FINE OF TWENTY-FIVE DOLLARS PER ANIMAL AND AN ADDITIONAL ASSESSMENT OF FIVE POINTS PER ANIMAL.

SECTION 13. 33-6-113 (1) and (2) (a), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-6-113. Illegal sale of wildlife. (1) Except as otherwise provided in articles 1 to 6 of this title or by rule or regulation of the commission, it is unlawful for any person to sell or purchase or offer for sale or purchase any wildlife or to solicit another person in the illegal HUNTING OR taking of any wildlife for the purposes of monetary or commercial gain or profit. FOR THE PURPOSES OF THIS SECTION, IT IS DEEMED TO BE A SALE OF WILDLIFE IF A PERSON, FOR MONETARY OR OTHER CONSIDERATION, PROVIDES UNREGISTERED OUTFITTING SERVICES AS DEFINED IN ARTICLE 55.5 OF TITLE 12, C.R.S.

(2) Any person who violates this section:

(a) With respect to big game, endangered species, or eagles, commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S. ~~and, in addition, shall be punished by a fine of not less than one thousand dollars nor more than twenty thousand dollars. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1-105 (1) (a) (III);~~ C.R.S. Upon such conviction, the commission may ~~permanently~~ suspend ANY OR all wildlife license privileges of the person ~~convicted~~ FOR A MINIMUM OF ONE YEAR TO

LIFE.

SECTION 14. 33-6-116 (1), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

33-6-116. Hunting, trapping, or fishing on private property - posting public lands. (1) It is unlawful for any person to enter upon privately owned land or lands under the control of the state board of land commissioners to HUNT OR take any wildlife by hunting, trapping, or fishing without first obtaining permission from the owner or person in possession of such land.

SECTION 15. The introductory portion to 33-6-117 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-117. Willful destruction of wildlife. (1) Except as is otherwise provided in articles 1 to 6 of this title or by rule or regulation of the commission, it is unlawful for any person to HUNT OR take, or to solicit another person to HUNT OR take, any wildlife and detach or remove, with the intent to abandon the carcass or body, only the head, hide, claws, teeth, antlers, horns, internal organs, or feathers or any or all of such parts or to kill and abandon any wildlife. Any person who violates this subsection (1), with respect to:

SECTION 16. 33-6-120, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-120. Hunting, trapping, or fishing out of season or in a closed area. It is unlawful for any person to HUNT OR take any wildlife outside of the season established by or in an area closed by commission rule or regulation. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars and an assessment of ten license suspension points.

SECTION 17. The introductory portion to 33-6-121 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-121. Hunters to wear daylight fluorescent orange garments. (1) Unless otherwise provided by commission rule or regulation, it is unlawful for any person to HUNT OR take elk, deer, antelope, or black bear with any firearm unless such person is wearing daylight fluorescent orange garments that meet the following requirements:

SECTION 18. 33-6-122, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-122. Hunting in a careless manner. It is unlawful for any person to HUNT OR take wildlife in a careless manner or to discharge a firearm or release an arrow in a careless manner which endangers human life or property. For the purposes of this section, "careless" means failing to exercise the degree of reasonable care that would be exercised by a person of ordinary prudence under all the existing circumstances in consideration of the probable danger of injury or damage. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than

one thousand dollars or by imprisonment in the county jail for up to one year, or by both such fine and imprisonment, and an assessment of twenty license suspension points.

SECTION 19. 33-6-123, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-123. Hunting under the influence. It is unlawful for any person who is under the influence of alcohol or any controlled substance, as defined in section 12-22-303 (7), C.R.S., or any other drug to a degree which renders ~~him~~ SUCHPERSON incapable of safely operating a firearm or bow and arrow to HUNT OR take any wildlife in this state. The fact that any person charged with a violation of this section is or has been entitled to use such controlled substance or drug under the laws of this state shall not constitute a defense against any charge of violating this section. For the purposes of this section, being under the influence of any drug shall include the use of glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment, and an assessment of twenty license suspension points.

SECTION 20. 33-6-124 (1) and (2), Colorado Revised Statutes, 1984 Repl. Vol., are amended to read:

33-6-124. Use of a motor vehicle or aircraft. (1) Unless otherwise permitted by commission rule or regulation, it is unlawful for any person to HUNT, take, or harass any wildlife from or with any motor vehicle.

(2) It is unlawful for any person airborne in any aircraft to spot or locate any wildlife and communicate the location thereof to any person on the ground as an aid to hunting or pursuing said wildlife; and it is unlawful for such airborne person or person on the ground receiving such communication to pursue, HUNT, or take game on the same day or the day following such flight.

SECTION 21. 33-6-127, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

33-6-127. Hunting with artificial light. Unless otherwise provided by commission rule or regulation and except as provided in section 33-6-107 (9) for persons owning or leasing land, members of their family, or their agents, it is unlawful for any person to utilize any artificial light as an aid in HUNTING OR taking any wildlife. For the purposes of this section, the possession of any firearm with cartridges in the chamber or magazine or loaded with powder and ball or a strung bow, unless the bow is cased, while attempting to project any artificial light into areas where wildlife may be found is prima facie evidence of a violation of this section. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of twenty license suspension points.

SECTION 22. 33-6-130 (1), Colorado Revised Statutes, 1984 Repl. Vol., is

amended to read:

33-6-130. Explosives, toxicants, and poisons not to be used. (1) Unless permitted by law or by the division, it is unlawful for any person to use toxicants, poisons, drugs, dynamite, explosives, or any stupefying substances for the purpose of HUNTING, taking, or harassing any wildlife. Any person who violates this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of twenty license suspension points.

SECTION 23. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1994