

CHAPTER 74

AGRICULTURE

SENATE BILL 96-167

BY SENATORS Ament, Wattenberg, R. Powers, Casey, Dennis, Hernandez, and Johnson;
also REPRESENTATIVES Entz, Moellenberg, Pankey, George, Salaz, Chlouber, Jerke, Taylor, and Young.

AN ACT**CONCERNING THE CONTROL OF DEPREDATING ANIMALS.**

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

SECTION 1. 33-1-106, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-1-106. Authority to regulate taking, possession, and use of wildlife.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PRECLUDE THE COMMISSIONER OF AGRICULTURE FROM AUTHORIZING, PURSUANT TO SECTION 35-40-101, C.R.S., THE TAKING OF DEPREDATING ANIMALS.

SECTION 2. 35-40-100.2, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-40-100.2. Definitions. As used in this part 1, unless the context otherwise requires:

(1) ~~"APHIS" means the federal agricultural, animal, and plant health inspection service.~~ "ANIMAL" MEANS COYOTES, FOXES, BOBCATS, BEARS, MOUNTAIN LIONS, WOLVES, BEAVERS, MUSKRATS, RACCOONS, OPOSSUMS, AND STRIPED SKUNKS AND ANY ANIMALS IDENTIFIED BY RULE PROMULGATED BY THE COMMISSIONER AND APPROVED BY THE WILDLIFE COMMISSION.

(1.5) "AT RISK" MEANS ANY DEPREDATING ANIMAL SPECIES THAT HAS BEEN DESIGNATED BY THE WILDLIFE COMMISSION AS ENDANGERED, THREATENED, OR AT RISK AFTER:

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

(a) A SCIENTIFIC INVESTIGATION BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES THAT IS BASED ON VALID, SOUND, AND OBJECTIVE DATA AND ANALYSIS THAT SUBSTANTIATES SUCH DESIGNATION; AND

(b) PRESENTATION OF SCIENTIFICALLY VALID DATA, ANALYSIS, OR COMMENTARY BY THE COMMISSIONER RELATING TO DEPREDATING ANIMALS; AND

(c) PRESENTATION OF SCIENTIFICALLY VALID DATA, ANALYSIS, OR COMMENTARY BY OBJECTIVE PROFESSIONALS, MUTUALLY IDENTIFIED BY THE STATE AGRICULTURAL COMMISSION AND THE WILDLIFE COMMISSION RELATING TO DEPREDATING ANIMALS.

(2) "Board" means the Colorado sheep and wool board.

(3) "Commissioner" means the commissioner of agriculture.

(4) "DEPREDATING ANIMAL" MEANS ANY ANIMAL, ANIMALS, OR GROUP OF ANIMALS THAT POSE A THREAT TO AN AGRICULTURAL PRODUCT OR RESOURCE.

(5) "POSE A THREAT" MEANS THE THREAT OF CAUSING ECONOMIC LOSS BY KILLING OR DAMAGING AN AGRICULTURAL PRODUCT OR RESOURCE OR CONSUMING STORED AGRICULTURAL PRODUCTS. A THREAT SHALL BE PRESUMED TO BE POSED WHEN DAMAGE HAS HISTORICALLY OCCURRED, IS OCCURRING, OR WHEN IT IS NECESSARY TO PREVENT DEPREDATING ANIMALS FROM INFLECTING DEATH OR INJURY TO LIVESTOCK OR DAMAGING AGRICULTURAL PRODUCTS OR RESOURCES.

SECTION 3. 35-40-101, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-40-101. Powers and duties of the commissioner - rules and regulations - agreements. (1) It is the duty of the commissioner to control ~~predatory~~ DEPREDATING animals within the state of Colorado TO REDUCE ECONOMIC LOSSES TO AGRICULTURAL PRODUCTS OR RESOURCES, EXCEPT AS OTHERWISE SET FORTH IN SUBSECTION (4) OF THIS SECTION. THE COMMISSIONER HAS EXCLUSIVE JURISDICTION, AS DESCRIBED IN THIS ARTICLE, OVER THE CONTROL OF DEPREDATING ANIMALS.

(2) The commissioner ~~may issue such rules~~ MAY TAKE SUCH STEPS as are necessary to carry out the provisions of this part 1, INCLUDING:

(a) ADOPTING RULES FOR THE CONTROL OF DEPREDATING ANIMALS, IN CONSULTATION WITH THE WILDLIFE COMMISSION;

(b) ESTABLISHING LETHAL AND NONLETHAL METHODS OF CONTROLLING DEPREDATING ANIMALS;

(c) ALLOWING STATE EMPLOYEES AND OWNERS OF AGRICULTURAL PRODUCTS OR RESOURCES AND THEIR FAMILIES, EMPLOYEES, AGENTS, AND IDENTIFIED DESIGNEES TO CONTROL DEPREDATING ANIMALS. ANY BEARS OR MOUNTAIN LIONS TAKEN BY IDENTIFIED DESIGNEES SHALL REMAIN THE PROPERTY OF THE STATE. THE LICENSE REQUIREMENTS OF SECTION 33-6-107 (9) SHALL NOT APPLY TO THIS ARTICLE, EXCEPT THAT THE IDENTIFIED DESIGNEE SHALL POSSESS A SMALL GAME OR FURBEARER LICENSE.

(d) ALLOWING NONLETHAL METHODS OR PREVENTIVE ACTIVITIES SUCH AS THE USE OF GUARD DOGS AND SCARING DEVICES.

(3) WHEN PROMULGATING RULES FOR THE CONTROL OF DEPREDATING ANIMALS, THE COMMISSIONER SHALL CONSIDER AND ENCOURAGE HUMANE AND EFFECTIVE METHODS OF CONTROL.

(4) WITH RESPECT TO CONTROLLING DEPREDATING ANIMALS OF AN AT-RISK SPECIES, THE FOLLOWING SHALL APPLY:

(a) THE WILDLIFE COMMISSION MUST APPROVE ANY RULES CONCERNING THE TAKING OF DEPREDATING ANIMALS OF AN AT-RISK SPECIES PRIOR TO THE ADOPTION OF SUCH RULES BY THE COMMISSIONER.

(b) THE COMMISSIONER, WHEN ADOPTING OR MODIFYING RULES, SHALL CONSIDER ANY REASONABLY WORKABLE ALTERNATIVE DESIGNED TO MINIMIZE THE DIRECT EFFECT ON AT-RISK SPECIES.

(c) THE COMMISSIONER SHALL CONTROL DEPREDATING ANIMALS OF AN AT-RISK SPECIES ONLY WHERE DAMAGE IS OCCURRING.

(d) THE COMMISSIONER SHALL NOTIFY THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES WHEN CONTROLLING DEPREDATING ANIMALS OF AN AT-RISK SPECIES.

(5) THE STATE AGRICULTURAL COMMISSION SHALL APPROVE ANY RULES NECESSARY TO CARRY OUT THE PROVISIONS OF THIS PART 1 PRIOR TO THEIR ADOPTION BY THE COMMISSIONER.

(6) The commissioner may enter into written agreements on behalf of the state with APHIS, such agreements THE UNITED STATES to define such procedure in accordance with the provisions of sections 35-40-101 to 35-40-106 as said commissioner shall deem advisable and proper for the purpose of cooperating with APHIS THE UNITED STATES in the control in this state of coyotes, wolves, mountain lions, bobcats, and other predatory DEPREDATING animals. THE COMMISSIONER MAY ALSO ENTER INTO WRITTEN AGREEMENTS CONCERNING THE ANALYSIS OF DEPREDATION.

(7) THE COMMISSIONER IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES FOR ASSISTANCE IN CARRYING OUT THE PROVISIONS OF THIS PART 1, WHICH ASSISTANCE MAY INCLUDE RESOURCES, INCLUDING FINANCIAL ASSISTANCE, AT THE DISCRETION OF THE WILDLIFE COMMISSION.

(8) THE COMMISSIONER SHALL CONTACT AND PROVIDE INFORMATION TO THE WILDLIFE COMMISSION AS SAID COMMISSION SETS POPULATION LEVELS AND HUNTING PERMIT NUMBERS FOR PREDATORS IN AREAS WHERE THERE IS DEPREDATION TO AGRICULTURE.

(9) THE POWERS AND DUTIES VESTED IN THE COMMISSIONER BY THIS ARTICLE MAY BE DELEGATED TO QUALIFIED EMPLOYEES OF THE DEPARTMENT.

(10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PRECLUDE THE DIVISION OF WILDLIFE FROM ISSUING PERMITS PURSUANT TO SECTION 33-3-106, C.R.S., FOR THE TAKING OF WILDLIFE CAUSING DAMAGE.

SECTION 4. 35-40-102, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-40-102. Control of depredating animals. To further promote the control of ~~predatory~~ DEPREDATING animals, the organized and systematic plan for such control may be extended by cooperative agreements between ANY PERSON INCLUDING, BUT NOT LIMITED TO, counties, associations, or corporations on the one part and the commissioner and ~~APHIS~~ THE UNITED STATES, or either of them, on the other part.

SECTION 5. 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: April 12, 1996